

This column is in response to the guest column by Jack Mason Sr. "Asbestos legislation affects veterans," which was published in the Newburgh-Chandler Register on Aug. 10.

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Proposed asbestos fund not the right answer

By Herman Hamilton-Guest columnist, Warrick Publishing Online

I think that most agree that the present system to resolve asbestos-related disease claims is in need of repair. However, the Fairness in Asbestos Injury Resolution Act (Fair Act) (S. 3274) falls far short of that goal. In fact, it has earned the acronym "Unfair Act" by the growing number of groups that oppose it, and that phrase better describes its content.

While it is true that under "sovereign immunity", a veteran doesn't have the right to sue the government, I have yet to see a single statistic that shows that veterans are disadvantaged in any way under the present tort system.

With each of the many rewrites of the asbestos trust fund legislation, the bar by which a veteran would have to prove his or her asbestos-related illness has been raised higher and higher. As one example, if the veteran is or was a smoker, their chances of compensation are slim, at best. Should a veteran be unable to meet the ever-stiffening criteria, it's the end of the line, since the Bill also abolishes their constitutional right for redress in the courts.

Sponsors of the Bill claim that no taxpayer dollars would be needed. That the companies that knowingly caused this problem and their insurers would fund the trust. To date, however, not one single company has been identified nor the amount that they would contribute, in spite of numerous attempts by many groups demanding transparency.

Even though evidence mounts daily of countless numbers of new asbestos-related disease victims as a result of the collapse of the World Trade Center, not one dime was added to the trust fund amount as a result.

Of the numerous independent studies that have been done, there are many more that conclude that the fund is underfunded and doomed to fail than ones for its success. Never, in the past, has a trust fund been set up in a similar situation that didn't fail. To think that this one is different, in any way, is naive.

Its sponsors claim that passage of this Bill would provide prompt and equitable compensation to asbestos disease victims, but I certainly won't be holding my breath. This Bill is riddled with countless constitutional uncertainties that will immediately, be challenged. Veterans may find themselves waiting on the steps of the Supreme Court for years for compensation.

Since its genesis as S.1152, S.2290, S.852 and now, S.3274, there have been numerous changes. Sadly though, only to accommodate the very companies that caused the problem in the first place. Not only have victims groups never had a seat at the table as a “stakeholder,” but none of our suggestions to make these numerous drafts workable have ever been adopted. This Bill, in its present form, is bad for Veterans and bad for America and should be “deep-sixed.”

If this was truly the “cure all” that some would have you believe, than I ask, Why is it opposed by virtually every veteran in our organization, victims groups, the AFL/CIO and most doctors, scientists and professionals in the field, to name only a few? We at Asbestos Disease Awareness Organization have fought for years for a truly fair and equitable Bill and will continue our fight, but this Bill, in it's present form, is fatally flawed not only for Veterans but for all present and future victims of asbestos disease.

We urge Congress to “stand tall” and protect Americans from the largest corporate bailout in our nation's history.

Herman Hamilton is Executive Assistant of Asbestos Disease Awareness Organization. This column is in response to the guest column by Jack Mason Sr. “Asbestos legislation affects veterans,” which was published in the Newburgh-Chandler Register on Aug. 10.