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HOUSE BILL NO. 1756

Offered January 18, 1995

A BILL to reenact § 8.01-374.1 of the Code of Virginia, relating to consolidation and bifurcation of asbestos cases.

Patrons—Diamonstein, Crittenden and Hamilton; Senators: Andrews and Maxwell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-374.1 of the Code of Virginia is reenacted, as follows:

§ 8.01-374.1. Consolidation or bifurcation of issues or claims in certain cases; appeal.

A. In any circuit court in which there are pending more than forty civil actions against manufacturers or suppliers of asbestos or products for industrial use that contain asbestos in which recovery is sought for personal injury or wrongful death alleged to have been caused by exposure to asbestos or products for industrial use that contain asbestos, the court may order a joint hearing or trial by jury of any or all common questions of law or fact which are at issue in those actions. The court may order any or all the actions consolidated, unless the court finds consolidation would adversely affect the rights of the parties to a fair trial. The court may submit special interrogatories to the jury to resolve specific issues of fact, and may make such orders concerning proceedings therein consistent with the right of each of the parties to a fair trial as may be appropriate to avoid unnecessary costs, duplicative litigation or delay.

B. To further convenience or avoid prejudice in such consolidated hearings, when separate or bifurcated trials will be conducive to judicial economy, the court may order a separate or bifurcated trial of any claim, or any number of claims, cross-claims, counterclaims, third-party claims, or separate issues, always preserving the right of trial by jury. However, in any such bifurcated proceeding, the entitlement of an individual plaintiff to an award of punitive damages against any defendant shall not be determined unless compensatory damages have been awarded to that individual.

C. Any order entered pursuant to this section shall, for purposes of appeal, be an interlocutory order. Any findings of the court or jury in any bifurcated trial shall not be appealable until a final order adjudicating all issues on a specific claim or consolidated group of claims has been entered.

D. This section shall not apply to actions arising under Article 6 (§ 8.01-57 et seq.) of Chapter 3 of this title or the Federal Employers Liability Act (45 U.S.C. § 51 et seq.). In addition, this section shall not apply to any party defendant unless that defendant was a manufacturer of, or a supplier of, asbestos or products for industrial use that contain asbestos, at any of the times alleged in the motion for judgment.

2. That an emergency exists and this act shall become effective June 30, 1995.

INTRODUCED

HB1756