



# **American Tort Reform Association**

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## **2017 State Tort Reform Enactments**

### **Arizona**

#### **Lengthy Trial Fund – H.B. 2246**

Extends the sunset provision of the Arizona lengthy trial fund from June 30, 2019, to June 30, 2027.

### **Arkansas**

#### **Consumer Protection Act Reform – H.B. 1742**

Amends the Arkansas Deceptive Trade Practices Act and provides that a person must prove that a deceptive act or practice caused him to enter into a transaction that resulted in a loss in order to be awarded damages. Further, the bill defines “actual financial loss” as an ascertainable amount of money that is equal to the difference between the amount paid by a person for goods or services and the actual market value of the good or services provided. Finally, the legislation prohibits class actions from being brought under the DTPA except for violations of the Amendment 89 to the Arkansas Constitution which pertains to the maximum interest rate lenders may charge.

### **Iowa**

#### **Asbestos Bankruptcy Trust Transparency Act – S.F. 376**

Requires plaintiffs to file and disclose all asbestos trust claims before proceeding to trial in any asbestos action, provide all parties with all trust claims materials connected to the plaintiff’s exposure to asbestos, and if the plaintiff’s claim is based on exposure to asbestos through another individual, plaintiff must produce all trust claims materials submitted by that individual to any asbestos trusts. The bill allows a defendant to file a motion requesting a stay of the proceedings if the defendant has information that could support the filing of additional trust claims by the plaintiff. If the court determines that there is sufficient basis, the court shall stay the asbestos action until the plaintiff files the asbestos trust claim and produces all related trust claims materials. The bill also has medical criteria to set aside the cases of the non-sick for both asbestos and silica actions, would abolish consolidation of dissimilar cases, and would abolish liability for component parts or replacement parts made by third-parties.

#### **Trespasser Liability – S.F. 260**

Provides that a landowner owes no duty of care to a trespasser except to refrain from willfully or wantonly injuring the trespasser. It also requires a landowner to use reasonable care to avoid injuring the trespasser after the trespasser’s presence becomes known.

### **Kentucky**

#### **Prejudgment Interest Rate Reform – H.B. 223**

Lowers the prejudgment interest rate from 12% to 6%. A judgment for unpaid child support will remain at the 12% rate. A judgment on a contract, note, or other written

obligation will follow the interest rate specified in the contract. If an administrative law judge determines that a denial, delay, or termination in the payment of income benefits was without reasonable foundation, the interest rate will be 12%.

## **Minnesota**

### **ADA Reform – H.B. 1542**

Requires that businesses be given 90-days' notice of an alleged violation and an opportunity to correct the violation before a lawsuit is filed.

## **Mississippi**

### **Asbestos Bankruptcy Trust Transparency Act – H.B. 1426**

Creates a substantive right for defendants to obtain bankruptcy trust discovery. The plaintiff must provide the court and parties with a sworn statement indicating that all asbestos trust claims that can be made by the plaintiff have been filed. A defendant may file a motion requesting a stay of the proceedings that identifies the asbestos trust claims the defendant believes the plaintiff can file and include information supporting the asbestos trust claims. If the court determines that there is a sufficient basis for the plaintiff to file an asbestos trust claim identified in the motion to stay, the court shall stay the asbestos action until the plaintiff files the asbestos trust claim and produces all related trust claims materials.

## **Missouri**

### **Expert Witness- *Daubert* – H.B. 153**

Increases the standards for admitting expert evidence by adopting the *Daubert* standard. Specifically, the legislation establishes that an expert witness may testify if: (1) the expert's specialized knowledge will help the trier of fact to understand the evidence; (2) the testimony is based on sufficient facts or data; (3) the testimony is the product of reliable principles and methods; and (4) the expert has reliably applied the principles and methods to the facts of the case.

### **Collateral Source – S.B. 31**

Provides that evidence of payment by the defendant or his or her insurer is admissible. Parties may also introduce evidence of the actual cost of the medical care or treatment rendered to a plaintiff whose care is at issue.

## **Montana**

### **Judgment Interest Rate – S.B. 293**

Lowers the judgment interest rate in the state to prime + 3%.

## **North Dakota**

### **Asbestos Bankruptcy Trust Transparency Act – H.B. 1197**

Requires disclosures by the plaintiff within thirty days of filing, a defendant to file a motion requesting a stay of the proceedings, requires the plaintiff to file asbestos trust claims within ten days of receiving the defendant's motion, allows a defendant to seek discovery from an asbestos trust, and allows a defendant to seek sanctions for any failure to comply with the requirements of the bill.

## **Oklahoma**

### **E-Discovery Reform – H.B. 1570**

Closely mirrors the changes made to the Federal Rules of Civil Procedure with regards to e-discovery.

## **South Dakota**

### **Asbestos Bankruptcy Trust Claims – S.B. 138**

Establishes guidelines for asbestos litigation. The plaintiff must provide the court and parties with a sworn statement signed by the plaintiff and the plaintiff's counsel indicating that all asbestos trust claims that can be made have been filed, provide all parties with any trust claims material, and if the plaintiff's claim is based on exposure to asbestos through any other person, the plaintiff must produce all trust claims materials submitted by the other person. A defendant may file for a stay of the proceedings if there is information that could support additional trust claims by the plaintiff. The motion must identify any asbestos trust claim the defendant believes the plaintiff can file and include any information supporting the asbestos trust claim. If the court determines there is sufficient basis for the plaintiff to file an asbestos trust claim, the court shall stay the asbestos action until the plaintiff files the asbestos trust claim and produces related trust claims material.

## **Texas**

### **Hail Storm Litigation Reform – H.B. 1774**

Reigns in the rampant mass-litigation model used by plaintiff attorneys against insurers after severe weather events occur in Texas.

### **ADA Reform – H.B. 1463**

Requires that businesses be given 60-days' notice of an alleged violation and an opportunity to correct the violation before a lawsuit is filed.

## **West Virginia**

### **Judgment Interest – H.B. 2678**

Sets the pre and post judgment interest rate at two percentage points above the Fifth Federal Reserve District secondary discount rate provided the rate does not exceed nine percent or be less than four percent.

### **Innocent Seller – H.B. 2850**

Limits product liability against a seller to the manufacturer of the product unless the seller had actual knowledge of the defect in the product that was a proximate cause of the harm, exercised substantial control over the aspect of manufacture, construction, design, installation, assembly, or instructions of the product that was a proximate cause of the harm, altered, modified, or installed the product in a way not authorized or requested by the manufacturer, or the court determines by clear and convincing evidence that the party asserting the product liability action would be unable to enforce judgment against the manufacturer.