

State of Arizona  
House of Representatives  
Fifty-second Legislature  
First Regular Session  
2015

**CHAPTER 246**  
**HOUSE BILL 2603**

AN ACT

AMENDING TITLE 12, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 19;  
RELATING TO ASBESTOS RELATED PERSONAL INJURY ACTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 12, chapter 6, Arizona Revised Statutes, is amended  
3 by adding article 19, to read:

4 ARTICLE 19. ASBESTOS EXPOSURE RELATED PERSONAL INJURY CLAIMS  
5 12-782. Asbestos exposure related claims: disclosures:  
6 discovery: mandatory claims: stay of proceedings:  
7 assignment of rights and claims: remedies:  
8 definitions

9 A. IN ANY ACTION INVOLVING A PERSONAL INJURY CLAIM, WITHIN FORTY-FIVE  
10 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION FOR PENDING PERSONAL INJURY  
11 CLAIMS IN WHICH THE DEFENDANT'S ANSWER HAS BEEN FILED OR WITHIN FORTY-FIVE  
12 DAYS AFTER THE FILING OF THE DEFENDANT'S ANSWER IN A LAWSUIT INVOLVING A  
13 PERSONAL INJURY CLAIM, WHICHEVER IS LATER, THE PLAINTIFF SHALL PROVIDE TO ALL  
14 PARTIES A SWORN STATEMENT IDENTIFYING EACH PERSONAL INJURY CLAIM THAT THE  
15 PLAINTIFF HAS FILED OR REASONABLY ANTICIPATES FILING AGAINST AN ASBESTOS  
16 TRUST. THE STATEMENT FOR EACH CLAIM SHALL INCLUDE THE NAME, ADDRESS AND  
17 CONTACT INFORMATION FOR THE ASBESTOS TRUST, THE AMOUNT CLAIMED BY THE  
18 PLAINTIFF, THE DATE THAT THE PLAINTIFF FILED THE CLAIM, THE DISPOSITION OF  
19 THE CLAIM AND WHETHER THERE HAS BEEN A REQUEST TO DEFER, DELAY, SUSPEND OR  
20 TOLL THE CLAIM AGAINST THE ASBESTOS TRUST.

21 B. IN ANY ACTION INVOLVING A PERSONAL INJURY CLAIM, WITHIN SIXTY DAYS  
22 AFTER THE EFFECTIVE DATE OF THIS SECTION FOR PENDING PERSONAL INJURY CLAIMS  
23 IN WHICH THE DEFENDANT'S ANSWER HAS BEEN FILED OR WITHIN SIXTY DAYS AFTER THE  
24 FILING OF THE DEFENDANT'S ANSWER IN A LAWSUIT INVOLVING A PERSONAL INJURY  
25 CLAIM, WHICHEVER IS LATER, THE PLAINTIFF SHALL PROVIDE TO ALL PARTIES ALL OF  
26 THE FOLLOWING:

27 1. FOR EACH PERSONAL INJURY CLAIM THAT THE PLAINTIFF HAS FILED AGAINST  
28 AN ASBESTOS TRUST, A COPY OF THE FINAL EXECUTED PROOF OF CLAIM, ALL TRUST  
29 DOCUMENTS, INCLUDING TRUST CLAIMS MATERIALS, TRUST GOVERNANCE DOCUMENTS, ANY  
30 DOCUMENTS REFLECTING THE CURRENT STATUS OF THE CLAIM AND, IF THE CLAIM IS  
31 SETTLED, ALL DOCUMENTS RELATING TO THE SETTLEMENT OF THE CLAIM.

32 2. A LIST OF EACH PERSONAL INJURY CLAIM THAT THE PLAINTIFF REASONABLY  
33 ANTICIPATES FILING AGAINST AN ASBESTOS TRUST, INCLUDING THE NAME, ADDRESS,  
34 AND CONTACT INFORMATION FOR THE ASBESTOS TRUST AND THE AMOUNT THAT THE  
35 PLAINTIFF ANTICIPATES CLAIMING AGAINST THE ASBESTOS TRUST.

36 C. THE PLAINTIFF SHALL SUPPLEMENT THE INFORMATION AND MATERIALS THAT  
37 ARE PROVIDED UNDER SUBSECTIONS A AND B OF THIS SECTION WITHIN THIRTY DAYS  
38 AFTER THE PLAINTIFF FILES AN ADDITIONAL CLAIM OR RECEIVES ADDITIONAL  
39 INFORMATION OR DOCUMENTS RELATED TO ANY CLAIM THAT THE PLAINTIFF MAKES  
40 AGAINST AN ASBESTOS TRUST.

41 D. IF THE PLAINTIFF IDENTIFIES ANY ASBESTOS TRUSTS PURSUANT TO  
42 SUBSECTION B, PARAGRAPH 2 OF THIS SECTION, THE COURT SHALL STAY ALL  
43 PROCEEDINGS UNTIL THE PLAINTIFF FILES A CLAIM AGAINST THE ASBESTOS TRUST AND  
44 PROVIDES TO THE COURT AND TO ALL PARTIES IN THE PERSONAL INJURY ACTION A COPY  
45 OF THE FINAL EXECUTED PROOF OF CLAIM AND ALL OTHER TRUST CLAIMS MATERIALS  
46 RELEVANT TO EACH CLAIM THE PLAINTIFF HAS AGAINST EACH ASBESTOS TRUST

1 IDENTIFIED PURSUANT TO SUBSECTION B, PARAGRAPH 2 OF THIS SECTION. THE  
2 PLAINTIFF SHALL DISCLOSE WHETHER THERE HAS BEEN A REQUEST TO DEFER, DELAY,  
3 SUSPEND OR TOLL THE CLAIM AGAINST ANY ASBESTOS TRUST.

4 E. TO THE EXTENT PERMITTED BY COURT RULE, IN A PERSONAL INJURY CLAIM  
5 ACTION, TRUST CLAIMS MATERIALS AND TRUST GOVERNANCE DOCUMENTS ARE ADMISSIBLE  
6 IN EVIDENCE. CLAIMS OF PRIVILEGE DO NOT APPLY TO TRUST CLAIMS MATERIALS OR  
7 TRUST GOVERNANCE DOCUMENTS.

8 F. A DEFENDANT IN A PERSONAL INJURY CLAIM MAY SEEK DISCOVERY AGAINST  
9 AN ASBESTOS TRUST IDENTIFIED UNDER SUBSECTIONS A, B, C, H, I, J, K AND L OF  
10 THIS SECTION. THE PLAINTIFF MAY NOT CLAIM PRIVILEGE OR CONFIDENTIALITY TO  
11 BAR DISCOVERY AND THE PLAINTIFF SHALL PROVIDE CONSENTS OR OTHER EXPRESSION OF  
12 PERMISSION THAT MAY BE REQUIRED BY THE ASBESTOS TRUST TO RELEASE INFORMATION  
13 AND MATERIALS SOUGHT BY THE DEFENDANT.

14 G. A COURT MAY NOT SCHEDULE A TRIAL IN A PERSONAL INJURY CLAIM ACTION  
15 UNTIL AT LEAST ONE HUNDRED EIGHTY DAYS AFTER THE PLAINTIFF MAKES THE  
16 DISCLOSURES REQUIRED BY SUBSECTIONS A, B AND C OF THIS SECTION.

17 H. IF ANY DEFENDANT IDENTIFIES AN ASBESTOS TRUST NOT NAMED BY THE  
18 PLAINTIFF AGAINST WHICH THE DEFENDANT REASONABLY BELIEVES THE PLAINTIFF  
19 SHOULD FILE A CLAIM, ON MOTION BY THE DEFENDANT, THE COURT SHALL DETERMINE  
20 WHETHER TO ORDER THE PLAINTIFF TO FILE A CLAIM AGAINST THE ASBESTOS TRUST.  
21 FOR EACH ASBESTOS TRUST A DEFENDANT IDENTIFIES, THE DEFENDANT SHALL PRODUCE  
22 OR DESCRIBE THE EVIDENCE REQUIRED TO FILE A VALID CLAIM WITH THE ASBESTOS  
23 TRUST AND THE AMOUNT OF MONEY THE ASBESTOS TRUST SHOULD PAY FOR THE  
24 PLAINTIFF'S CLAIM.

25 I. THE COURT SHALL ESTABLISH A DEADLINE FOR FILING A MOTION UNDER  
26 SUBSECTION H OF THIS SECTION. ANY DEADLINE THAT IS ESTABLISHED PURSUANT TO  
27 THIS SUBSECTION MUST AFFORD THE PARTIES AN ADEQUATE OPPORTUNITY TO  
28 INVESTIGATE THE DEFENDANT'S CLAIMS.

29 J. IF THE COURT ORDERS THE PLAINTIFF TO FILE A CLAIM WITH THE ASBESTOS  
30 TRUST, THE COURT SHALL STAY THE IMMEDIATE ACTION UNTIL THE PLAINTIFF SWEARS  
31 OR AFFIRMS THAT THE PLAINTIFF HAS FILED THE CLAIM AGAINST THE ASBESTOS TRUST  
32 AND THE PLAINTIFF PROVIDES TO THE COURT AND TO ALL PARTIES A FINAL EXECUTED  
33 PROOF OF CLAIM AND ALL OTHER TRUST CLAIMS MATERIALS RELEVANT TO EACH CLAIM  
34 THE PLAINTIFF HAS AGAINST AN ASBESTOS TRUST.

35 K. THE COURT MAY ALLOW ADDITIONAL TIME FOR DISCOVERY OR MAY STAY THE  
36 PROCEEDINGS FOR OTHER GOOD CAUSE SHOWN.

37 L. NOT LESS THAN THIRTY DAYS BEFORE TRIAL, THE COURT SHALL DIRECT THE  
38 PARTIES TO ENTER INTO THE RECORD A TRUST CLAIMS DOCUMENT THAT IDENTIFIES EACH  
39 PERSONAL INJURY CLAIM THE PLAINTIFF HAS MADE AGAINST AN ASBESTOS TRUST.

40 M. A PLAINTIFF'S SUBMISSION OF A CLAIM TO AN ASBESTOS TRUST AND  
41 RELATED TRUST CLAIMS MATERIALS MAY BE CONSIDERED BY A JURY OR OTHER TRIER OF  
42 FACT TO DETERMINE LIABILITY AND APPORTION FAULT IN A PERSONAL INJURY CLAIM  
43 AND SHALL BE SUFFICIENT TO SUPPORT A JURY FINDING THAT THE PLAINTIFF HAS BEEN  
44 EXPOSED TO PRODUCTS FOR WHICH THE ASBESTOS TRUST WAS ESTABLISHED TO PROVIDE  
45 COMPENSATION AND THAT THE EXPOSURE MAY BE A SUBSTANTIAL FACTOR IN CAUSING THE  
46 PLAINTIFF'S INJURY THAT IS AT ISSUE IN THE PERSONAL INJURY CLAIM. IF A

1 PLAINTIFF IN A PERSONAL INJURY CLAIM PROCEEDS TO TRIAL BEFORE ONE OR MORE OF  
2 THE CLAIMS AGAINST AN ASBESTOS TRUST IS RESOLVED AND SUBSEQUENTLY RECEIVES  
3 COMPENSATION FROM AN ASBESTOS TRUST, THE AMOUNT OF THE COMPENSATION SHALL BE  
4 CREDITED AGAINST ANY JUDGMENT ENTERED AGAINST ANY DEFENDANT FOUND TO BE AT  
5 FAULT IN THE ACTION TO THE EXTENT THAT THE COMPENSATION AMOUNT EXCEEDS THE  
6 FAULT APPORTIONED TO THE ASBESTOS TRUST BY THE JURY OR OTHER FACT FINDER. IF  
7 MULTIPLE DEFENDANTS ARE FOUND LIABLE FOR DAMAGES, THE COURT SHALL DISTRIBUTE  
8 THE AMOUNT OF THE SETOFF OR CREDIT PROPORTIONALLY ACCORDING TO THE LIABILITY  
9 OF EACH DEFENDANT.

10 N. A PLAINTIFF WHO FAILS TO TIMELY PROVIDE ALL OF THE INFORMATION  
11 REQUIRED UNDER SUBSECTIONS A, B, C, H, I, J, K AND L OF THIS SECTION IS  
12 SUBJECT TO SECTIONS 12-349 AND 12-3201 AND ANY OTHER SANCTION THAT THE COURT  
13 ORDERS.

14 O. NOTHING IN THIS SECTION REQUIRES DISCLOSURE OF INFORMATION OR  
15 DOCUMENTS THAT EITHER:

16 1. IS THE SUBJECT OF A BINDING CONTRACTUAL CONFIDENTIALITY CLAUSE IN  
17 EFFECT PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

18 2. IS RESTRICTED FROM DISCLOSURE BY FEDERAL LAW OR COURT ORDER.

19 P. FOR THE PURPOSES OF THIS SECTION:

20 1. "ASBESTOS TRUST" MEANS A TRUST, QUALIFIED SETTLEMENT FUND,  
21 COMPENSATION FUND OR CLAIMS FACILITY THAT IS CREATED AS A RESULT OF AN  
22 ADMINISTRATIVE OR LEGAL ACTION, BANKRUPTCY, AGREEMENT OR OTHER SETTLEMENT OR  
23 PURSUANT TO 11 UNITED STATES CODE SECTION 524(g) AND THAT IS INTENDED TO  
24 PROVIDE COMPENSATION TO CLAIMANTS ALLEGING PERSONAL INJURY CLAIMS AS A RESULT  
25 OF HARM, ALSO POTENTIALLY COMPENSABLE IN THE IMMEDIATE ACTION, FOR WHICH THE  
26 ENTITY CREATING THE TRUST, QUALIFIED SETTLEMENT FUND, COMPENSATION FUND OR  
27 CLAIMS FACILITY IS ALLEGED TO BE RESPONSIBLE.

28 2. "PERSONAL INJURY CLAIM" MEANS ANY CLAIM FOR DAMAGES, LOSS,  
29 INDEMNIFICATION, CONTRIBUTION, RESTITUTION OR OTHER RELIEF, INCLUDING  
30 PUNITIVE DAMAGES, THAT IS RELATED TO BODILY INJURY OR ANOTHER HARM, INCLUDING  
31 LOSS OF CONSORTIUM, SOCIETY OR COMPANIONSHIP, LOSS OF SUPPORT, PERSONAL  
32 INJURY OR DEATH, MENTAL OR EMOTIONAL INJURY, RISK OR FEAR OF DISEASE OR OTHER  
33 INJURY OR COSTS OF MEDICAL MONITORING OR SURVEILLANCE AND THAT IS ALLEGEDLY  
34 CAUSED BY OR RELATED TO THE CLAIMANT'S EXPOSURE TO ASBESTOS, AND INCLUDES A  
35 CLAIM MADE BY OR ON BEHALF OF THE PERSON WHO CLAIMS THE INJURY OR HARM OR BY  
36 OR ON BEHALF OF THE PERSON'S REPRESENTATIVE, SPOUSE, PARENT, MINOR CHILD OR  
37 OTHER RELATIVE. PERSONAL INJURY CLAIM DOES NOT INCLUDE A CLAIM FOR  
38 COMPENSATORY BENEFITS PURSUANT TO WORKER'S COMPENSATION OR VETERANS BENEFITS.

39 3. "TRUST CLAIMS MATERIALS" MEANS ALL DOCUMENTS AND INFORMATION  
40 RELEVANT OR RELATED TO A PENDING OR POTENTIAL CLAIM AGAINST AN ASBESTOS TRUST  
41 AND INCLUDES CLAIMS FORMS AND SUPPLEMENTARY MATERIALS, PROOFS OF CLAIM,  
42 AFFIDAVITS, DEPOSITIONS AND TRIAL TESTIMONY, WORK HISTORY AND MEDICAL AND  
43 HEALTH RECORDS.

44 4. "TRUST GOVERNANCE DOCUMENT" MEANS ANY DOCUMENT THAT DETERMINES  
45 ELIGIBILITY AND PAYMENT LEVELS, INCLUDING CLAIMS PAYMENT MATRICES, TRUST  
46 DISTRIBUTION PROCEDURES OR PLANS FOR REORGANIZATION, FOR AN ASBESTOS TRUST.

1           Sec. 2. Severability

2           If a provision of this act or its application to any person or  
3 circumstance is held invalid, the invalidity does not affect other provisions  
4 or applications of the act that can be given effect without the invalid  
5 provision or application, and to this end the provisions of this act are  
6 severable.

7           Sec. 3. Legislative intent

8           It is the intent of the legislature in enacting this act to allow  
9 claimants to exercise their rights to recovery in personal injury actions  
10 involving exposure to asbestos and materials containing asbestos while  
11 simultaneously prohibiting claimants from obtaining duplicative or excessive  
12 recovery by obtaining monetary damages from lawsuits filed in Arizona courts  
13 and also filing claims with national trust funds established to compensate  
14 individuals for damages resulting from exposure to asbestos and materials  
15 containing asbestos. To that end, this act is intended to permit defendants  
16 in both pending and future personal injury actions seeking monetary damages  
17 for claims resulting from exposure to asbestos and materials containing  
18 asbestos to present evidence, and for the jury in such actions to consider  
19 evidence, that a third party is partially or wholly liable for the  
20 plaintiff's alleged damages and that the plaintiff has received or may  
21 receive an award of monetary damages from a collateral source that should be  
22 taken into consideration when determining the amount of monetary damages that  
23 should be awarded to the plaintiff in the personal injury action.

24           Sec. 4. Retroactivity

25           This act applies retroactivity to actions involving personal injury  
26 claims, as defined in section 12-782, Arizona Revised Statutes, that are  
27 pending or filed on or after the effective date of this act.

APPROVED BY THE GOVERNOR APRIL 9, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 10, 2015.