ILLINOIS LAW SUBJECTS OUT-OF-STATE COMPANIES TO GENERAL PERSONAL JURISDICTION

Date: 21 August 2025

US Litigation and Dispute Resolution Alert

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Amended Illinois Senate Bill 328, which passed both chambers of the Illinois legislature on 1 June 2025, was officially signed into law by Governor Jay Robert "JB" Pritzker on 15 August 2025 as Public Act 104-0352. The legislation amends Section 2-209 of the Illinois Code of Civil Procedure and Sections 13.20 and 13.70 of the Business Corporation Act of 1983 and makes Illinois a general jurisdiction state for toxic tort litigation. This means that plaintiffs may sue out-of-state corporations in Illinois courts for diseases purportedly caused by toxic exposures occurring outside the state, provided the defendant corporation is registered to do business in the state of Illinois and jurisdiction is proper as to one or more co-defendants. This law, which is effective immediately, will have significant consequences for out-of-state businesses that defend toxic exposure claims such as those arising out of asbestos, benzene, and other substances.

BACKGROUND

Public Act 104-0352 follows the United States Supreme Court's (the Court) 2023 opinion in *Mallory v. Norfolk Southern Railway Co*.[1] In that case, the Court considered a Pennsylvania statute, which provided that registration as a foreign corporation in Pennsylvania submitted that corporation to general personal jurisdiction in Pennsylvania. General personal jurisdiction enables a court to hear claims against a defendant, even if the underlying claims are unrelated to the defendant's activities in that state. Ordinarily, a court may exercise personal jurisdiction over a dispute when there is an affiliation between the dispute and the defendant's contacts with the forum, so-called specific jurisdiction.[2] General, or all-purpose personal jurisdiction, is reserved for situations in which a defendant is incorporated or operates its headquarters in the forum.[3]

In *Mallory*, the Court opened an avenue for states to greatly expand the traditional scope of general personal jurisdiction. Rather than strike down the Pennsylvania law, a plurality of the Court concluded that a company's decision to register to do business in Pennsylvania amounted to consent to general personal jurisdiction in the forum. As predicted by the dissent, this decision is beginning to open floodgates for other states to follow Pennsylvania's lead and expand the scope of general personal jurisdiction, with Illinois leading the way.[4]

Public Act 104-0352 follows the *Mallory* decision by changing Illinois from a specific jurisdiction state to a general jurisdiction state for actions that allege injury or illness resulting from exposure to a toxic substance. This means that if a company has registered to do business in Illinois, it can be sued in Illinois for any action alleging injury from toxic substance exposure, even if the exposure did not occur in Illinois.

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Moreover, “toxic substance” has a broad scope. Under the Uniform Hazardous Substances Act of Illinois (which PA 104-0352 references for definition), “toxic” is defined as “any substance (other than radioactive substance) which has the capacity to produce bodily injury or illness to man through ingestion, inhalation, or absorption through any body surface.” Accordingly, the scope of general jurisdiction goes well beyond asbestos and benzene litigation traditionally associated with toxic tort matters and can extend to lawsuits alleging exposures to PFAS, ethylene oxide, formaldehyde, and other substances in emerging contaminant litigation.

EFFECT OF PUBLIC ACT 104-0352

With Governor Pritzker's signature of PA 104-0352, Illinois is the first state to follow Pennsylvania's lead after the *Mallory* case. It positions Illinois as a jurisdiction that is among the most favorable to toxic tort plaintiffs. It also means that corporate defendants can be sued in Illinois courts for toxic tort claims that occurred outside Illinois with no discernible connection to the forum. As a result, this may discourage businesses from registering to do business or actively investing in Illinois.

Now that Governor Pritzker has signed the bill into law, toxic tort defendants do have some recourse through constitutional challenges. Specifically, making this general jurisdiction provision limited to toxic tort plaintiffs is difficult to square with the Illinois Constitution's prohibition of special legislation, since the law can easily be made generally applicable to all plaintiffs.[5] Challenges based on the Dormant Commerce Clause of the federal constitution may also be tested based on the undue burden the law places on interstate commerce.[6]

Public Act 104-0352's effective date is immediate. Going forward, corporations that register to do business in Illinois, or that have already registered to do business (and allow the deadline of the annual report to pass), will be subject to general personal jurisdiction in Illinois. The only way for a current Illinois registered business to avoid consent to general jurisdiction under the new law would be to formally withdraw, since consent applies upon filing the annual report or passage of the deadline to register for the coming year, regardless of whether the business follows through on that obligation. An open question is whether Public Act 104-0352 will apply retroactively to pending litigation with jurisdictional challenges, although arguably it does not, based on the lack of explicit language to that effect.[7]

Businesses should assess their registration status in Illinois and evaluate potential exposure to litigation in toxic tort matters. Our lawyers have significant experience in defending toxic tort matters in Illinois through verdict and have also developed an Emerging Contaminants task force prepared to provide strategic counseling in all phases of toxic tort matters, including defending personal injury matters.

FOOTNOTES

[1] 600 U.S. 122 (2023).

[2] *Bristol-Myers Squibb Co. v. Super. Ct. of Cal., S.F. Cnty.*, 582 U.S. 255, 264 (2017).

[3] *Daimler AG v. Bauman*, 571 U.S. 117, 137 (2014).

[4] *Mallory*, 600 U.S. at 163 (2023) (Barrett, J., dissenting).

[5] *Best v. Taylor Mach. Works*, 179 Ill. 2d 367, 391 (1997).

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[6] *Dep't of Revenue of Ky. v. Davis*, 553 U.S. 328, 338-39 (2008) (citing Pike v. Bruce Church, Inc., 397 U.S. 137, 142 (1970)) ("Absent discrimination for the forbidden purpose, however, the law 'will be upheld unless the burden imposed on [interstate] commerce is clearly excessive in relation to the putative local benefits.'").

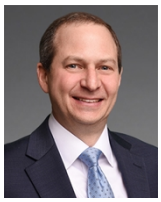
[7] *People v. Stefanski*, 2019 IL App (3d) 160140 ¶ 13 (2019) ("[W]here the legislature has not expressly indicated its intent as to temporal reach, 'a presumption arises that the amended statute is not to be applied retroactively.'"). *But see Webb-Benjamin, LLC v. Int'l Rug Grp*., 192 A.3d 1133, 1137 (Pa. Super. 2018) ("[S]ection 5301(a) does not preclude jurisdiction for acts committed prior to registration.")

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