

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
DAILY BRIEF**



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LEGAL REFORM

The Senate Commerce and Consumer Services Committee unanimously passed SB 2228 Relating to Asbestos-Related Claims by Senator Dan Webster (R-Winter Garden). This bill would provide liability limitation on asbestos related claims involving a successor corporation created before January 1, 1972. A “successor” is defined as a corporation that assumes or incurs, or has assumed or incurred asbestos-related liabilities as a result of purchasing or acquiring a business or corporation that was somehow involved in asbestos related claims.

The legislation would only apply to the predecessor’s wrongdoing, and would not limit the liability for the successor corporation’s own torts.

Senator Webster described the example of the Crown Cork and Seal Company who acquired a smaller company called Mundet Cork. This subsidiary owned an insulation division which at the time was using asbestos in the production of bottle caps. The year was 1963 and Crown Cork paid \$7 million for Mundet at the time of purchase. Three months later, in February 1964, Crown Cork sold Mundet's insulation business. One of Mundet's insulation products may have contained asbestos. Baldwin-Ehret-Hill, the company that bought the insulation division, soon went bankrupt, and Crown Cork has ended up liable for asbestos claims against Mundet. This acquisition has resulted in over \$350 million of asbestos personal injury payments since Crown Cork purchased Mundet back in 1963.

SB 2228 seeks to protect companies like as Crown Cork who became involved with business that may have used asbestos prior to the passage of Occupation Safety and Health Act (OSHA) safety regulations governing exposure to asbestos.

Senator Ron Klein (D-Delray Beach) expressed some concerns that this bill would allow for other business and corporations to go unpunished and he stated that companies should perform their due diligence before purchasing or merging with companies that may have these types of liabilities. Senator Webster ensured that this bill was drafted very narrowly and that this would not be a problem.

Several other states have passed some type of legislation aimed at addressing asbestos litigation. Ohio, Mississippi, and Texas have passed laws as part of each state’s tort reform efforts. It is time that Florida follow suit. Asbestos litigation negatively impacts every section of Florida’s economy. About 83 different industries have faced some type of asbestos-related litigation in recent years. According to the Insurance Information Institute, asbestos litigation costs exceeded \$70 billion dollars in 2002.

SB 2228 will now be heard by the Senate Banking and Insurance Committee.

Asbestos litigation is part of the overall debate on legal reform. As such, AIF is supporting changes to the current tort system that will bring about reasonableness, fairness, and predictability.

TAXATION

The Senate Commerce and Consumer Services passed SB 2362 by Senators Rod Smith (D-Gainesville) and Senator Mike Fasano (R-New Port Richey) after adopting a "strike all" amendment. This bill exempts machinery and equipment used predominately (at least 50 percent of the time) for research and development from sales and use tax. There is a review provision in this bill allowing the Legislature to review the exemption by July 1, 2015. Enterprise Florida and the Office of Program Policy Analysis and Government Accountability (OPPAGA) are charged with studying the effect of the exemption and reporting back to the Legislature.

One provision of the bill would allow businesses to designate one or more state universities or community colleges as recipients to receive up to 100 percent of the exemption. In order for these institutions to receive these funds they must agree to match the funds on a one-to-one basis in the form of cash or access to special research and development equipment such as labs, facilities, etc.

The bill was unanimously passed and will now be heard by the Senate Education Committee.

AIF supports removing taxes on machinery and equipment used for research and development because it is sensible tax policy and would improve Florida's ability to compete for higher paying jobs, which would lead to an overall net increase in state revenues.

The Senate Commerce and Consumer Services Committee also unanimously passed SB 2312 by Senator Rod Smith which eliminates the sales tax on industrial machinery and equipment purchased for use in an expanding facility engaged in spaceport activities or for use in an expanding manufacturing facility. The bill accomplishes this by removing a limitation in the current law which states that the exemption only applies to tax amounts above \$50,000 dollars per year. It also broadens an existing sales tax exemption for machinery and equipment purchased by an expanding business pursuant to federal procurement regulation. The taxpayer must demonstrate that the machinery and equipment will be used to increase productive output by at least 10 percent at the facility.

A late filed amendment was adopted by the committee that would require the Legislature to review the exemption in 2015; the same provision was amended to SB 2362 as described above. SB 2312 will now be heard by the Senate Government Efficiency Appropriations Committee.

AIF supports the elimination of this sales tax to keep Florida competitive with its neighboring states. There are 36 states already giving manufacturers tax exemptions and if Florida wants to stay competitive, it too must give this type of incentive to attract new business to the state and keep our current manufacturing industry here.

REGULATED INDUSTRIES

The Senate Regulated Industries Committee passed SB 1658 Relating to Alcoholic Beverages and Taxation by Senator Mike Fasano (R-New Port Richey). This bill would eliminate the surcharge on alcoholic beverages sold on a vendor's premises. Back in 1990, Florida enacted a law that taxed the retail sale of alcoholic beverages. A move to eliminate this "drink" tax has taken some time. The tax was reduced by one-third in 1999 and again by one-half in 2000.

SB 1658 would eliminate the remainder of the tax and reduce the burdensome record-keeping required of businesses that sell alcoholic beverages. This so-called "sin tax" is poor public policy originally adopted as a "quick fix" source for additional state revenue.

SB 1658 will now be heard by the Senate Government Efficiency Appropriations Committee.

AIF supports the final repeal of this tax to eliminate a cumbersome, expensive, and regressive burden on both Florida's hospitality establishment and Florida's consumers.

Please send your comments or suggestions to us at aif@aif.com or call the Governmental Affairs department at (850)224-7173.

- For more information on all of the important legislative information concerning the business community, go to our "members only" Florida Business Network web site at <http://fbnnet.com>
- Send us your E-mail address and we will begin to send this report to you automatically via E-mail.