

SUPPORT H.R. 3509

“The Workplace Goods Job Growth and Competitiveness Act of 2005”

[H.R. 3509](#) establishes a federal 12-year statute-of-repose for capital goods used in the workplace. The bill will improve the competitiveness of U.S. equipment manufacturers, while ensuring that no injured worker will ever go uncompensated.

H.R. 3509 Will Promote American Competitiveness

Manufacturers of U.S. durable goods are subject to frequent product liability lawsuits targeted against overage products. Even though these products were built decades ago to the safety standards of their day, and many have passed through several owners, the potential liability for these products in many states is literally “endless.” Although it is extremely rare for manufacturers to lose product liability cases involving overage products, the potential liability, along with significant legal costs such litigation entails, places U.S. manufacturers at a distinct cost disadvantage vis-à-vis their foreign competitors.

Foreign competitors do not share the long-tail product liability exposure of U.S. manufacturers. U.S. manufacturers, who have been in business for many years, must factor into their prices the risk of litigation involving thousands of overage machines. Our foreign competitors do not have these risks and costs; because their entrance into the U.S. market has been relatively recent (within the past 25 years), and their liability exposure is relatively small (both Europe and Japan have a 10-year statute-of-repose). A 12-year statute-of-repose would even the playing field by providing U.S. manufacturers with some certainty regarding their potential liability and by eliminating needless transaction costs.

H.R. 3509 Reduces Transaction Costs Without Hurting Workers

Most cases involving overage machines never go to trial, and if they do, a jury almost always finds for the defendant. If a machine has functioned properly for 12 years, it is highly unlikely that the machine was improperly designed. However, the legal fees and transaction costs incurred as a result of litigation involving overage products can be extremely burdensome, especially for small manufacturers. H.R. 3509 would eliminate most, if not all, of the legal fees and transaction costs associated with overage products.

Eliminating needless legal fees and transaction costs does not mean that an injured worker would go uncompensated. Under H.R. 3509 the 12-year statute-of-repose would only apply if the claimant were eligible to receive workers’ compensation. State law would continue to apply to situations involving consumer goods and other products.

A Federal Statute-of-Repose Will Promote Fairness

A federal statute-of-repose is consistent with traditions of Anglo-American jurisprudence, which has long recognized the validity of time defenses. The principle underlying time defenses is that, after a set period of time has passed, it is unfair to force someone to defend against an ancient charge, even if this may result in an occasional hardship. In this tradition, 11 states currently have fixed-term statutes-of-repose, ranging from six to 15 years. H.R. 3509 would extend the time limitation for injured workers in states with statutes less than 12 years, while creating a workplace durable goods statute-of-repose in 33 states that do not have any statute-of-repose at all.

H.R. 3509’s Statute-of-Repose Enjoys Broad, Bipartisan Support

H.R. 3509 is a limited, yet vitally important piece of legislation. The provisions contained in the bill are identical to the statute-of-repose provisions contained in product liability legislation approved by the Congress but vetoed by former President Bill Clinton in the late 1990’s.