

109TH CONGRESS
1ST SESSION

H. R. 3509

To establish a statute of repose for durable goods used in a trade or business.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2005

Mr. CHABOT (for himself, Mr. HYDE, and Mr. COBLE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To establish a statute of repose for durable goods used
in a trade or business.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Workplace Goods Job
5 Growth and Competitiveness Act of 2005”.

6 **SEC. 2. STATUTE OF REPOSE FOR DURABLE GOODS USED**
7 **IN A TRADE OR BUSINESS.**

8 (a) IN GENERAL.—Except as otherwise provided in
9 this Act—

10 (1) no civil action may be filed against the
11 manufacturer or seller of a durable good for damage

1 to property arising out of an accident involving that
2 durable good if the accident occurred more than 12
3 years after the date on which the durable good was
4 delivered to its first purchaser or lessee; and

5 (2) no civil action may be filed against the
6 manufacturer or seller of a durable good for dam-
7 ages for death or personal injury arising out of an
8 accident involving that durable good if the accident
9 occurred more than 12 years after the date on which
10 the durable good was delivered to its first purchaser
11 or lessee and if—

12 (A) the claimant has received or is eligible
13 to receive worker compensation; and

14 (B) the injury does not involve a toxic
15 harm (including, but not limited to, any asbes-
16 tos-related harm).

17 (b) EXCEPTIONS.—

18 (1) IN GENERAL.—A motor vehicle, vessel, air-
19 craft, or train, that is used primarily to transport
20 passengers for hire, shall not be subject to this Act.

21 (2) CERTAIN EXPRESS WARRANTIES.—This Act
22 does not bar a civil action against a defendant who
23 made an express warranty in writing, for a period of
24 more than 12 years, as to the safety or life expect-

1 any of a specific product, except that this Act shall
2 apply at the expiration of that warranty.

3 (3) AVIATION LIMITATIONS PERIOD.—This Act
4 does not affect the limitations period established by
5 the General Aviation Revitalization Act of 1994 (49
6 U.S.C. 40101 note).

7 (4) ACTIONS INVOLVING THE ENVIRONMENT.—
8 Subsection (a)(1) does not supersede or modify any
9 statute or common law that authorizes an action for
10 civil damages, cost recovery, or any other form of re-
11 lief for remediation of the environment (as defined
12 in section 101(8) of the Comprehensive Environ-
13 mental Response, Compensation, and Liability Act
14 of 1980 (42 U.S.C. 9601(8)).

15 (c) EFFECT ON STATE LAW; PREEMPTION.—Subject
16 to subsection (b), this Act preempts and supersedes any
17 State law that establishes a statute of repose to the extent
18 such law applies to actions covered by this Act. Any action
19 not specifically covered by this Act shall be governed by
20 applicable State law.

21 (d) TRANSITIONAL PROVISION RELATING TO EXTEN-
22 SION OF REPOSE PERIOD.—To the extent that this Act
23 shortens the period during which a civil action could other-
24 wise be brought pursuant to another provision of law, the
25 claimant may, notwithstanding this Act, bring the action

1 not later than 1 year after the date of the enactment of
2 this Act.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) CLAIMANT.—The term “claimant” means
6 any person who brings an action covered by this Act
7 and any person on whose behalf such an action is
8 brought. If such an action is brought through or on
9 behalf of an estate, the term includes the claimant’s
10 decedent. If such an action is brought through or on
11 behalf of a minor or incompetent, the term includes
12 the claimant’s legal guardian.

13 (2) DURABLE GOOD.—The term “durable good”
14 means any product, or any component of any such
15 product, which—

16 (A)(i) has a normal life expectancy of 3 or
17 more years; or

18 (ii) is of a character subject to allowance
19 for depreciation under the Internal Revenue
20 Code of 1986; and

21 (B) is—

22 (i) used in a trade or business;

23 (ii) held for the production of income;

24 or

1 (iii) sold or donated to a governmental
2 or private entity for the production of
3 goods, training, demonstration, or any
4 other similar purpose.

5 (3) STATE.—The term “State” means any
6 State of the United States, the District of Columbia,
7 the Commonwealth of Puerto Rico, the Northern
8 Mariana Islands, the Virgin Islands, Guam, Amer-
9 ican Samoa, any other territory or possession of the
10 United States, and any political subdivision of any
11 of the foregoing.

12 **SEC. 4. EFFECTIVE DATE; APPLICATION OF ACT.**

13 (a) EFFECTIVE DATE.—Except as provided in sub-
14 section (b), this Act shall take effect on the date of the
15 enactment of this Act without regard to whether the dam-
16 age to property or death or personal injury at issue oc-
17 curred before such date of enactment.

18 (b) APPLICATION OF ACT.—This Act shall not apply
19 with respect to civil actions commenced before the date
20 of the enactment of this Act.

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