



Report on Public Policy Position

Name of Section:

Negligence Law Section

Contact Person:

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Bill Numbers:

HB 5851 (Gaffney) Torts; personal injury; asbestos and silicosis compensation fairness act; create. Amends sec. 5827 of 1961 PA 236 (MCL 600.5827) & adds ch. 30 & sec. 5840.

SB 1123 (Cropsey) Torts; personal injury; asbestos and silicosis compensation fairness act; create. Amends sec. 5827 of 1961 PA 236 (MCL 600.5827) & adds ch. 30 & sec. 5840.

Date position was adopted:

April 26, 2006

Process used to take the ideological position:

Council majority vote

Number of members in the decision-making body:

13

Number who voted in favor and opposed to the position:

12-1

FOR SECTIONS ONLY:

- ✓ This subject matter of this position is within the jurisdiction of the section.
- ✓ The position was adopted in accordance with the Section's bylaws.
- ✓ The requirements of SBM Bylaw Article VIII have been satisfied.

If the boxes above are checked, SBM will notify the Section when this notice is received, at which time the Section may advocate the position.

Position:

Opposition to House Bill 5851 and Senate Bill 1123. The section feels that the bills are unnecessary and that the current procedures for dealing with asbestos-related claims in Michigan are working well.

The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:

[http://www.legislature.mi.gov/\(havhng45hfkmw1uu23tkxd45\)/mileg.aspx?page=BillStatus&objectname=2006-HB-5851](http://www.legislature.mi.gov/(havhng45hfkmw1uu23tkxd45)/mileg.aspx?page=BillStatus&objectname=2006-HB-5851)

RECOMMEND STATE BAR ACTION ON THIS ISSUE:

Arguments for the position:

See position.

Arguments against the position (if any):

Not provided.

If the State Bar currently has a position on this subject matter, state the position, and an analysis of whether the recommended position and the current State Bar position are in conflict.

At its July 28, 2006 meeting, the State Bar of Michigan's Board of Commissioners voted to adopt a position of active opposition.

Fiscal implications of the recommended policy to the State Bar of Michigan:

Not provided.

FOR LEGISLATIVE ISSUES ONLY:

This position falls within the following Keller-permissible category:

- The regulation and discipline of attorneys
- The improvement of the functioning of the courts
- ✓ The availability of legal services to society
- The regulation of attorney trust accounts
- The regulation of the legal profession, including the education, the ethics, the competency, and the integrity of the profession.

Keller- permissible explanation:

The proposed legislation would create a two-tiered system, which would bar certain plaintiffs from pursuing legal action.