

Testimony by:
Christopher Meisenkothen - Early, Lucarelli, Sweeney & Meisenkothen, LLC
On
H.B. 6341: An Act Concerning the Statute of Repose for
Asbestos-Related Product Liability Claims
March 4, 2011

Reason for proposed amendment:

To amend § 52-577a(e) to eliminate the statute of repose for asbestos cases. Asbestos-related product liability cases would be subject only to the three-year statute of limitation as provided in § 52-577a(a) and would not be extinguished after any repose period. The proposed amendment serves important purposes and is consistent with public policy for the following reasons:

- 1) To save insurers, employers, municipalities and the State from bearing the economic cost of asbestos-related injuries – All employers, whether private or public, face potential liability for asbestos-related diseases through the workers' compensation system. Most asbestos-related diseases develop due to *occupational* asbestos exposures, which create workers' compensation liability for employers and insurers, including self-insured private employers, self-insured municipalities and the State of Connecticut. If third-party product liability lawsuits are barred by the 60-year repose period, employers will bear the full burden of paying for these injuries through the workers' compensation system and will not be able to recoup their costs from third-party settlements (by liening the claimant's third-party product liability settlements pursuant to the lien and moratorium provisions of § 31-293(a)). Reimbursements through third-party settlement liens create a substantial cost savings for insurers and employers, particularly some of Connecticut's largest and most important employers like Electric Boat and Pratt & Whitney who have historically had large numbers of asbestos-related workers' compensation claims.
- 2) Asbestos-related injuries have long latency periods – Asbestos-related injuries usually take decades to develop and be diagnosed. It is not uncommon for mesothelioma to develop 40 or 50 (or more) years after exposure. A 60-year statute of repose unfairly and unnecessarily extinguishes these claims if someone is diagnosed many years after exposure. We still see new victims of mesothelioma who had asbestos exposure during World War II, which ended 65 years ago.
- 3) To help veterans – Many veterans, particularly Navy veterans, suffer from a dramatically increased incidence of asbestos-related diseases, particularly mesothelioma, an aggressive, uniformly fatal, asbestos-related cancer. Any veteran who was exposed to asbestos while serving in World War II will be denied compensation as the War is already 65 years concluded. Veterans of the Korean War (1950-53) are already beginning to suffer the same injustice as the 60-year statute of repose is beginning to extinguish their claims between now and 2013. Vietnam veterans will also see their claims extinguished as we roll through the 2020's. Veterans and their families should not be left to bear the burden of asbestos-related injuries and deaths by themselves. Third-party compensation must remain a viable option for all veterans, regardless of when they were exposed to asbestos.

Thank you.