



CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION

Testimony of Kevin Hennessy
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Before the Judiciary Committee
Legislative Office Building
Hartford, CT
March 4, 2011

My name is Kevin Hennessy. I am assistant counsel for the Connecticut Business and Industry Association (CBIA). CBIA represents approximately 10,000 member companies in virtually every industry. They range from large, global corporations to small, family owned businesses. Approximately 90 percent of our member companies have fewer than 50 employees.

Thank you for the opportunity to comment on the following bills:

- **HB-6341**, AAC *The Statute of Repose for Asbestos-Related Product Liability Claims*; and
- **SB-1073**, AAC *Apportionment Complaints*

Statute of Repose for Asbestos-Related Product Liability Claims

Black's Law Dictionary defines statute of repose as "a statute barring any suit that is brought after a specified time since the defendant acted."

Connecticut's public policy values the statute of repose as a necessary tool to protect defendants from stale claims. *Baxter v. Sturm, Ruger and Co., Inc.* 644 A.2d 1297, 1300, 1301 (1994) ("statutes of repose . . . serve the important public policy of preventing the litigation of stale claims . . . and to ensure the reliability of the fact-finding process."). Statutes of repose were adopted out of equity so potential defendants would not be subject to indefinite exposure to lawsuits.

For asbestos-related product liability claims in Connecticut, the current statute of repose is a generous 60 years. **HB-6341** would remove the 60-year time limit to file an asbestos-related product liability claim. That means trial lawyers, and their plaintiffs in

Connecticut, would not be time-barred from filing an asbestos-related product liability claim ever. That would create an awful lot of uncertainty for potential defendants.

Most businesses today operate on strict budgets. Moreover, they have to forecast their budgets out multiple years. Repealing the asbestos-related product liability statute of repose would create uncertainty for many businesses and become an administrative and potentially costly burden.

Repealing the asbestos-related product liability statute of repose to benefit trial lawyers and a small group of potential plaintiffs is bad public policy. If the rules are altered for these groups today, which class of citizens will be next? Rather than changing the current system for the benefit of a few, the Judiciary Committee and the General Assembly should reject such a change and retain the current system, which is just and equitable.

For the aforementioned reasons, CBIA urges you to reject **HB-6341**.

Apportionment of Liability After a Claim is Withdrawn

CBIA supports **SB-1073, AAC Apportionment Complaints**. The bill allows defendants to apportion liability to a person after the plaintiff withdraws a civil action against the person. Currently, law allows defendants to apportion liability to a person with whom the plaintiff has settled or released from liability.

Extending the apportionment of liability after a claim is withdrawn will ensure that defendants are not liable for the proportionate share of a plaintiff's damages when they were not responsible. This is good public policy that will afford protections to defendants in civil actions. Currently, plaintiffs control the civil action process and this is an equitable measure that will help balance plaintiffs and defendants interests.

CBIA urges you to adopt **SB 1073**.