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LEGISLATION PERMITTING SHARING OF ASBESTOS COMPENSATION INTRODUCED: OCT 2 1981

Johns-Manville and other asbestos manufacturers have been buried under compensation suits filed by workers (or their families) who contended they have become ill as a result of exposure to asbestos. Now comes Sen. Gary Hart (D-Colo.), whose state includes Johns-Manville, to introduce legislation which would permit other companies and the Government to share the compensation costs. JOHN G. BONNETT, III

Because of the long latency period for asbestos-related diseases, including cancer, many workers are currently denied adequate compensation under state worker's compensation laws and, as an alternative, they have gone to court to sue. Hart called the procedure "inadequate, unfair and unsatisfactory."

His bill sets Federal minimum standards for determining compensation for asbestos-related disease; establishes a commission of government, health, labor and industry experts to develop criteria for awards; and would ensure that "all responsible parties" would contribute the compensation, including industry and government, which operates shipyards.

The legislation, known as the Asbestos Health Hazards Compensation Act of 1981 (S. 1643), is strongly supported by the newly minted Asbestos Compensation Coalition, the asbestos workers unions and the companies.

Adherence to the minimum standards of the bill is voluntary by the state. However, if the state or federal workers' compensation agency fails to award the compensation equivalent to that provided by the bill, the claimant can petition for review of the award by the Benefits Review Board established by the Longshoremen's and Harbor Workers Compensation Act.

The Benefits Review Board will have the power to order an employer to pay the appropriate level of compensation according to the standards established in the bill.

Of major significance, the bill includes provisions allowing an employer who pays an award to bring other responsible parties into the proceedings so that a determination can be made regarding their contribution to the compensation.

Section 8(a) of the bill establishes an Apportionment Criteria Commission, to be made up of ten members plus a chairman appointed by the President. The membership includes representatives from the Department of Labor, Health & Human Services, Justice Department, two from the asbestos industry, two from state workers' comp boards, three Presidential appointees from labor, business and insurance.

Section 8(c) states:

"The criteria developed by the Commission shall include the establishment of percentage rates of liability for a variety of factors, including, but not limited to:

"(1) The party or parties responsible for the manufacture, design, formula, preparation, assembly, testing, warning, instruction, marketing, packaging, distribution or labeling of any asbestos product;

"(2) The party or parties responsible for control of the workplace environment and for publishing safe exposure limits for the workplace environment;

"(3) The party or parties responsible for establishing the criteria to which product specifications were designed and products manufactured."

The workers' compensation agency, state or federal, will designate the last private or public employer who exposed the affected person to asbestos to pay compensation for the claimant, and will require other responsible parties subject to the order or award to reimburse such employer.

In introducing the legislation, Sen. Hart acknowledged that it was not the final answer to the compensation dilemma, but expressed the hope that it will serve as a starting point in Congress.

"This legislation attempts to take only the first step toward developing a system that quickly distributes compensation benefits to asbestos disease victims and fairly apportions the cost of such benefits among all responsible parties," he said.

PLAINTIFF'S
EXHIBIT
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