

January 30, 2006

The Honorable Harry Reid
Minority Leader
United States Senate
528 Hart Senate Office Building
Washington, DC 20510

Dear Minority Leader Reid:

On behalf of the Center for Individual Freedom's more than 250,000 supporters and activists across the country, I am writing to express our dismay at your January 25 statements to reporters regarding S. 852, the Fairness in Asbestos Injury Resolution (FAIR) Act.

The FAIR Act is important legislation for real victims of asbestos exposure who are also victims of a protracted litigation climate plaguing our nation's civil justice system. This legislation is important to the thousands of American business – mostly small businesses – that have been unfairly targeted by frivolous asbestos claims. And, the FAIR Act is important to their employees who stand to lose their jobs and pension accounts. Simply put, the Senate should pass this vital legislation when it considers it in February.

To be sure, it's unfortunate that more members of the Democratic caucus have not joined Senators Leahy, Baucus, and Feinstein in cosponsoring the FAIR Act. Your statements indicate, however, that there are some misconceptions about this legislation, which are preventing more Democrats from supporting it.

The FAIR Act will set up a \$140 billion victim compensation trust fund, paid for by the companies involved in asbestos litigation, not taxpayers. The Congressional Budget Office has thoroughly analyzed the legislation and found that level of funding to be sufficient. Indeed, your claim that the FAIR Act would cost \$900 billion is based on an unreliable study that was thoroughly debunked by the CBO. In fact, the CBO re-examined its estimate in light of that study and once again found that \$140 billion would cover the cost. In addition, the CBO found that the study you referenced had numerous methodological errors and could not be relied upon in this debate.

You also claimed that this bill would not help the victims suffering from health problems caused by asbestos exposure. The current system, though, is doing little to help these people. Because of a litigation explosion, truly sick asbestos victims are waiting years for relief. The courts are clogged with claims of dubious merit. In many cases, real victims of asbestos exposure die before they receive justice.

The flood of asbestos litigation has also resulted in over 75 defendant companies declaring bankruptcy and 60,000 people losing their jobs. This wave of bankruptcies means that those companies will pay only a fraction of the victims' judgments. Victims also see their judgments reduced when their lawyers take half for attorney fees. Through 2002, roughly \$70 billion has been spent on asbestos litigation. More than 60 percent of that astronomical figure has gone to pay transaction costs and lawyers' fees, not to help victims.

The FAIR Act trust fund system would significantly reduce, if not nearly eliminate, such transaction costs. Victims would not have to hire expensive lawyers and wait years to receive compensation.

Instead, they would present evidence of their illness and quickly obtain the money they are due. Contrary to claims that “victims would be left out in the cold” by this legislation, passage of the FAIR Act would allow for timely justice.

Moreover, because the FAIR Act would remove asbestos claims from the courts, businesses would receive relief from the army of lawyers besieging them. Bankruptcies would be averted, jobs would be saved and the economy would not suffer the projected \$200 billion drain that asbestos litigation would bring.

The Center for Individual Freedom urges you to reconsider your position on the FAIR Act. Victims, businesses and their employees need the relief provided by this legislation.

A handwritten signature in blue ink, appearing to read 'Jeff Mazzella', with a stylized, looping flourish at the end.

Sincerely,
Jeffrey Mazzella
President