

Asbestos lawsuit reform bill ready Hatch to introduce legislation Thursday

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WASHINGTON (CBS.MW) - Republican Sen. Orrin Hatch will breathe new life into an old debate when he introduces a bill Thursday to reform the way asbestos-illness lawsuits are resolved.

The bill, if passed into law, would create a separate Washington-based claims court to dole out awards to those who can prove their illnesses are asbestos-related, according to a draft of the legislation.

Money for the trust fund - which would reportedly total \$108 billion -- would come from insurance companies and companies that have already faced lawsuits because they exposed workers to asbestos.

After a flurry of asbestos reform bills introduced in recent months and years, Hatch's draft may carry more weight because the Utah Republican is chairman of the Senate Judiciary Committee.

Under the bill, a five-judge claims court would decide awards for those who meet strict criteria dictating what constitutes asbestos-related illness.

If Hatch's bill were enacted, people exposed to asbestos but with no signs of related illness would no longer be able to file lawsuits to recover damages in federal or state courts. Instead, only those with illnesses would be able to file a claim.

Within two years of a doctor's diagnosis, claimants would have to file documentation like x-rays, pulmonary function tests and lab results that prove their illnesses are related to exposure to asbestos.

Those who prove a certain level of illness would be awarded \$400,000 if they have asbestosis, \$400,000 if they have lung cancer and \$750,000 if they suffer from mesothelioma, the most serious asbestos-related lung ailment.

Payments would be made over a three-year period or more. Smokers would receive considerably smaller settlements.

For example, a claimant who is a smoker but who can prove asbestos-related lung cancer would receive only \$50,000.

Companies with more than \$1 million in asbestos liabilities would contribute \$45 billion to the fund over a 25-year period. A five-person committee would decide another \$45 billion in insurer contributions over the same period.

Another \$10 billion would come from companies that have liabilities under \$1 million.

An additional \$5 to \$6 billion would come from existing trusts with up to another \$4 billion from interest, Reuters reported Monday. The fund would total about \$108 billion, according to Reuters.

Trying to fix a backlogged system

The Association of Trial Lawyers opposes any asbestos litigation reform.

"Taking away the legal rights of Americans is not reform in any sense of the term," association spokesman Carlton Carl said. He likened asbestos litigation reforms to telling somebody with HIV they have no legal rights until they contract AIDS. "It would take away justice from the vast majority of those affected by asbestos."

Asbestos is a common term for fibrous minerals that were used in fireproofing, insulation and manufacturing.

Health concerns in the 1960s forced companies to abandon the use after it was discovered that inhaling the fibers could cause lung cancer, asbestosis or the always-fatal mesothelioma. About 225,000 people have died from asbestos-related exposure since that time, according to a [Rand study](#).

Under the current system, any of the 27 million workers who were exposed before 1979 and want to maintain their rights to compensation must file claims before their statute of limitations has expired, even if they are not currently sick the Rand study said. As a result, almost 600,000 plaintiffs have sued 8,400 defendants.

With such large numbers of people suing, the nation's courts have become backlogged. The problem is so big, possibly costing \$260 billion, that even the Supreme Court has recommended Congress address the "elephantine mass of asbestos cases."

It's also a serious issue for business.

Sixty-seven companies -- mostly manufacturers of asbestos -- have been forced into bankruptcy from the lawsuits. A list of companies still in business but facing similar suits reads like a who's who of American enterprise - General Motors, General Electric, Viacom, Visor, Honeywell and MetLife.

"The system is failing in every imaginable way," said Rep. Jim Moran, D-Va., who co-sponsored a House version with similar reforms. "It is broken, it is wrong, it is unfair, and we can not wait two, four, 10 years to reform it."