

# Union Calendar No. 431

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3509

**[Report No. 109–728, Part I]**

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

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## 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

DECEMBER 8, 2006

Reported with an amendment and referred to the Committee on Energy and Commerce for a period ending not later than December 8, 2006, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(f), rule X

[Strike out all after the enacting clause and insert the part printed in *italie*]

DECEMBER 8, 2006

Additional sponsors: Ms. FOXX, Mr. GREEN of Wisconsin, and Mr. LAHOOD

DECEMBER 8, 2006

Committee on Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on July 28, 2005]

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## 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 2006”.*

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 man-*  
11 *ufacturer or seller of a durable good for damage to*  
12 *property allegedly caused by that durable good if the*  
13 *damage to property occurred more than 12 years after*  
14 *the date on which the durable good was delivered to*  
15 *its first purchaser or lessee; and*

16 *(2) no civil action may be filed against the man-*  
17 *ufacturer or seller of a durable good for damages for*  
18 *death or personal injury allegedly caused by that du-*  
19 *rable good if the death or personal injury occurred*  
20 *more than 12 years after the date on which the dura-*  
21 *ble good was delivered to its first purchaser or lessee*  
22 *and if—*

23 *(A) the claimant has received or is eligible*  
24 *to receive worker compensation; and*

1           (B) the injury does not involve a toxic harm  
2           (including, but not limited to, any asbestos-re-  
3           lated harm).

4       (b) *EXCEPTIONS.*—

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

8           (2) *CERTAIN EXPRESS WARRANTIES.*—This Act  
9           does not bar a civil action against a defendant who  
10          made an express warranty in writing, for a period of  
11          more than 12 years, as to the safety or life expectancy  
12          of a specific product, except that this Act shall apply  
13          at the expiration of that warranty.

14          (3) *AVIATION LIMITATIONS PERIOD.*—This Act  
15          does not affect the limitations period established by  
16          the General Aviation Revitalization Act of 1994 (49  
17          U.S.C. 40101 note).

18          (4) *ACTIONS INVOLVING THE ENVIRONMENT.*—  
19          Subsection (a)(1) does not supersede or modify any  
20          statute or common law that authorizes an action for  
21          civil damages, cost recovery, or any other form of re-  
22          lief for remediation of the environment (as defined in  
23          section 101(8) of the Comprehensive Environmental  
24          Response, Compensation, and Liability Act of 1980  
25          (42 U.S.C. 9601(8)).

1           (5) *REGULATORY ACTIONS.*—*This Act does not*  
 2           *affect regulatory enforcement actions brought by State*  
 3           *or Federal agencies.*

4           (6) *ACTIONS INVOLVING FRAUDULENT CONCEAL-*  
 5           *MENT.*—*This Act does not bar a civil action against*  
 6           *a manufacturer or seller of a durable good who fraud-*  
 7           *ulently concealed a defect in the durable good.*

8           (c) *EFFECT ON STATE LAW; PREEMPTION.*—*Subject to*  
 9           *subsection (b), this Act preempts and supersedes any State*  
 10           *law that establishes a statute of repose to the extent such*  
 11           *law applies to actions covered by this Act. Any action not*  
 12           *specifically covered by this Act shall be governed by applica-*  
 13           *ble State or other Federal law.*

14           (d) *TRANSITIONAL PROVISION RELATING TO EXTEN-*  
 15           *SION OF REPOSE PERIOD.*—*To the extent that this Act*  
 16           *shortens the period during which a civil action could other-*  
 17           *wise be brought pursuant to another provision of law, the*  
 18           *claimant may, notwithstanding this Act, bring the action*  
 19           *not later than 1 year after the date of the enactment of this*  
 20           *Act.*

21   **SEC. 3. DEFINITIONS.**

22           *In this Act:*

23           (1) *CLAIMANT.*—*The term “claimant” means*  
 24           *any person who brings an action covered by this Act*  
 25           *and any person on whose behalf such an action is*

1       brought. If such an action is brought through or on  
2       behalf of an estate, the term includes the claimant's  
3       decedent. If such an action is brought through or on  
4       behalf of a minor or incompetent, the term includes  
5       the claimant's legal guardian.

6               (2) *DURABLE GOOD*.—The term “durable good”  
7       means any product, or any component of any such  
8       product, which—

9                       (A)(i) has a normal life expectancy of 3 or  
10                      more years; or

11                     (ii) is of a character subject to allowance for  
12                     depreciation under the Internal Revenue Code of  
13                     1986; and

14                    (B) is—

15                               (i) used in a trade or business;

16                               (ii) held for the production of income;

17                               or

18                               (iii) sold or donated to a governmental  
19                               or private entity for the production of  
20                               goods, training, demonstration, or any other  
21                               similar purpose.

22               (3) *FRAUDULENTLY CONCEALED*.—With respect  
23       to a durable good, the term “fraudulently concealed”  
24       means that—

1           (A) the manufacturer or seller of the durable  
2           good had actual knowledge of a defect in the du-  
3           rable good;

4           (B) the defect in the durable good was the  
5           proximate cause of the harm to the claimant;  
6           and

7           (C) the manufacturer or seller of the durable  
8           good affirmatively suppressed or hid, with the  
9           intent to deceive or defraud, the existence of such  
10          defect.

11          (4) *SELLER*.—The term “seller” means any deal-  
12          er, retailer, wholesaler, or distributor in the stream of  
13          commerce of a durable good concluding with the sale  
14          or lease of the durable good to the first end-user.

15          (5) *STATE*.—The term “State” means any State  
16          of the United States, the District of Columbia, the  
17          Commonwealth of Puerto Rico, the Northern Mariana  
18          Islands, the Virgin Islands, Guam, American Samoa,  
19          any other territory or possession of the United States,  
20          and any political subdivision of any of the foregoing.

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

22          (a) *EFFECTIVE DATE*.—Except as provided in sub-  
23          section (b), this Act shall take effect on the date of the enact-  
24          ment of this Act without regard to whether the damage to

1 *property or death or personal injury at issue occurred be-*  
2 *fore such date of enactment.*

3       (b) *APPLICATION OF ACT.—This Act shall not apply*  
4 *with respect to civil actions commenced before the date of*  
5 *the enactment of this Act.*

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