

# The Washington Post

## Bush Urges Settlement of Asbestos Claims

President Appeals to Congress to Stanch Lawsuits He Says Are Bankrupting Companies

By Peter Baker

Washington Post Staff Writer

Saturday, January 8, 2005; Page A04

CLINTON TOWNSHIP, Mich., Jan. 7 -- President Bush urged Congress on Friday to find a way to settle tens of billions of dollars in claims by victims of asbestos in hopes of stanching a flood of litigation that he blamed for driving scores of companies out of business.

"This is a national problem . . . that requires a national solution," the president said at a forum he hosted here in this Detroit suburb. "These asbestos suits have bankrupted a lot of companies, and that affects the workers here in Michigan and around the country."

At a forum in Clinton Township, Mich., President Bush called asbestos litigation "a national problem . . . that requires a national solution." (Susan Walsh -- AP)

The appeal was the president's third event in as many days promoting restrictions on what he calls "junk lawsuits," one of his top legislative priorities for the beginning of his second term. Along with tackling the asbestos litigation, Bush wants Congress to impose caps on noneconomic damages in medical malpractice cases and limit the ability to bring class-action lawsuits.

These moves would effectively cut off some of the most lucrative income sources of the nation's trial lawyers, who rank among Bush's most potent political enemies and are a primary fundraising base for the Democratic Party. Democrats and trial lawyers accuse Bush of pursuing litigation restrictions to reward his own deep-pocketed backers in the manufacturing, insurance and health care industries.

"It's all about eliminating the trial lawyers, that's the goal," said Richard Wiles, senior vice president of the Environmental Working Group, a research and advocacy organization.

Bush did not endorse a particular plan but outlined principles that seemed to embrace a congressional proposal to create an asbestos trust fund to pay off claims and eliminate lawsuits. The idea has proved less ideologically polarizing than the rest of Bush's tort package, but negotiations broke down last year largely over how much money businesses and insurers would be required to fork over. The Senate voted 50 to 47 in April to advance a \$124 billion trust fund proposed by Sen. Orrin G. Hatch (R-Utah), short of the 60 votes needed to cut off a Democratic filibuster.

Sen. Arlen Specter (R-Pa.), who has succeeded Hatch as chairman of the Judiciary Committee, has a new version without a bottom-line figure that would reach out to opponents by allowing victims to go back to court if their claims are not paid or are not paid expeditiously by the trust fund.

Asbestos, tiny silicate fibers once widely used as a flame retardant in construction and other materials, causes several types of cancer, including mesothelioma, a rare but especially lethal variety. In a study partially funded by trial lawyers, the Environmental Working Group last year estimated that 10,000 people die of asbestos-related illnesses each year.

Although the last asbestos mine in the United States shut down last year, asbestos is still legal in some circumstances, and as much as 30 million pounds are imported each year for use in everything from building materials to automobile brake pads.

About 600,000 asbestos claims are pending, according to the Rand Institute for Civil Justice and Tillinghast-Towers Perrin, a consulting firm. Rand found that businesses have paid \$70 billion for asbestos claims over the past 30 years, while 70 corporations have filed for bankruptcy protection because of the liability. Among them were subsidiaries of Vice President Cheney's former firm, Halliburton Co. The subsidiaries emerged from bankruptcy this week.

The four people Bush invited to join him on Friday's panel highlighted the costs of such litigation. Two were presidents of businesses that have been hit with large claims. One said his firm has spent \$200 million in asbestos litigation expenses since 2000, compared with \$2 million for the 15 prior years. The panelists agreed that asbestos is a "national tragedy," as Lester Brickman, a specialist at Benjamin N. Cardozo Law School in New York, put it. "But lawyers have taken this tragedy and turned it into an enormous money-making machine in which . . . baseless claims predominate."

Business favors a trust fund approach because it would end the uncertainty of litigation. Many Democrats and some other critics say they do not necessarily oppose a trust fund but believe they generally do not work because they are underfunded.

Negotiators have discussed a fund of \$140 billion to \$150 billion, leaving both sides dissatisfied. Insurers, expected to contribute half of any fund, balked last year at paying more than \$46 billion, according to a source on the side of trial lawyers. But trial lawyers and advocacy organizations worry that because it can take decades for symptoms to manifest themselves, the fund could run out before many asbestos victims discover their illnesses.

"The legislation was more heavily focused on taking care of big companies facing liability than looking out for the victims," said Doug Larkin, whose father-in-law died of mesothelioma last year and has co-founded the Asbestos Disease Awareness Organization.

Bush moved to advance another economic initiative Friday by naming an advisory commission to craft a plan to simplify the federal tax code. In an Oval Office announcement before leaving for Michigan, Bush named former senators Connie Mack (R-Fla.) and John Breaux (D-La.) chairman and vice chairman of the panel, respectively.

Bush charged the commission with reporting back to Treasury Secretary John W. Snow by July 31. His executive order stipulated that at least one option be based on the income tax system and suggested deference to current deductions for mortgage interest and charitable contributions. "We have great latitude," Mack told reporters. "There is no end result that he is trying to lead us to, other than the fact that he said this has got to be simple."

Other members appointed were former representative William E. Frenzel (R-Minn.), former Federal Trade Commission chairman Timothy J. Muris, former Internal Revenue Service commissioner Charles O. Rossotti, Charles Schwab chief investment strategist Liz Ann Sonders and university scholars Elizabeth Garrett, Edward P. Lazear and James M. Poterba.