

AMENDMENTS TO LB79

Introduced by Judiciary.

1 1. Strike the original sections and insert the following new
2 sections:

3 **Section 1.** Sections 1 to 7 of this act shall be known and may be
4 cited as the Asbestos Trust Claims Transparency Act.

5 **Sec. 2.** For purposes of the Asbestos Trust Claims Transparency Act:

6 (1) Asbestos action means a civil action arising out of, based on,
7 or related to the health effects of exposure to asbestos and any
8 derivative claim made by or on behalf of a person exposed to asbestos or
9 a representative, spouse, parent, child, or other relative of such
10 person;

11 (2) Asbestos trust means a government-approved or court-approved
12 trust, qualified settlement fund, compensation fund, or claims facility
13 that is:

14 (a) Created as a result of an administrative or legal action, a
15 court-approved bankruptcy, or pursuant to 11 U.S.C. 524(g) or 11 U.S.C.
16 1121(a) or other applicable provision of law; and

17 (b) Intended to provide compensation for claims arising out of,
18 based on, or related to the health effects of exposure to asbestos;

19 (3) Trust claim materials means a final executed proof of claim and
20 documents or information submitted to or received from an asbestos trust,
21 including:

22 (a) Claim forms and supplementary materials, proofs of claim,
23 affidavits, depositions, medical and health records, trial testimony,
24 work history, and exposure allegations; and

25 (b) Documents that reflect the status of a claim against an asbestos
26 trust and, if the trust claim has been resolved, documents relating to
27 the resolution of the trust claim; and

1 (4) Trust governance documents means documents that relate to
2 eligibility and payment levels for an asbestos trust, including claims
3 payment matrices, trust distribution procedures, or plans for
4 reorganization.

5 **Sec. 3.** (1) Within thirty days after filing an asbestos action, the
6 claimant shall submit all available asbestos trust claims, produce all
7 trust claims materials, and file and provide all parties with an
8 affidavit indicating that all asbestos trust claims that can be made by
9 the claimant have been filed and that all trust claims materials produced
10 by the claimant are true and complete. A deferral or placeholder claim
11 that is missing necessary documentation for the asbestos trust to pay the
12 claim does not meet the requirements of this section. The claimant shall
13 produce all trust claims filed by a person other than the claimant if the
14 asbestos action is based on exposure to asbestos through that person and
15 the materials are available to the claimant or claimant's counsel.

16 (2) A claimant shall supplement the information and materials
17 required under subsection (1) of this section after supplementing an
18 asbestos trust claim, receiving additional information or materials
19 related to an asbestos trust claim, or filing an additional trust claim.

20 **Sec. 4.** (1) Not less than sixty days before trial of an asbestos
21 action, if a defendant believes the claimant has not filed all asbestos
22 trust claims as required by section 3 of this act, the defendant shall
23 meet and confer with the claimant's counsel, or with the claimant if the
24 claimant is not represented by counsel, to discuss why the defendant
25 believes the claimant is eligible to file an additional trust claim.
26 Thereafter, the defendant may move the court for an order to require the
27 claimant to file the additional trust claims the defendant believes the
28 claimant is eligible to file. The defendant shall produce or describe the
29 documentation it possesses or is aware of in support of the motion.

30 (2) If the court determines there is a sufficient basis for the
31 claimant to file an asbestos trust claim identified by the defendant, the

1 court shall order the claimant to file the asbestos trust claim, produce
2 all related trust claim materials, and produce an affidavit stating that
3 all such materials are true and complete. The court shall not set the
4 asbestos action for trial earlier than ninety days after the claimant
5 complies with this section.

6 **Sec. 5.** (1) Trust claim materials and trust governance documents
7 are admissible as evidence in an asbestos action and are presumed to be
8 relevant and authentic. No claims of privilege apply to trust claim
9 materials or trust governance documents.

10 (2) Notwithstanding subsection (1) of this section, a jury shall not
11 be informed of the specific amount of consideration paid by an asbestos
12 trust to a claimant in settlement of a claim.

13 (3) A defendant in an asbestos action may seek discovery from an
14 asbestos trust. The claimant may not claim privilege or confidentiality
15 to bar discovery and shall provide consent or other expression of
16 permission that may be required by the asbestos trust to release
17 information and materials sought by a defendant.

18 **Sec. 6.** In an asbestos action in which damages are awarded and
19 setoffs are permitted under applicable law, a defendant is entitled to a
20 setoff in the amount the claimant has received from an asbestos trust
21 and, for trust claims not yet paid as of the date of entry of judgment,
22 the amount the claimant will receive as specified in the applicable trust
23 governance documents. If multiple defendants are found liable for
24 damages, the court shall distribute the amount of setoff proportionally
25 between the defendants, according to the liability of each defendant.

26 **Sec. 7.** The Asbestos Trust Claims Transparency Act applies to
27 asbestos actions filed on or after the effective date of this act.

28 **Sec. 8.** Sections 8 to 16 of this act shall be known and may be
29 cited as the Asbestos Claims Priorities and Over-Naming Reform Act.

30 **Sec. 9.** For purposes of the Asbestos Claims Priorities and Over-
31 Naming Reform Act:

1 (1) AMA Guides means the sixth edition of the American Medical
2 Association's Guides to the Evaluation of Permanent Impairment;

3 (2) Asbestos action means a civil action arising out of, based on,
4 or related to the health effects of exposure to asbestos and any
5 derivative claim made by or on behalf of a person exposed to asbestos or
6 a representative, spouse, parent, child, or other relative of such
7 person;

8 (3) Asbestosis means bilateral diffuse interstitial fibrosis of the
9 lungs caused by inhalation of asbestos fibers;

10 (4) Board-certified in internal medicine means a licensed physician
11 who is certified by the American Board of Internal Medicine or the
12 American Osteopathic Board of Internal Medicine;

13 (5) Board-certified in occupational medicine means a licensed
14 physician who is certified in the specialty of occupational medicine by
15 the American Board of Preventive Medicine or the specialty of
16 occupational/environmental medicine by the American Osteopathic Board of
17 Preventive Medicine;

18 (6) Board-certified in pathology means a licensed physician who
19 holds primary certification in anatomic pathology or clinical pathology
20 from the American Board of Pathology or the American Osteopathic Board of
21 Pathology and whose professional practice is principally in the field of
22 pathology and involves regular evaluation of pathology materials obtained
23 from surgical or postmortem specimens;

24 (7) Board-certified in pulmonary medicine means a licensed physician
25 who is certified in the specialty of pulmonary medicine by the American
26 Board of Internal Medicine or the American Osteopathic Board of Internal
27 Medicine;

28 (8) Certified B Reader means a physician who is certified as a B
29 Reader by the National Institute for Occupational Safety and Health;

30 (9) Chest X-ray means a chest film taken in accordance with
31 applicable state and federal regulatory standards and taken in the

1 posterior-anterior view;

2 (10) FEV1 means the maximal volume of air expelled in one second
3 during performance of spirometry;

4 (11) FEV1/FVC means the ratio that is calculated from FEV1 divided
5 by FVC;

6 (12) FVC means the maximal volume of air expired with maximum effort
7 from a position of full inspiration;

8 (13) ILO system means the radiological ratings and system for the
9 classification of chest X-rays provided in the International Labour
10 Organization's Guidelines for the Use of ILO International Classification
11 of Radiographs of Pneumoconioses (2011);

12 (14) Official technical statements of the American Thoracic Society
13 means the official technical statements from the American Thoracic
14 Society, including Standardization of Spirometry (2019), Standardization
15 of the Measurement of Lung Volumes (2005), Standards for Single-breath
16 Carbon Monoxide Uptake in the Lung (2017), and Interpretive Strategies
17 for Routine Lung Function Tests (2021);

18 (15) Pathological evidence of asbestosis means a statement by a
19 board-certified pathologist that more than one representative section of
20 lung tissue uninvolved with any other disease process demonstrates a
21 pattern of peribronchiolar or parenchymal scarring in the presence of
22 characteristic asbestos bodies and there is no other more likely
23 explanation for the presence of the fibrosis;

24 (16) Plethysmography means the test for determining lung volume in
25 which the exposed person is enclosed in a chamber equipped to measure
26 pressure, flow, or volume change;

27 (17) Predicted lower limit of normal means the fifth percentile of
28 healthy populations based on age, height, and gender as referenced in the
29 AMA Guides;

30 (18) Pulmonary function test means spirometry, lung volume testing,
31 and diffusion capacity testing, including appropriate measurements,

1 quality control data, and graphs, performed in accordance with the
2 methods of calibration and techniques provided in the AMA Guides and the
3 official technical statements of the American Thoracic Society;

4 (19) Qualified physician means a licensed physician who is board-
5 certified in internal medicine, occupational medicine, pathology, or
6 pulmonary medicine, as appropriate to the diagnostic specialty in
7 question, and who:

8 (a) Conducted a physical examination of the exposed person and took
9 a detailed occupational, exposure, medical, smoking, and social history
10 or, if the exposed person is deceased, reviewed the pathology material
11 and took a detailed history from the person most knowledgeable about the
12 information forming the basis of the asbestos action;

13 (b) Treated the exposed person, and had a doctor-patient
14 relationship with the exposed person at the time of the physical
15 examination, or in the case of a board-certified pathologist, examined
16 tissue samples or pathological slides of the exposed person;

17 (c) Has not relied on any examinations, tests, radiographs, reports,
18 or opinions of any doctor, clinic, laboratory, or testing company that
19 performed an examination, test, radiograph, or screening of the exposed
20 person in violation of a law, regulation, licensing requirement, or
21 medical code of practice of the state in which the examination, test, or
22 screening was conducted; and

23 (d) Prepared or directly supervised the preparation and final review
24 of a medical report under the Asbestos Claims Priorities and Over-Naming
25 Reform Act;

26 (20) Radiological evidence of asbestosis means a quality 1 or 2
27 chest X-ray under the ILO system showing bilateral small, irregular
28 opacities (s, t, or u) occurring primarily in the lower lung zones graded
29 by a certified B Reader as at least 1/1 on the ILO system;

30 (21) Radiological evidence of diffuse bilateral pleural thickening
31 means a quality 1 or 2 chest X-ray under the ILO system showing diffuse

1 bilateral pleural thickening of at least b2 on the ILO system and
2 blunting of at least one costophrenic angle as classified by a certified
3 B Reader;

4 (22) Spirometry means a test of air capacity of the lung through a
5 spirometer to measure the volume of air inspired and expired;

6 (23) Supporting test results means a report by a certified B Reader,
7 X-ray examinations, diagnostic imaging of the chest, pathology reports,
8 pulmonary function tests, and any other tests reviewed by the diagnosing
9 physician or a qualified physician in reaching the physician's
10 conclusions;

11 (24) Timed gas dilution means a method for measuring total lung
12 capacity in which the subject breathes into a spirometer containing a
13 known concentration of an inert and insoluble gas for a specific time,
14 and the concentration of that inert and insoluble gas in the lung is
15 compared to the concentration of that type of gas in the spirometer; and

16 (25) Total lung capacity means the volume of gas contained in the
17 lungs at the end of a maximal inspiration.

18 **Sec. 10.** (1) Within sixty days after filing an asbestos action, the
19 claimant shall file and provide all parties with an affidavit specifying
20 the evidence that provides the basis for each claim against each
21 defendant. The affidavit shall include the following with specificity:

22 (a) The name, address, date of birth, marital status, occupation,
23 smoking history, current and past worksites, and current and past
24 employers of the exposed person and any person through whom the exposed
25 person alleges exposure to asbestos;

26 (b) The name and address of each person who is knowledgeable about
27 each exposure and the exposed person's relationship to the person;

28 (c) The manufacturer and seller of each asbestos-containing product
29 to which the exposed person was exposed or the other person was exposed
30 if exposure was through another person;

31 (d) The sites and location at the sites that establish the direct

1 connection between the exposed person, or the other person if exposure
2 was through another person, and each defendant;

3 (e) The beginning and ending dates of each exposure, the manner of
4 each exposure, the frequency and length of each exposure, and the
5 proximity of the asbestos-containing product or its use to the exposed
6 person and each person through whom the exposed person alleges exposure
7 to asbestos;

8 (f) The asbestos-related disease that is alleged; and

9 (g) Any supporting documentation relating to the information
10 required under this section.

11 (2) A claimant has a continuing duty to supplement the information
12 required to be disclosed in subsection (1) of this section.

13 (3) Discovery shall not commence against a defendant in an asbestos
14 action until the defendant's product or premises is specifically
15 identified in the disclosures required by subsection (1) of this section.

16 (4) The court, on motion by a defendant, shall dismiss an asbestos
17 action without prejudice (a) as to any defendant whose product or
18 premises is not specifically identified in the disclosures required by
19 subsection (1) of this section or (b) as to the moving defendant or as to
20 all defendants, as applicable, if the claimant fails to comply with this
21 section.

22 **Sec. 11.** (1) In addition to the affidavit required by section 10 of
23 this act, within thirty days after filing an asbestos action related to a
24 nonmalignant asbestos-related condition, the claimant shall file and
25 provide all parties with a detailed narrative medical report signed by a
26 qualified physician and accompanied by supporting test results
27 constituting prima facie evidence the exposed person has a physical
28 impairment for which exposure to asbestos was a substantial contributing
29 factor.

30 (2) A defendant shall have a reasonable opportunity to challenge the
31 adequacy of the prima facie evidence. The court shall dismiss the

1 asbestos action without prejudice if the claimant fails to comply with
2 the requirements of the Asbestos Claims Priorities and Over-Naming Reform
3 Act or fails to make the prima facie showing required by the act.

4 **Sec. 12.** To make the prima facie showing required by section 11 of
5 this act in an asbestos action related to a nonmalignant asbestos-related
6 condition, the detailed narrative medical report signed by a qualified
7 physician with supporting test results shall include the following:

8 (1) Radiological or pathological evidence of asbestosis or
9 radiological evidence of diffuse bilateral pleural thickening or a high-
10 resolution computed tomography scan showing evidence of asbestosis or
11 diffuse pleural thickening;

12 (2) A detailed occupational and exposure history from the exposed
13 person or, if that person is deceased, from the person most knowledgeable
14 about the exposures that form the basis of the action, including the
15 exposed person's places of employment and exposures to airborne
16 contaminants and whether each place of employment involved exposures to
17 airborne contaminants, including asbestos fibers or other disease-causing
18 dusts, that may cause pulmonary impairment, and the nature, duration, and
19 level of any exposure;

20 (3) A detailed medical, social, and smoking history from the exposed
21 person or, if that person is deceased, from the person most
22 knowledgeable, including a thorough review of the past and present
23 medical problems of the exposed person;

24 (4) Evidence verifying that at least fifteen years have elapsed
25 between the exposed person's date of first exposure to asbestos and the
26 date of diagnosis;

27 (5) Evidence that the exposed person has, or the deceased person
28 had, a permanent respiratory impairment rating of at least Class 2 as
29 defined by and evaluated in accordance with the AMA Guides;

30 (6) Evidence that asbestosis or diffuse bilateral pleural
31 thickening, rather than chronic obstructive pulmonary disease, is a

1 substantial contributing factor to the exposed person's physical
2 impairment, based on a determination the exposed person has any of the
3 following:

4 (a) FVC below the predicted lower limit of normal and FEV1/FVC ratio
5 (using actual values) equal to or above the predicted lower limit of
6 normal;

7 (b) Total lung capacity, by plethysmography or timed gas dilution,
8 below the predicted lower limit of normal; or

9 (c) A chest X-ray showing bilateral small, irregular opacities (s,
10 t, or u) graded by a certified B Reader as at least 2/1 on the ILO
11 system; and

12 (7) A statement from the qualified physician that exposure to
13 asbestos was a substantial contributing factor to the exposed person's
14 physical impairment and that such physical impairment was likely not the
15 result of other causes. A statement from the qualified physician that the
16 exposed person's physical impairment is "consistent with exposure to
17 asbestos" or "compatible with exposure to asbestos", or words to that
18 effect, shall not satisfy this section.

19 **Sec. 13.** (1) Evidence relating to the prima facie showings required
20 under the Asbestos Claims Priorities and Over-Naming Reform Act does not
21 create a presumption the exposed person has an asbestos-related
22 impairment and is not conclusive as to the liability of any defendant.

23 (2) Evidence shall not be offered at trial and the jury shall not be
24 informed of:

25 (a) The grant or denial of a motion to dismiss an asbestos action
26 under the act; or

27 (b) The provisions of the act with respect to what constitutes a
28 prima facie showing of asbestos impairment.

29 (3) Evidence relating to physical impairment offered in an asbestos
30 action:

31 (a) Must comply with the quality controls, equipment requirements,

1 methods of calibration, and techniques set forth in the AMA Guides and
2 official technical statements of the American Thoracic Society;

3 (b) Shall not be based on testing or examinations that violate a
4 law, regulation, licensing requirement, or medical code of practice of
5 this state or of the state in which the examination or test was
6 conducted; and

7 (c) Shall not be obtained under the condition the exposed person
8 retains the services of an attorney or law firm.

9 **Sec. 14.** Until a court enters an order determining that the exposed
10 person has established prima facie evidence of impairment, an asbestos
11 action is not subject to discovery, except discovery related to
12 establishing or challenging the prima facie evidence.

13 **Sec. 15.** A court may consolidate for trial any number and type of
14 asbestos actions with the consent of all parties. In the absence of such
15 consent, the court may consolidate for trial only asbestos actions
16 relating to the exposed person and members of that person's household.

17 **Sec. 16.** The Asbestos Claims Priorities and Over-Naming Reform Act
18 applies to asbestos actions filed on or after the effective date of this
19 act.

20 **Sec. 17.** For purposes of sections 17 to 21 of this act:

21 (1) Claimant means a person seeking damages in a personal injury or
22 wrongful death action;

23 (2) Factoring company means a person who purchases a health care
24 provider's accounts receivable at a discount below the invoice value of
25 such accounts;

26 (3) Health care coverage means any third-party health care or
27 disability services financing arrangement, including, but not limited to,
28 arrangements with entities certified or authorized under state or federal
29 law; state or federal health care benefit programs; workers'
30 compensation; and personal injury protection;

31 (4) Health care provider means any of the following professionals

1 and entities, and professionals and entities similarly licensed in
2 another jurisdiction;

3 (a) A facility licensed under the Health Care Facility Licensure Act
4 and its clinical and nonclinical staff providing inpatient or outpatient
5 services;

6 (b) A health care professional licensed under the Uniform
7 Credentialing Act;

8 (c) A professional health care service entity as defined in section
9 71-7910.01;

10 (d) An organization or association of health care professionals
11 licensed under the Uniform Credentialing Act;

12 (e) A clinical laboratory providing services in this state or
13 services to health care providers in this state, if the clinical
14 laboratory is certified by the Centers for Medicare and Medicaid Services
15 of the United States Department of Health and Human Services under the
16 federal Clinical Laboratories Improvement Act of 1967, as amended, and
17 any rules issued thereunder, as such act and rules existed on January 1,
18 2025;

19 (f) A federally qualified health center as defined in 42 U.S.C.
20 1396d(1)(2)(B), as such section existed on January 1, 2025; and

21 (g) A home health aide as defined in section 71-6602; and

22 (5) Letter of protection means any arrangement by which a health
23 care provider renders treatment in exchange for a promise of payment for
24 the claimant's medical expenses from any judgment or settlement of a
25 personal injury or wrongful death action. The term includes any such
26 arrangement, regardless of whether referred to as a letter of protection.

27 **Sec. 18.** (1) Evidence offered to prove the amount of damages for
28 past or future medical treatment or services in a personal injury or
29 wrongful death action shall only be admissible as provided in this
30 section.

31 (2) Evidence offered to prove the amount of damages for charges for

1 past medical treatment or services that have been satisfied is limited to
2 evidence of the amount actually paid, regardless of the source of
3 payment.

4 (3) Evidence offered to prove the amount necessary to satisfy unpaid
5 charges incurred for medical treatment or services is limited to the
6 following:

7 (a) If the claimant has health care coverage other than medicare or
8 medicaid, evidence of the amount which such health care coverage is
9 obligated to pay the health care provider to satisfy such charges, plus
10 the claimant's share of such charges;

11 (b) If the claimant has health care coverage but obtains treatment
12 under a letter of protection or otherwise does not submit charges for any
13 health care provider's medical treatment or services to health care
14 coverage, evidence of the amount the claimant's health care coverage
15 would pay the health care provider to satisfy such past unpaid charges,
16 plus the claimant's share of such charges, had the claimant obtained
17 medical services or treatment pursuant to the health care coverage;

18 (c) If the claimant does not have health care coverage or has health
19 care coverage through medicare or medicaid, evidence of one hundred fifty
20 percent of the medicare reimbursement rate in effect on the date of the
21 claimant's incurred medical treatment or services or, if there is no
22 applicable medicare rate for a medical treatment or service, one hundred
23 seventy percent of the applicable state medicaid rate in effect on such
24 date; and

25 (d) If the claimant obtains medical treatment or services under a
26 letter of protection and the health care provider subsequently transfers
27 the right to receive payment under the letter of protection to a third
28 party, evidence of the amount the third party paid or agreed to pay the
29 health care provider in exchange for the right to receive payment
30 pursuant to the letter of protection.

31 (4) Evidence offered to prove the amount of damages for any unpaid

1 charges for future medical treatment or services the claimant will
2 receive is limited to the following:

3 (a) If the claimant has health care coverage, other than medicare or
4 medicaid, or is eligible for any such health care coverage, evidence of
5 the amount for which such future charges of health care providers would
6 be satisfied if submitted to such health care coverage at the time of
7 trial, plus the claimant's share of such charges;

8 (b) If the claimant does not have health care coverage, has health
9 care coverage through medicare or medicaid, or is eligible for such
10 coverage through medicare or medicaid, evidence of one hundred fifty
11 percent of the medicare reimbursement rate in effect at the time of trial
12 for the medical treatment or services the claimant will receive or, if
13 there is no applicable medicare rate for a medical treatment or service,
14 one hundred seventy percent of the applicable state medicaid rate in
15 effect at such time; and

16 (c) Any evidence of reasonable future amounts to be billed to the
17 claimant for medically necessary treatment or medically necessary
18 services, calculated as provided in subdivision (4)(a) or (b) of this
19 section, as applicable.

20 (5) This section does not impose an affirmative duty upon any party
21 to seek a reduction in billed charges to which the party is not
22 contractually entitled.

23 (6) Individual contracts between health care providers and
24 authorized commercial insurers or authorized health maintenance
25 organizations are not subject to discovery or disclosure and are not
26 admissible into evidence to prove the amount of damages for past or
27 future medical treatment or services in a personal injury or wrongful
28 death action.

29 (7) Health care providers and authorized commercial insurers,
30 including in their capacity as third-party administrators, are not
31 subject to third-party subpoenas, depositions, or discovery requests to

1 the extent that such subpoena, deposition, or discovery request solicits
2 expert testimony on the evidence subject to sections 17 to 21 of this
3 act.

4 **Sec. 19.** In a personal injury or wrongful death action, evidence of
5 past medical expenses actually paid may be offered by any party, as such
6 evidence is relevant to economic and noneconomic damages.

7 **Sec. 20.** In a personal injury or wrongful death action, as a
8 condition precedent to asserting any claim for expenses for medical
9 treatment or services rendered under a letter of protection, the claimant
10 shall disclose:

11 (1) A copy of the letter of protection;

12 (2) All billings for such medical expenses, which must be itemized
13 and, to the extent applicable, coded according to:

14 (a) For health care providers billing at the provider level, the
15 American Medical Association's Current Procedural Terminology (CPT), or
16 the Centers for Medicare and Medicaid Services' Healthcare Common
17 Procedure Coding System (HCPCS), in effect on the date the medical
18 treatment or services were rendered;

19 (b) For health care providers billing at the facility level for
20 expenses incurred in a clinical or outpatient setting, including when
21 billing through an Ambulatory Payment Classification (APC) or Enhanced
22 Ambulatory Patient Grouping (EAPG), the International Classification of
23 Diseases (ICD) diagnosis code and, if applicable, the American Medical
24 Association's Current Procedural Terminology (CPT), in effect on the date
25 the medical treatment or services were rendered; and

26 (c) For health care providers billing at the facility level for
27 expenses incurred in an inpatient setting, including when billing through
28 a Diagnosis Related Group (DRG), the International Classification of
29 Diseases (ICD) diagnosis and procedure codes in effect on the date on
30 which the claimant is discharged;

31 (3) If the health care provider sells the accounts receivable for

1 the claimant's medical expenses to a factoring company or other third
2 party:

3 (a) The name of the factoring company or other third party who
4 purchased such accounts; and

5 (b) The dollar amount for which the factoring company or other third
6 party purchased such accounts, including any discount provided below the
7 invoice amount;

8 (4) Whether the claimant, at the time medical treatment or services
9 were rendered, had health care coverage and, if so, the identity of such
10 coverage; and

11 (5) Whether the claimant was referred for medical treatment or
12 services under a letter of protection and, if so, the identity of the
13 person who made the referral. If the referral is made by the claimant's
14 attorney, disclosure of the referral is permitted, and evidence of such
15 referral is admissible notwithstanding any attorney-client privilege
16 asserted. In such situation, the financial relationship between a law
17 firm and a health care provider, including the number of referrals,
18 frequency, and financial benefit obtained, is relevant to the issue of
19 the bias of a testifying health care provider.

20 **Sec. 21.** The damages that may be recovered by a claimant in a
21 personal injury or wrongful death action for the reasonable and necessary
22 cost or value of past or future medical treatment or services shall not:

23 (1) Include any amount in excess of the evidence of charges for
24 medical treatment or services admitted pursuant to section 18 of this
25 act; or

26 (2) Exceed the sum of the following:

27 (a) Amounts actually paid by or on behalf of the claimant to a
28 health care provider who rendered medical treatment or services;

29 (b) Amounts necessary to satisfy charges for medical treatment or
30 services that are due and owing but at the time of trial are not yet
31 satisfied, calculated as provided in section 18 of this act; and

1 (c) Amounts necessary to provide for any reasonable and necessary
2 medical treatment or services the claimant will receive in the future,
3 calculated as provided in section 18 of this act.

4 **Sec. 22.** (1) For purposes of this section:

5 (a) Commercial motor vehicle has the same meaning as in section
6 60-316; and

7 (b) Commercial motor vehicle carrier means any person that
8 transports property by commercial motor vehicle upon the public highways.

9 (2) The sum total amount recoverable per plaintiff for noneconomic
10 damages against all defendants and other responsible persons in a civil
11 action for personal injury or death involving a commercial motor vehicle
12 requiring a commercial driver's license, whether in tort or otherwise, is
13 two million two hundred twenty-five thousand dollars. This limit on
14 damages applies regardless of the number of derivative claims or theories
15 of liability in the civil action.

16 (3) In a civil action subject to the limit provided in subsection
17 (2) of this section:

18 (a) If the action is tried before a jury, the jury shall first make
19 a finding as to noneconomic damages without regard to the limit in
20 subsection (2) of this section. If the noneconomic damages exceed such
21 limit, the court shall then reduce the award to comply with such limit;
22 and

23 (b) If the action is tried without a jury, the court shall first
24 make a finding as to noneconomic damages without regard to the limit in
25 subsection (2) of this section. If the noneconomic damages exceed such
26 limit, the court shall then reduce the award to comply with such limit.

27 **Sec. 23.** (1) On motion of a defendant in a civil action involving a
28 commercial motor vehicle requiring a commercial driver's license, the
29 trial court shall dismiss from the civil action any claim of the
30 defendant's direct negligence if the defendant stipulates that at the
31 time of the event that caused the damages that are the subject of the

1 civil action all of the following are true:

2 (a) The person whose negligence is alleged to have caused the
3 damages was the defendant's employee or independent contractor; and

4 (b) The person whose negligence is alleged to have caused the
5 damages was acting within the course and scope of employment with the
6 defendant or acting as an independent contractor of the defendant.

7 (2) If a defendant makes the stipulations described in subsection
8 (1) of this section with respect to an employee or independent contractor
9 and the employee's or independent contractor's negligence is found to
10 have caused or contributed to causing the damages, the defendant's
11 liability in the civil action shall be adjudged solely on the basis of
12 the legal doctrine known as respondeat superior.

13 (3) For purposes of this section, commercial motor vehicle has the
14 same meaning as in section 60-316.

15 **Sec. 24.** (1) An action for personal injury can only be brought
16 within two years.

17 (2) This section shall only apply to causes of action accruing on or
18 after the effective date of this act.

19 **Sec. 25.** Section 25-224, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 25-224 (1) All product liability actions, except one governed by
22 subsection (5) of this section, shall be commenced within four years next
23 after the date on which the death, injury, or damage complained of
24 occurs.

25 (2)(a) Notwithstanding subsection (1) of this section or any other
26 statutory provision to the contrary, any product liability action, except
27 one governed by section 2-725, Uniform Commercial Code or by subsection
28 (5) of this section, shall be commenced as follows:

29 (i) For products manufactured in Nebraska, within ten years after
30 the date the product which allegedly caused the personal injury, death,
31 or damage was first sold or leased for use or consumption; or

1 (ii) For products manufactured outside Nebraska, within the time
2 allowed by the applicable statute of repose, if any, of the state or
3 country where the product was manufactured, but in no event less than ten
4 years. If the state or country where the product was manufactured does
5 not have an applicable statute of repose, then the only limitation upon
6 the commencement of an action for product liability shall be as set forth
7 in subsection (1) of this section.

8 (b) If the changes made to this subsection by Laws 2001, LB 489, are
9 declared invalid or unconstitutional, this subsection as it existed prior
10 to September 1, 2001, shall be deemed in full force and effect and shall
11 apply to all claims in which a final order has not been entered.

12 (3) The limitations contained in subsection (1), (2), or (5) of this
13 section shall not be applicable to indemnity or contribution actions
14 brought by a manufacturer or seller of a product against a person who is
15 or may be liable to such manufacturer or seller for all or any portion of
16 any judgment rendered against a manufacturer or seller.

17 (4) Notwithstanding the provisions of subsections (1) and (2) of
18 this section, any cause of action or claim which any person may have on
19 July 22, 1978, may be brought not later than two years following such
20 date.

21 (5)(a) ~~(5)~~ Any action to recover damages based on injury allegedly
22 resulting from exposure to asbestos composed of chrysotile, amosite,
23 crocidolite, tremolite, anthrophyllite, actinolite, or any combination
24 thereof, shall be commenced within four years after the injured person
25 has been informed of discovery of the injury by competent medical
26 authority and that such injury was caused by exposure to asbestos as
27 described herein, or within four years after the discovery of facts which
28 would reasonably lead to such discovery, whichever is earlier.

29 (b) No action commenced under this subsection based on the doctrine
30 of strict liability in tort shall be commenced or maintained against any
31 seller of a product which is alleged to contain or possess a defective

1 condition unreasonably dangerous to the buyer, user, or consumer unless
2 such seller is also the manufacturer of such product or the manufacturer
3 of the part thereof claimed to be defective.

4 (c) Nothing in this subsection shall be construed to permit an
5 action to be brought based on an injury described in this subsection
6 discovered more than two years prior to August 30, 1981.

7 (d) The period of limitations for an asbestos action as defined in
8 the Asbestos Claims Priorities and Over-Naming Reform Act for any non-
9 malignant asbestos-related condition that is not barred as of the
10 effective date of this act shall be tolled until the date the exposed
11 person receives or reasonably could have received a diagnosis of
12 asbestos-related impairment sufficient to satisfy the prima facie
13 evidence requirements of the act or the exposed person's date of death,
14 whichever is earlier.

15 **Sec. 26.** Section 25-3301, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 25-3301 Sections 25-3301 to 25-3309 and section 28 of this act shall
18 be known and may be cited as the Nonrecourse Civil Litigation Act.

19 **Sec. 27.** Section 25-3302, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 25-3302 For purposes of the Nonrecourse Civil Litigation Act:

22 (1) Civil litigation funding company means a person or entity that
23 enters into a nonrecourse civil litigation funding transaction with a
24 consumer;

25 (2) Consumer means a person residing or domiciled in Nebraska or who
26 elects to enter into a transaction under the act, whether it be in
27 person, over the Internet, by facsimile, or by any other electronic
28 means, and who has a pending legal claim and is represented by an
29 attorney at the time he or she receives the nonrecourse civil litigation
30 funding;

31 (3) Legal claim includes ~~means~~ a civil claim or action or a claim

1 presented in an administrative proceeding; and

2 (4) Nonrecourse civil litigation funding means a transaction in
3 which a civil litigation funding company purchases and a consumer assigns
4 the contingent right to receive an amount of the potential proceeds of
5 the consumer's legal claim to the civil litigation funding company out of
6 the proceeds of any realized settlement, judgment, award, or verdict the
7 consumer may receive in the legal claim. Nonrecourse civil litigation
8 funding includes funding provided to an attorney or law firm where the
9 right to receive repayment is contingent in any respect on the outcome of
10 the consumer's legal claim.

11 **Sec. 28.** (1) Within thirty calendar days after receipt of a written
12 request, a consumer or the consumer's attorney shall disclose and deliver
13 a copy of any contract for nonrecourse civil litigation funding to the
14 following persons:

15 (a) Each party to the legal claim or each party's attorney;

16 (b) Any court, agency, or tribunal in which the legal claim is
17 pending; and

18 (c) Any known person, including an insurer, with a preexisting
19 contractual obligation to indemnify or defend a party to the legal claim.

20 (2) The disclosure obligation under subdivision (1)(c) of this
21 section exists regardless of whether a civil action or an administrative
22 proceeding has commenced.

23 (3) The disclosure obligation under subsection (1) of this section
24 is a continuing obligation. Within thirty days after entering into a new
25 contract for nonrecourse civil litigation funding or amending an existing
26 contract, the consumer or the consumer's attorney shall disclose and
27 deliver any new or amended contract.

28 (4) The existence of a contract for nonrecourse civil litigation
29 funding and all participants or parties to such contract are permissible
30 subjects of discovery in any legal claim for which litigation funding is
31 provided under the contract.

1 **Sec. 29.** Section 25-3309, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 25-3309 (1) The Secretary of State shall issue a certificate of
4 registration to a civil litigation funding company who complies with
5 subsection (2) of section 25-3307 or a renewal of registration under
6 subsection (3) of section 25-3307.

7 (2) The Secretary of State may refuse to issue a certificate of
8 registration if the Secretary of State determines that the character,
9 fitness, or financial responsibility of the civil litigation funding
10 company are such as to warrant belief that the business will not be
11 operated honestly or fairly within the purposes of the Nonrecourse Civil
12 Litigation Act.

13 (3) The Secretary of State may suspend, revoke, or refuse to renew a
14 certificate of registration (a) for conduct that would have justified
15 denial of registration under subsection (2) of section 25-3307, (b) or
16 for violating section 25-3304, or (c) for knowingly violating section 28
17 of this act.

18 (4) The Secretary of State may deny, suspend, revoke, or refuse to
19 renew a certificate of registration only after proper notice and an
20 opportunity for a hearing. The Administrative Procedure Act applies to
21 the Nonrecourse Civil Litigation Act.

22 (5) The Secretary of State may issue a temporary certificate of
23 registration while an application for registration or renewal of
24 registration is pending.

25 (6) The Secretary of State shall require a civil litigation funding
26 company registered pursuant to the act to annually submit certain data,
27 in a form prescribed by the Secretary of State that contains:

28 (a) The number of nonrecourse civil litigation fundings;

29 (b) The amount of nonrecourse civil litigation fundings;

30 (c) The number of nonrecourse civil litigation fundings required to
31 be repaid by the consumer;

1 (d) The amount charged to the consumer, including, but not limited
2 to, the annual percentage fee charged to the consumer and the itemized
3 fees charged to the consumer; and

4 (e) The dollar amount and number of cases in which the realization
5 to the civil litigation funding company was less than contracted.

6 (7) The Secretary of State shall annually prepare and electronically
7 submit a report to the Clerk of the Legislature and to the Judiciary
8 Committee of the Legislature on the status of nonrecourse civil
9 litigation funding activities in the state. The report shall include
10 aggregate information reported by registered civil litigation funding
11 companies.

12 **Sec. 30.** Section 60-6,273, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 60-6,273 Evidence that a person was not wearing an occupant
15 protection system or a three-point safety belt system at the time he or
16 she was injured shall not be admissible in regard to the issue of
17 liability or proximate cause but shall ~~may~~ be admissible as evidence
18 concerning mitigation of damages ~~, except that it shall not reduce~~
19 ~~recovery for damages by more than five percent.~~

20 **Sec. 31.** The Revisor of Statutes shall assign section 24 of this
21 act to Chapter 25, article 2.

22 **Sec. 32.** Original sections 25-224, 25-3301, 25-3302, 25-3309, and
23 60-6,273, Reissue Revised Statutes of Nebraska, are repealed.