

PA 11-200

HB6341

House	6217-6237	21
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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2011**

**VOL.54
PART 19
6188 – 6541**

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HOUSE OF REPRESENTATIVES

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DEPUTY SPEAKER GODFREY:

Have all the Members voted? Have all the Members voted? If so, the machine will be locked. The Clerk will take a tally and Mr. Clerk, if you'd kindly announce the tally.

THE CLERK:

House Bill Number 6282.

Total Number Voting	148
Necessary for Passage	75
Those voting Yea	148
Those voting Nay	0
Those absent and not voting	3

DEPUTY SPEAKER GODFREY:

The Bill is passed.

Mr. Clerk, kindly call Calendar 429.

THE CLERK:

On Page 18, Calendar 429, House Bill Number 6341 AN
CONCERNING THE STATUTE OF REPOSE FOR ASBESTOS-RELATED
PRODUCT LIABILITY CLAIMS. Favorable Report of the
Committee on Judiciary.

DEPUTY SPEAKER GODFREY:

The distinguished Chairman of the Judiciary Committee,
Representative Gerry Fox.

REP. FOX (146th):

Thank you and good evening, Mr. Speaker. I move for the acceptance of the Joint Committee's Favorable Report and passage of the Bill.

DEPUTY SPEAKER GODFREY:

The question is on acceptance and passage. Will you explain the Bill, please, sir?

REP. FOX (146th):

Thank you, Mr. Speaker. This Bill addresses those civil claims that currently exist in our statutes dealing with claims for, products liability claims dealing with asbestos, injuries or death that are caused by the presence of asbestos.

Currently, we have a statute of 60 years by which, and it's called the statute of repose, and what that would mean is that the injury would have to manifest itself within 60 years and then from that period, the potential plaintiff would have three years to bring a suit.

The term that was established initially seemed to be somewhat of a random statute of limitations that was just set out, you know, for a period in the indefinite future.

And what we heard in the Judiciary Committee, and what was testified, is that people are outliving the statute and what is happening is that the illnesses that are caused by asbestos exposure are manifesting themselves after the 60

year period and people are not being able to bring their claims.

Mr. Speaker, the Bill that we heard in Judiciary Committee had, completely removed the statute of limitations from this type of action, but we do have an Amendment, LCO Number 8002, and I would ask that the Clerk please call this Amendment, and I be allowed to summarize.

DEPUTY SPEAKER GODFREY:

The Clerk is in possession of LCO Number 8002, which will be designated House Amendment Schedule "A". Will the Clerk please call the Amendment.

THE CLERK:

LCO Number 8002, House "A", offered by Representative Fox.

DEPUTY SPEAKER GODFREY:

The gentleman has asked leave of the Chamber to summarize. Is there objection? Hearing none, Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker. What this Amendment does is, it does in fact insert a statute of limitations of 80 years from 60 years, and I move adoption of the Amendment.

DEPUTY SPEAKER GODFREY:

The question is on adoption. Will you remark?

REP. FOX (146th):

Yes, thank you, Mr. Speaker. What this Amendment will do is, will enable many potential plaintiffs who sustained exposure to asbestos more than 60 years ago, the opportunity bring a claim.

And what the testimony we have and the evidence that is found is that these types of claims really are, really do manifest themselves and they can go back to asbestos exposure even during the forties.

And what we have found is that it is especially something that has occurred amongst World War II veterans and those from that period, who are now finding themselves diagnosed with very serious illnesses, including mesothelioma and other types of asbestos-related injuries or illnesses, and I would urge adoption of the Amendment.

DEPUTY SPEAKER GODFREY:

The question is on adoption. Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you, Mr. Speaker. There's been a fair amount of discussion about the Bill as originally proposed, and the Amendment that has now been brought out.

The Bill as originally proposed would have had an unlimited period rather than the statute of repose at 60

years. I believe the 80 years is a substantial improvement. It does have a time certain, and it is expanded sufficiently to include those veterans of World War II, both in the workplace and those who worked in shipyards and so forth, as well as the members of the Armed Forces.

So as it is now presented, I support its adoption.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Will you remark further on House Amendment Schedule "A"? Representative Smith.

REP. SMITH (108th):

Thank you, Mr. Speaker. A few questions for the proponent, if I may.

DEPUTY SPEAKER GODFREY:

Proceed.

REP. SMITH (108th):

I'm just wondering from a defense standpoint, how one is actually able to defend a claim like this if the statute of repose is now going to 80 years.

What type of evidence is preserved? Who's around to actually say what happened 80 years ago? It just seems to me that we're extending the statute so far out.

And I understand the desire to protect those who are innocently exposed to this, but at some point, I think there is, there needs to be some type of limitation. In my mind, 80 years, and even 60 years is just so far out there.

I'm not sure, through you, Mr. Speaker, how long can they actually defend itself or him or herself from this type of claim? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker, and through you, and I understand the Representative's question and I think it also would go toward the difficulty in bringing a claim that it would have that length of a statute of limitations.

But while I personally am not familiar, being involved in these types of cases, what, the testimony that we heard in Committee was that oftentimes this will involve larger companies, larger businesses, and there are records kept, which would reflect the type of materials that were used during the period of business where the exposure is being alleged.

And many times apparently from some of the testimony, it's not that hard to prove once you figure out where somebody was working, what type of exposure they had, and

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you can connect that to the illness that has recently been diagnosed. Through you.

DEPUTY SPEAKER GODFREY:

Representative Smith.

REP. SMITH' (108th):

Thank you, and thank you for that answer. And I guess perhaps with scientific technology today and the ability to actually pinpoint when this may have happened, would be helpful in a claim whether you're representing the party who was injured or you're representing the party who was accused of the wrongdoing.

But I think us, as a Legislature, have to be cognizant of the fact that a lot of these records would be destroyed from 40, 60, 70, 80 years ago. Think about your own business if you will, and how long you keep those.

I know just for the Bar Association for a matter of just comparison, you know, we're only required to keep records up to a certain number of years. Seven is the most on any particular file.

So you think about the normal business. You may keep it for five years, you may keep it for ten, you may keep it for twenty, but I think we're asking businesses to store information for far too long and I just have trouble with 80 years, just thinking about having to defend or even

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bring a claim for that period, so for that reason I think I'll be opposing the Bill. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Will you remark further on House Amendment Schedule "A"? Representative Srinivasan.

REP. SRINIVASAN (31st):

Thank you, Mr. Speaker. Through you to the proponent of the Amendment.

DEPUTY SPEAKER GODFREY:

Proceed.

REP. SRINIVASAN (31st):

The original Bill calls for changing from 60 years to an indefinite period of time, and suddenly we have changed that 60 to 80 as opposed to indefinite.

Was there a reason to have taken away the indefinite and made it into an 80 year period of time, which was the original Bill, and of course the Amendment right now.

Through you, Mr. Speaker, for the 80 years. Thank you.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker, and through you, there are proponents of this Bill who I believe would certainly

prefer an unlimited statute of limitations and this was a compromise following discussions with other Members of the Chamber.

What this will do is enable the group that seems to be continuing to come forward and are not being able to bring claims, that World War II era group that I described, this will allow them now to proceed in claims regarding asbestos exposure.

DEPUTY SPEAKER GODFREY:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, yeah, I do definitely agree, you know, that extending 60 years so that anybody and everybody has an opportunity to bring the right amount of claim, unfortunately, if such were to happen, so you're giving them adequate time.

What I'm just looking at myself is 20 years from now or 10 years from now, this House is going to meet again on the same issue and then say 80 was not good enough and then we need to make it indefinite. So why not we pass it once and for all and say if 60 was not good enough, let's just make it indefinite and the case is closed.

Through you, Mr. Speaker

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Through you, Mr. Speaker, if the Representative would like to talk to a few others who wanted the 80 year restriction.

But seriously, and I know the Representative is serious. This is an important issue. But as I understand it, and I'm not an expert in this, but as I understand it, claims regarding exposure to asbestos are dwindling as time goes on because we are more aware of the dangers of that type of exposure.

While there may be somebody who wants to extend this again in 20 years, I think our knowledge of the types of illnesses and injuries that you can sustain through asbestos is growing and hopefully we will see a reduction in that.

DEPUTY SPEAKER GODFREY:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Thank you, Mr. Speaker, through you, I will be supporting this Amendment because I think as you've correctly said, the cases are definitely dwindling and even 80 may be farfetched, but at least we're covering the World War II veterans. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you, for a second time, Mr. Speaker. I wanted to clarify this for, with respect to some of the questions I've heard.

My interpretation of this and Representative Fox certainly is free to correct me, but the statute of limitations, the three-year statute of limitations as it presently exists, will still remain. It will still be required of a claimant to bring an action within three years of the time that the injury as a result of asbestos is discovered or should have been discovered.

So what this does is, extend the statute of repose, which looks at the time last exposed to the condition that is alleged to have caused the disease, so that in this case if someone worked at a defense plant as they called them then in 1943, that individual would have 80 years from that time as far as the statute of repose is concerned, but the claimant would still have to meet the requirements of the three-year statute of limitations, that is three years from injury discovered or should have been discovered.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Representative Larry Miller.

REP. MILLER (122nd):

Thank you, Mr. Speaker. Just one question on the Amendment, through you.

How many people are out there who may have claims again mesothelioma that are in Connecticut? Can you tell me the number?

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Thank you. Through you, Mr. Speaker, and I will get to that question, but just if I could quickly. I did lapse into stating the term statute of limitation as opposed to statute of repose, and the Ranking Member is absolutely correct in the way he described how it works. I'm just more familiar with the term statute of limitations, and I fell into that, but we are dealing with a statute in the manner that the Ranking Member did describe, so I hope that that's clear to everybody.

With respect to the question, I'm not certain of the number of people. I can't imagine that it's an extraordinarily high number. However, there's enough, at least enough individuals where the testimony that came

before the Committee was such that it felt worthy of extending this statute of repose.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Miller.

REP. MILLER (122nd):

Thank you. I know you mentioned World War II veterans, and I'm not sure how many are left today that have maybe contracted that disease. So I just wondered, you know, if it were something that you could count on one hand or two hands, or are there a thousand of them out there just in the State of Connecticut because that's what we're dealing with.

So if you don't know the number, I'll let it go by, but thank you. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Representative Nicastro.

REP. NICASTRO (79th):

Mr. Speaker, I wanted to speak on the Bill, not on the Amendment, if that's all right?

DEPUTY SPEAKER GODFREY:

Perfectly all right. Will you remark further on House Amendment Schedule "A"? Will you remark further on House Amendment Schedule "A"?

If not, let me try your minds. All those in favor signify by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER GODFREY:

Opposed, Nay. The Ayes have it. The Amendment is adopted. Will you remark further on the Bill as amended? Representative Nicastro.

REP. NICASTRO (79th):

Thank you, Mr. Speaker. Mr. Speaker, this touches real close to home to me. I spent four years on a Navy destroyer and we had what we call a Dezron, which was eight destroyers. Those destroyers back in the fifties and the sixties, they were crawling with asbestos, they were crawling with them, and I was down in what they call the hole. I was a sonar man and we had asbestos all around us.

Every two years since then, we have a ship's reunion, and every two years we lose more and more of our shipmates to mesothelioma. We see it happening. It's 50 years later and it's still happening.

And you know, every year I go and get myself checked, just to make sure, but this is something that we never knew. We were kids. We were 18 years old, 19 years old,

nothing can hurt us. Nothing's going to hurt us. We're too young.

What we didn't know was, we were crawling into something that would hurt us later on in life.

I just got a letter from my ship's, president of our association. Two of our sonar men have come down with mesothelioma in the past year, and this is nothing, this is something serious. Real serious. Who ever thought it would take 50 plus years.

Fifty years ago at this time, I was in Tripoli, Libya and it seems like only yesterday. And what I'm concerned about here is, we've got to make sure that we're protecting our men and women.

I don't, you know, sure I was there. But I'm concerned about my fellow shipmates and all those men in Dezron 8 and women that served, and I think this is a darned good Bill. It's a darned good Amendment.

I would urge all my comrades here to support this, because this is something that can come on at any time. If it's happening now almost 60 years later, what's to say how long it can go on for.

So I'd urge you to support this. Thank you.

DEPUTY SPEAKER GODFREY:

Representative Larry Miller.

REP. MILLER (122nd):

Thank you, Mr. Speaker. When asbestos came out it was like a miracle product. Everybody was using it because it would protect all sorts of things from fire, and everybody used it.

We had a company in Stratford called Raybestos. They made brake linings with asbestos. It was really a product that everybody was using, but unfortunately, it does have some side effects.

So what happened was, there's about 100 companies that went bankrupt because of lawsuits, companies that never had any building to make asbestos but they bought it to use in some of their products, and they all got sued, so about 100 companies went belly up because they just couldn't afford it.

And asbestos from Raybestos, here's another company that went belly up. They have no money.

So extending the threshold for suing, who are we going to sue when all these companies are out of business? You know, if there's one ad I can remember from television and from radio. It's called this law firm or that firm, we can help you out. We can get you the money that you deserve.

I know that if you were in the service, you could go to a VA hospital and get care. But when the companies that

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made this stuff or used it are out of business, where do you go?

So I'll pose that as a question, Mr. Speaker, to the proponent of the Bill.

DEPUTY SPEAKER GODFREY:

Proceed,

REP. MILLER (122nd):

Well, I'd like to ask the proponent of the Bill, through you, Mr. Speaker, where will these people go when they have a lawsuit when the companies that they possibly got the disease from because of the products they were using are now out of business and in bankrupt or just gone completely? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker, and through you. In some instances, that is correct, that the defendants would no longer be in existence and the plaintiff would be unable to bring a claim.

But there are instances where the defendant does still exist, or either if there had been a bankruptcy filing or some sort of insurance that was available, in those cases, they may still exist and that's where they would go.

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DEPUTY SPEAKER GODFREY:

Representative Miller.

REP. MILLER (122nd):

Well it's my understanding that most of the companies are out of business. I know that in our own hometown of Stratford, we have these brownfield sites if you want to call them that, where they used asbestos for fill, and the company, Raybestos, was giving this stuff out for nothing, figuring that it was good fill and is not going to harm anybody.

But lo and behold, asbestos got such a bad name and now we have certain areas in town that are deed restricted that you can't dig in. We have it under homes, under ball fields, all over the place.

And I would venture to say that about seven or eight communities around the greater Bridgeport area also have asbestos that was given out as free fill, and every contractor in town was over there with trucks picking it up and dumping it all over the place, and they don't even know where the stuff is.

But the bottom line is, in Stratford when I inquire about how many people had asbestosis or whatever disease you want to call it, we had none, and that's where they manufactured it.

So you know, the stuff has just got a bad rap, and obviously there's some of it that is bad when it gets into a fine particle form, gets in the lungs, it could create a problem.

But I know, I worked with it for 20 years in the heating business, and I can remember going to factories in Bridgeport, taking off asbestos from boilers that were like 40 feet long and about 20 feet in diameter and the fellows that were working on the boiler had kerchiefs around their noses so they wouldn't breathe it in, and after they took off the old asbestos they put new asbestos on it, you know, maybe six or twelve inch coating of it to protect the boiler from heat, so it wouldn't lose the heat in the boiler. And all these people today are still around and nobody had any trouble.

Now, as far as Representative Nicastro's comment about the Navy, I'm sure that they, the way they make ships, asbestos was wrapped around just about everything on the ship, so I could see where maybe there was a problem with the servicemen, and I would again think that the servicemen if they can't get money from, maybe they can get money from some of the builders of those boats.

But in the long run, I know they can certainly get healthcare from the VA. I have a problem with this Bill,

I think there is problems with asbestos, but I also think it got a bad rap.

You talk to a realtor today and if they find asbestos around a smoke pipe in the basement, all of a sudden the price comes down about two or three thousand dollars because they have to hire these specialists to take the asbestos off the smoke pipe and they have to cordon off the house so that any little particle doesn't get up into the living area.

But anyway, I thank you for your answers, and I thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir. Representative Roy. No. Will you remark further on the Bill as amended? Will you remark further on the Bill as amended?

If not, staff and guests please come to the Well of the House. Members take your seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by Roll Call.

Members to the Chamber.

The House is voting by Roll Call. Members to the Chamber.\DEPUTY SPEAKER GODFREY:

Have all the Members voted? Have all the Members voted? If so, the machine will be locked. The Clerk will take a tally and the Clerk will announce the tally.

THE CLERK:

On House Bill 6341 as amended by House "A".

Total Number Voting	148
Necessary for Passage	75
Those voting Yea	133
Those voting Nay	15
Those absent and not voting	3

DEPUTY SPEAKER GODFREY:

The Bill as amended is passed.

Will the Clerk please call Calendar 246.

THE CLERK:

On Page 39, Calendar 246, Substitute for House Bill 5508 AN ACT CONCERNING THE GOVERNOR'S COUNCIL FOR AGRICULTURAL DEVELOPMENT. Favorable Report by the Committee on Government Administration and Elections.

DEPUTY SPEAKER GODFREY:

The distinguished Chairman of the Environment Committee, Representative Roy.

REP. ROY (119th):

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And once it goes to trial -- I've never, I've, frankly, never seen one go to trial.

REP. O'NEILL: Okay.

SENATOR MUSTO: So I really can't tell you in my personal experience that anything would happen after trial, because they -- I can't imagine more than 1 percent if that make it to trial.

REP. O'NEILL: Okay. Thank you, Mr. Chairman.

REP. FOX: Thank you.

Any other questions? Thank you, Senator Musto.

SENATOR MUSTO: Thank you.

Mr. Chairman, if I might, for a moment of personal privilege. Do I get one?

REP. FOX: Sure. Of course. What do you --

SENATOR MUSTO: My father sitting right behind me, he'll be testifying later. Please be nice to him.

REP. FOX: I did see the name there. I figured (inaudible). Okay. So --

SENATOR MUSTO: Thank you.

REP. FOX: -- sure.

We now turn to our members of the public. First is Susan Giacalone. Good morning.

SUSAN GIACALONE: Good morning, Representative Fox and members of the Judiciary Committee. For the record my name is Susan Giacalone and I'm here. I have submitted testimony on four bills today. And being -- I only have three minutes I'm going

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to try to keep my comments brief, but please don't in any way think that reflects our importance of the bills to our industry.

First of all, I'd like to thank the committee for raising House Bill 6424 and Senate Bill 1073. 64 -- using the words of someone who spoke so -- wisely before -- it's like a perennial, a hearty perennial that keeps coming back every year. It's a bill that this committee has seen for many, many years on and off in dealing with independent medical exams. It has been a system that's been in place for a long time.

Contrary to what you might hear later, it is not working. this is one of the biggest issues for defense bars, that the INEs are being objected to without cause, without reason. It is subject to volumes of litigation and we're just seeking that if -- to make the playing field fair and even and to allow the INEs to actually work and serve their purpose.

Senate Bill 1073, is AN ACT CONCERNING APPORTIONMENT COMPLAINT. This bill came before you about five years ago for the first time -- four years ago after the supreme court's ruling in Vierra versus Cohen in which the court determined against what they thought the better judgment -- but based on the black letter of the law, that if a party has been withdrawn against that cannot be apportioned against. And they thought that was a miscarriage of justice.

It wasn't what you all had intended what you adopted the apportionment complaint and urged that the Legislature relook at this and allow apportionment against withdrawing parties.

The insurance association is opposed to House Bill 6341, 6474. Again, these -- 6341 is a new

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bill and I think this is the first time this committee has seen it, where it actually seeks to throw out the statute of repose for product litigation cases. The statute of repose serves a finite time, serves a purpose. Justice is supposed to be balanced.

By removing the statute of repose you're taking away justice from the system. Is purely a plaintiff's claim there and it eliminates any ability. Right now we already have 60 years, which is already making it difficult to defend these cases. You eliminate it, you're providing no benefits and no rights and protections to defendants, which is what part of the justice system is supposed to be about.

6474 is a bill that you have seen a lot of times before. It's dealing with the worker's comp liens. Basically it says that plaintiffs, if they bring a lien (inaudible). If we have a lien on a worker's comp claim they bring an action against a third party. Plaintiff's counsel gets a third of that lien.

Connecticut is unique in the only state that mandates it. And the only way we can protect our lien is we have to intervene in those claims. Therefore we have to pay two councils. This makes no sense. Why are we having to pay our counsel and plaintiff's counsel.

The system is already working. We work out an arrangement. If we don't intervene and we join it then we work out. But the State shouldn't be getting into dictating contracts for third parties.

Thank you. That's my three minutes, so my time is up.

REP. FOX: That was very good. I think you got

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through five bills in three minutes.

SUSAN GIACALONE: Experience.

REP. FOX: Are there any questions?

Representative Hetherington.

REP. HETHERINGTON: Thank you, Mr. Chairman.

It's been a long time since law school. Perhaps you could just remind me. What's the difference between the statute of limitations and the statute of repose?

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SUSAN GIACALONE: I had to look that one up myself, because it's been a long time also for myself. Statute of repose is the ultimate extension on from the -- and it's usually in your product, but you'll see in other -- in that a claim can be brought, and the statute of limitations, the ability for the claimant to bring the action. The statute of repose is from -- triggered not from the event of injury, but from the event triggering it. So the product entering the stream of commerce or such, so it's the last ultimate time that a (inaudible).

So if you put a product in the stream of commerce in 1941, the last year, under asbestos claim, would be this year, (inaudible) cause of action.

REP. HETHERINGTON: That what you described would be addressed by the statute of repose?

SUSAN GIACALONE: Correct.

REP. HETHERINGTON: Okay. Thank you.

Thank you, Mr. Chair.

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So this I think would help if people who -- physicians who want to stay independent or in small groups, the ability to stay that way but still be able to function in the bigger cloud, so to speak, of where health care reform is going, where most of us think health care reform is going.

REP. FOX: Any other questions?

Well, thanks very much, Doctor.

DAVID KATZ: Thank you very much.

REP. FOX: Next is Steve Embry.

STEPHEN EMBRY: Good morning. I'm Stephen Embry. I'm a lawyer. I practice in Groton, Connecticut. And I'm here on behalf of the Connecticut Trial Lawyers.

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I'm an asbestos lawyer. I first started representing people suffering from asbestosis back in 1975, which is some 35 years ago. I didn't know at that time when I started this practice that it was going to be a lifelong relationship with families who would be suffering from asbestos for 30, 40, 50, 60 years.

Most lawyers have cases, and when the case are done the files away and it's forgotten. That's not the way it is what asbestos. The white hand of death that we call asbestos reaches across the decades and continues to steal our loved ones. It produces lingering death and disability. It's handed down to the wives of the families and the children of the workers. And these family members whose only error was that they hugged their husbands and they sat on their father's laps when they came home from work.

Many of my clients worked with asbestos during World War II when they built submarines in the shipyard or served and our nuclear navy in the Mediterranean or the Caribbean during the Cuban missile crisis.

My clients suffer from asbestos that has scarred their lungs. And when they come -- when they're lying on the autopsy table and the doctors look into their lungs they find the actual asbestos that they were exposed to 60 years ago. They find this deadly dust because it lingers in the bellows of life because it was made from rock and rock lasts. It lasts longer, in many cases, than in victims.

Asbestos, the rock of ages, not only lingers in the lungs of those who breathed it some 60 years ago, but continues to hide in our schools, office buildings, boilers, and buildings and continues to produce clouds of dust that cause sickness and will cause sickness and death in the future. It's a rock and rock lasts.

It was sold by asbestos companies because they said it was a rock and it would last. That is the message that those purveyors of death used to sell and market their products. They said, buy our asbestos. It will last as long as your ships. It will last as long as your buildings. It will last as long as your power plants. Certainly it will last a lifetime. What they did not tell us was that those would be shrunked, shortened lifetimes because of the products that they sold.

It was lasting product. It was a lasting illness. It was an illness that went on for generations which are even as yet unborn, but the sellers only told us part of the stories. They told us the parts that would put money in

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their pockets, but they didn't tell us about how dangerous it was.

Seventy-four years ago scientists and employees in the asbestos industry agreed to withhold information from the public that asbestos causes cancer. Sixty some -- some 70 years ago (inaudible) Brown and John -- a Johns Manville worker wrote to Sumner Simpson of Raybestos-Manhattan saying that our best interests are served by having asbestos receive the minimum of publicity.

Well, what we know now is that asbestos goes on and on and 60 years is way too short to cut of the bid that workers may have as a result in that -- of the damages that were caused.

I just simply wanted to point out briefly that Attorney Giacalone made a little bit of a mistake. She said that the statute of limitations would run beginning in (inaudible) in 1941. The 60 is 1951 .

I usually say that because perhaps if you can't trust them to do the math, you can't trust the insurance industry to foretell justice. They suggested that justice requires that the benefits be terminated. So it sounded kind of like a little -- when you go into buy cigarettes, the little sign that says, if you were born before March 4, 1980, you can't buy cigarettes. They want a little thing that says, if you sold asbestos before 1951, it's okay, you can kill.

And all we're asking for is it to say, they sold, this. They sold things that they knew were kill 60, 70 years later. Hold them responsible for it.

REP. FOX: Thank you. Can you just describe for us

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how an asbestos case works as it goes through the system? Because a lot of us may not be familiar.

STEPHEN EMBRY: The first thing you have to do is develop an asbestos-related disease, obviously. And it has to be identified by a doctor and it has to be recognized by the person who has it. So those diseases are scarring of the lungs, those diseases are lung cancer, mesothelioma, colon cancer and -- as of such cancers as those.

You then go to a lawyer and a lawsuit is filed. These lawsuits are then docketed and then they are scheduled for trial just as any other case would. The only difference is that these are ones that took a long time for the asbestos to occur. Often the defense comes in and says, well, it couldn't have been our asbestos because there's a 30-year latency period. What that simply means is you can't -- you don't normally expect to find a cancer caused by asbestos occurring from -- in the first 30 years of exposure.

It takes about 30 years from the date of exposure, 20 years before you foresee it. So we -- they know and they defend upon their cases by saying, it takes a long time for us to kill people. And then they want us -- they want to come in and say not only that, but if it takes too long, we want to get off scot free.

REP. FOX: But if we -- can I just even go even more? How do you determine who to sue?

STEPHEN EMBRY: That's a difficult thing. Some of the cases are relatively easy because if you -- a fellow worked in the General Dynamics shipyard, or worked at Millstone or worked at one of the power plants, we have those records. We know who it was.

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On the other hand, one of the individuals I represent, you know, worked in the Department of Public Health here in Hartford and died of mesothelioma last year. That's a little harder. You have to be able to then go and find out who made the asbestos and who sold that asbestos that caused her death some 50 -- in that case, almost 60 years after she worked for the City of Hartford.

REP. FOX: Because one of the things we have here and we -- that comes to our committee at times is expanding the statutes of limitations or eliminating. And one of the questions I always have to ask myself is, how can you -- how do defend the case? Also, how do prove the case?

And right now you have 60-year statute. And I think a natural question would be why should it be longer? What is the reason it should be longer and how is it working now with the 60-year statute?

STEPHEN EMBRY: Well, it clearly should be 60 years, longer, because the people who died of mesothelioma who last worked with asbestos 60 years ago, we know with virtual certainty that it was the asbestos that caused their mesothelioma. Because the only cause of mesothelioma is asbestos.

And that those are those cases who know who it was who sold the asbestos. Those records have been retained. Those records are available and we know who's product -- and they're not suggesting it's not them. That's not the reason they want to have the statute of repose. There may be cases where it's hard to find that information and if you can find that, then a lawsuit is not brought or if the lawsuit is brought it's thrown out.

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So there's a defense to the -- that comes as a result of the passage of time and that is it may be difficult to prove the case, but it may not be difficult to prove the case. You may have a fellow, for instance, whose only job was working with Galligaskin's as a pipe lagger his entire career, and dies of mesothelioma. We know for sure.

He tells us, the asbestos that I worked with was made by the Durlock company. He may say, I worked with Calow. He may say, I worked with Johns Manville. So we know for sure because they read the boxes, they read the plans. And many of those cases the plans for the building say that they were -- that the asbestos was installed by Owens Corning company people who came in and did the installation. So we know that information. That's not an unknowable.

What the unfortunate thing is that even if you know who killed our clients, some of them, some of the defendants get off scot free because it took a long time to kill them. That's all. But they knew when they did it that it was going to take a long time to kill them.

REP. FOX: Okay. Any other questions?

Senator McLachlan.

SENATOR McLACHLAN: Thank you, Mr. Chairman.
Thank you for your testimony today. I was intrigued by your expertise in this area of mesothelioma deaths.

I have a dear friend who died as a result of mesothelioma who never had any direct relationship working around the material. The only connection they could make whatsoever was that his father was a mechanic at Hughes

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Aircraft in California, but yet he is the individual who came down with it. Is that unusual?

STEPHEN EMBRY: Not unusual at all. I have a case involving a fellow who has asbestosis, severe asbestosis. His father worked as a pipe lagger at electric boat. These are, in fact, conditions that they knew when they sold the product would not only kill the workers, but would kill their family members.

It was Pliny the elder in 71 A.D., wrote in an article about how asbestos workers in Rome were dying from lung disease in extremely great numbers. So this is not something that should come as a surprise to asbestos manufacturers. And we know from their own records that, not only do they know about it during the thirties, forties and fifties, but that they actively conspired to keep the information for us.

It's a -- the statute of reposes are intended to such things as automobiles or pins or things that last for a couple of years and then fade away from the environment, but that's not true with asbestos. There's asbestos -- I hesitate to say -- in the state capitol buildings. I know that there is in many of the state capitol buildings because they were built in the forties and fifties and we have some of the records showing who made those asbestos -- and who put the asbestos in.

We know that there was asbestos that was put in into power plants in the thirties and forties and in Millstone in the early sixties. So the question would come to my mind, why would we ever want to let these people who intentionally created a cloud of deadly dust which floated over our country get off scot free simply because it took them a long time to kill some

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people?

SENATOR McLACHLAN: So for clarification, did I hear you say that a child of someone who was exposed and worked around asbestos, who just lived in the same house --

STEPHEN EMBRY: Yes.

SENATOR McLACHLAN: -- in fact, only until the age of eight, I believe, was the time in which he lived in the House and the dad was working at Hughes Aircraft, you're saying that that is not a usual situation? That the child then comes down with the disease?

STEPHEN EMBRY: That's not unusual at all. Not unusual at all. I had another pipe lagger who worked at Electric Boat. He worked there for many, many, many years. He did not develop asbestosis, but his wife and his baby daughter both developed asbestosis from hugging their father and husband when they came home from work and washing their clothes.

SENATOR McLACHLAN: Thank you.

REP. FOX: Thank you.

Representative Hetherington.

REP. HETHERINGTON: Thank you, Mr. Chairman.

The -- where is the present limitation for the statute of limitode -- pardon me. Statute of repose -- that's a combination.

Where do we look to to find the present statute of repose which applies to asbestosis?

STEPHEN EMBRY: I can't give you the site of the present --

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REP. HETHERINGTON: Well, I just --

STEPHEN EMBRY: -- but it's 60 years from the date of last exposure.

REP. HETHERINGTON: Okay. I'm looking at the proposed bill and it just refers to limitations. It doesn't really distinguish, it seems to me, between statute of repose and statute of limitations.

STEPHEN EMBRY: I think the intention of the bill was to deal solely with the statute of repose. The statute of repose, as I recall, was amended in about 1982, '83. Prior to that we had ten-year statute of repose. The bill was amended in 1982, I believe it was --

REP. HETHERINGTON: To make it a 60 years. Okay.

STEPHEN EMBRY: You know, and to make it a 60-year statute of repose. And frankly the assumption simply was, at that point, was that this was an epidemic which would die out. It turned out not to be the case.

I've had four widows come in this week so far. So we know then it continues to go on and we know that it will in the future. And the ultimate statute of repose will be -- occurs when the last asbestos victim is laid to rest. That's a fair statute of repose, not the statute of repose that would eliminate benefits and eliminate rights for those who were exposed years ago.

REP. HETHERINGTON: And the statute of limitose -- pardon me, the statute of limitations. (Inaudible) the statute of repose would commence to run when the product is first introduced to commerce?

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STEPHEN EMBRY: When the product is last -- the way the statute reads now, as I read it to read as the date the individual was last exposed to asbestos.

REP. HETHERINGTON: Right.

STEPHEN EMBRY: And there are some arguments among the defendants that it's the last time that they sold asbestos or the date of their last sale of asbestos, but I think the present statute refers to date of last exposure.

REP. HETHERINGTON: If this proposal were adopted what would be the statute of repose?

STEPHEN EMBRY: There would be no statute of repose as there is in most areas of the law. What there would be is a statute of limitations, and that is the individual would have to bring the lawsuit within whatever period of time from the date that they were diagnosed from having asbestosis and knew that it was caused by asbestos.

So for instance, if a person gets mesothelioma, worked with asbestos in 1939 and gets asbestosis last -- next year, right now he would have no rights. He couldn't seek any benefits whatsoever for his mesothelioma, even though he knew who caused the mesothelioma and even though we knew what the cause of the mesothelioma was.

When he gets the mesothelioma next year he would then have two to three years to bring the lawsuit, which would be fair because you can't bring a lawsuit now because there's nothing with him.

REP. HETHERINGTON: So it would be three years from the date of discovery.

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STEPHEN EMBRY: It's basically three years from the date of discovery.

REP. HETHERINGTON: Okay. So the effect of this would be to, obviously to eliminate the statute of repose for this particular condition and apply exclusively to the three years statute of limitations.

STEPHEN EMBRY: Yes.

REP. HETHERINGTON: All right. Thank you.

STEPHEN EMBRY: And again, that's the law in almost every other field. There are statute of reposes for product liability for such things as automobiles and medication, but those are wasting products which typically get off the landscape within a couple of years.

REP. HETHERINGTON: Thank you.

Thank you, Mr. Chairman.

REP. FOX: Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

A question I have in reading the proposed bill, it looks like that in addition to deleting the statute of repose of 60 years, in Section 2 it also talks about a 30-year statute regarding property.

And I'm just wondering if you could explain how asbestos impacts property? And are you also an advocate for changing that part of this section as well.

STEPHEN EMBRY: Yes. Part of the statute says that -- relate to property rights. A lot of the

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times the individuals are exposed because they're working in a building. The building owner may very well know that there's asbestos there, may be involved in removal of asbestos. And so consequently, there's a right that doesn't occur from the sale of a product, but arises from negligent ownership of a piece of property.

And it should be the same thing there, that individuals who use their property and benefit from their property in a way that damages other people should be responsible for the damages that they cause. That's all. It's just a basic sense of justice. People should be responsible for the damages that they cause.

REP. BARAM: So you're talking about the instance where asbestos is used in the construction of property and somebody knows about it and there's nothing to correct it.

STEPHEN EMBRY: Yes. Correct it -- or does correct it, goes in, has it ripped out, but doesn't use the necessary cautions to prevent the workers in the building from being exposed to asbestos.

They simply go and rip it out in the dark of night. When the workers come in the next morning, we often here about the desks are covered with white material and they brush it off and go to work. And those situations just -- it doesn't arise under the product liability act. The product was not sold. That's not the claim against the product manufacturer. That's a claim against the property owner.

REP. BARAM: So that that would then be governed by a statute of limitations --

STEPHEN EMBRY: Statute of limitations.

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REP. BARAM: -- in guarding negligence actions and property --

STEPHEN EMBRY: Yes. Regarding negligence actions and property actions.

REP. BARAM: Thank you.

STEPHEN EMBRY: There's nothing in here that would do away with the obligation of the person who's injured to promptly take steps to protect his rights. What it is -- simply says that there shouldn't be anything here that allows people who do something wrong to get away scot free merely on the passage of time.

REP. FOX: Representative Simanski.

REP. SIMANSKI: Thank you, Mr. Chairman.

My question to you is just regarding the manifestation of the symptoms of the disease. Sixty years strikes me as an awfully long time and will you have the actual first manifestation of the symptoms after a 60-year period of time?

STEPHEN EMBRY: Yes. Often. Representative, a fellow now who started to work at Electric Boat in 1940. Went to work with building the liberty yard, which was used World War II for ship construction, building the ships defending the country. He was diagnosed with mesothelioma in October of 2010, died shortly thereafter.

He didn't have any symptoms what so all -- ever of mesothelioma until October of 2010 for a simple reason, he didn't have mesothelioma until 2010. So he could not have had asbestos-related symptoms before then.

There will be other cases in which, particularly

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in terms of asbestosis where the symptoms come on gradually and progress and get worse. And there you have a statute of limitations which says that you have to act promptly to protect your rights. You can't sit on your rights. But again, it doesn't say, for no good reason unless their manufacturer or the property owner gets off free simply because it took a long time.

Sixty years sounds like a long time. To be honest with you, I helped draft the statute of repose amendments in '82 or '83, whatever it was. At the time it seemed like it was going to take -- 60 years seems like a long time.

I have been honored beyond belief to represent so many families who suffer from asbestos. They, you know I represented the fathers when they first had pleural plaque. Twenty years later they had mild asbestosis. Thirty years later they were on oxygen. Fifty years later they died. If I had known now what I knew when I was 35 I probably would have pushed for a longer statute of repose (inaudible).

REP. BARAM: Thank you.

REP. FOX: Thank you.

STEPHEN EMBRY: Thank you.

REP. FOX: Thank you for your testimony.

Next we have -- there's a three-for. Anthony Musto Senior, Arthur Tarantino and Rat Winicki.

And if you could each just identify ourselves and then feel free --

ARTHUR TARANTINO: Good afternoon, Chairman Coleman, Chairman Fox. My name is Dr. Art Tarantino. I have my colleagues Dr. Anthony Musto, Dr. Ray

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VINCENT DeANGELO: I'm not a hundred percent sure about that. I think it depends on the timing and the judge. And the cross-claim wouldn't necessarily address any claims the plaintiff has and a cross-claim wouldn't be the same as apportionment.

REP. HETHERINGTON: No. I just wasn't sure. All right. Thank you.

Thank you Mr. Chairman.

REP. FOX: Thank you.

Any other questions? Thank you very much.

Next is Chris Meisenkothen. Good afternoon.

CHRISTOPHER MEISENKOTHEN: Thank you, Mr. Chairman. Members of the committee, Good afternoon -- afternoon now, I guess. My name is Christopher Meisenkothen. I live in Durham. I practice law in New Haven with the law firm of Early, Lucarelli, Sweeney & Meisenkothen.

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Like Mr. Embry before me, I am also an asbestos lawyer and have been doing this work for 12 years. My firm has been doing it for 31 years now since 1980. You know, I second all of Mr. Embry's comments, but I also want to add a few comments of my own. I submitted some prepared remarks that are fairly brief.

Asbestos has left a lasting and tragic legacy for a lot of the workers that built our societies and the buildings that we work in, go to school in and live in. Mesothelioma and other asbestos-related diseases affect people from all walks of life and people from all that towns.

I've personally represented people with

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mesothelioma from Torrington to Putnam to Groton to Stamford and everywhere in between, as well as out of state. I've represented, personally represented Navy veterans, Electric Boat shipyard workers, schoolteachers, insulators, steamfitters, boilermakers, carpenters, electricians, mothers, wives and children of asbestos workers, who, the only thing they did was, as Mr. Emery mentioned, to live in the same household as somebody worked with asbestos.

I want to stress that the current state of the medical literature is and has been for a number of years that there is no known safe threshold for exposure to asbestos below which mesothelioma will not occur. It is unlike virtually every other disease or toxin that has ever been studied. There is no known safe threshold. People have been documented in the medical and scientific literature for decades to have developed mesothelioma and other diseases after what we would consider miniscule exposures.

One notorious example was they had been following a group of women that worked in a gas mask factory in England during the second world war. One woman whose only known exposure to asbestos in that factory was literally for ten days and she developed mesothelioma 60 years later and was included in the most recent update of that study that was just published a few years ago.

You know, I think that the insurance and the business community may actually be divided on this issue because it may seem like a -- something for plaintiff's lawyers, but it's not. Actually businesses and insurers do benefit from this financially if there is no statute of repose. The statute of repose eliminates the rights of injured people to go after people in

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the third-party system, in the court system, but it does nothing to affect the rights under workers' compensation.

And so a lot of times workers' compensation claims and insurance companies that might be liable for money to pay money to workers compensation claimants end up not having to pay out any money because that plaintiff went into the civil justice system and pursued the actual tortfeasors rather than pursuing workers' comp.

And as members of the committee may or may not know, the workers' comp respondents, the defendants in the workers' comp claim benefit from an offset or a credit for any benefits they may have to pay for money that's recovered in the tort system.

And so very often -- I can speak from personal experience. I have a number of clients. I've represented about 27 or 28 individuals with mesothelioma that worked at Electric Boat over the years and my law firm has reimbursed Electric Boat literally hundreds of thousands of dollars in a lot of those cases for workers' comp benefits that EBS paid to those people through the workers' comp system.

That has actually worked out to be a substantial cost savings for Electric Boat and other employers. Pratt & Whitney has a number of mesothelioma claims, and other employers around the state. So it's not simply something that benefits plaintiffs and people that have been injured although that is obviously I think my number one concern.

As Mr. Embry mentioned, the asbestos-related diseases do have very long latency periods. I still am getting new clients that call me or walk into my office that were only exposed to

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asbestos during the second world war. That's been over for 66 years now. Their claims would theoretically be barred by the current 60-year-statute-of-repose.

You know, this change really most greatly affects veterans, particularly Navy veterans. Navy veterans as a group have the second or third highest incidence of mesothelioma out of any occupational group followed only by shipyard workers, people, like, that worked at Electric Boat for years.

You know, any veteran who had exposure exclusively during World War II, their claims would be barred. The statute of repose is beginning to bar claims for veterans that had their exposure during the Korean War going back to 1951. And soon hundreds veterans who had their exposure during the Vietnam War will also their exposures begin to barred. And I have represented Navy veterans from all three of those conflicts.

One gentleman I had the pleasure and honor of representing was in the United States Navy from 1942 to 1946. He was on the USS Langley. He earned nine battle stars on his Pacific theater ribbon for major engagements he was involved in on the Langley. The USS Langley was only one of 12 ships during the second world war to receive the presidential unit citation for the bravery of the crew and the number of active engagements they saw.

He had no other exposures. An enemy bomb blew a hole in the back of the Langley, a 500-pound bomb killed a number of sailors on board. My client was lucky enough to have survived the second world war. Went on the be tool and die maker the rest of his life. Raised a family. Did everything right. Was honest, was

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hard-working.

He developed mesothelioma from his work in the Navy and he died. Luckily for the family it turned out he developed it within 60 years. He was diagnosed in 2001. I was able to pursue a claim on his behalf. If that same gentleman walked into my office today or called me today, I would not -- because his statute of repose would have expired in 2006.

This is simply an issue of fairness. When the 60-year statute of repose was initially enacted in the early 1980s, it literally protected everybody that may have developed an injury going back to the 1920s when people were not really having a lot of exposures. And now it's having the effect of eliminating those people's claims.

Thank you very much.

REP. FOX: Are there questions?

Representative Hewett.

REP. HEWETT: Good afternoon.

CHRISTOPHER MEISENKOTHEN: Good afternoon.

REP. HEWETT: Can you go back to the time limits it is for the exposure? Because I, myself, you've got me shaking in my boots over here because I did 20 years at EB in the shipyard. And you said they're the number one.

CHRISTOPHER MEISENKOTHEN: Number one.

REP. HEWETT: So could you explain the time limits?

CHRISTOPHER MEISENKOTHEN: Sure. What the medical literature says right now -- and this has been

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generally accepted for the last 20 or 30 years -- the average period from your first exposure to asbestos until your diagnosis with mesothelioma is 35 years. That's average from your first -- not your last -- from your first exposure.

If you view the number of cases of mesothelioma as a bell curve, for example, a curve, roughly 80, 90 percent of those cases will occur between 20 and 40 years from first exposure. So, you know, if you have people that are diagnosed with mesothelioma today, people that had their first exposures to asbestos back in the 1940s -- or the 1960s or 1970s, they were right at the heart of what you would expect. They are right in the average.

But as I mentioned, we routinely have clients that still walk in or call us today when they -- their only exposure or their first exposure was during the second world war, or in the army of occupation after the second world, or beginning in the Korean War, throughout the 1950s. We routinely see clients that had their first exposures in the early 1950s or the middle 1950s working as -- going to work as, you know, apprentice boilermakers, apprentice insulators, apprentice electricians.

So, you know, what the current idea is now is that you have to have a minimum of roughly 10 years -- 10 to 15 years they say, I believe the limit is about 10 years -- before you would see any effect. So, you know, typically if a person had asbestos exposure more recent than ten years, those exposures usually do not contribute to the development of the disease, because by the time it's diagnosed it's usually been growing in your body for six, seven, eight years.

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But, you know, there is no known safe threshold. As I mentioned that one woman in the study of the English gas mask workers, she worked in the plant for ten days. I have seen, I have personally represented people with mesothelioma that had exposures literally for one summer working in a factory or working with asbestos insulation.

I currently, unfortunately, sadly am representing the son of a union asbestos worker from Local 33 here in Connecticut. His father was a client of ours back in the 1980s. He died from mesothelioma in 1988 from his work as a lifelong union asbestos worker. His son developed mesothelioma simply from working -- simply from living in the home with his dad and working one summer with his dad as a helper in 1968.

You know, he unfortunately recently passed away just in January at the age of 61. This affects -- he was college-educated. He went to college in the late sixties and early seventies, became a computer programmer the rest of his life. Never had any asbestos exposures after that from the 1970s up to the present. And he developed mesothelioma and he died. You know, this affects people.

You know, I represented a gentleman who had exposure -- his only exposure was on the USS Witek, which was a ship, a destroyer, if I recall right, in the Vietnam War in the 1960s. He left the Navy in 1967. He was an Annapolis graduate from the Naval Academy in Maryland.

After his Navy career he went on to become a vice president of IBM. When he left IBM he went to a second career as an executive compensation consultant for an executive compensation firm in New York City. A person you would ever expect

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to develop mesothelioma in a million years except for the fact that he served five years in the United States Navy back in the 1960s.

REP. HEWETT: Well, I started working there in '74 and I did 20 years, left in '94. I don't think that -- there wasn't a lot of asbestos around at that time, but I mean, that's what they said, anyway. I don't believe them.

CHRISTOPHER MEISENKOTHEN: Unfortunately, there was. Electric Boat says, if I recall correctly -- I don't want to impugn them since they're not here -- if memory serves, they stopped using new asbestos products in submarines in 1976 or 1977.

REP. HEWETT: Oh, come on now. You're not working with me, man.

CHRISTOPHER MEISENKOTHEN: There were a number of summaries that came in for overalls and repairs after that time frame that still had asbestos products in --

REP. HEWETT: You're right. And a lot of the exposure that people got, they don't know. Because I remember going home with my overalls on and all the fibers are on those coveralls and it went into my household and that's where a lot of people --

CHRISTOPHER MEISENKOTHEN: That's exactly right. As early back in the 1930 and 1940s medical professionals and researchers were already writing and publishing studies that workers should shower, change their clothes, have separate lockers, not expose people in the home to the dust from the asbestos dust when they got home.

This has been known for a long time. And at the time, originally in the early 1980s I don't

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think anybody -- I started doing this in 1999, so I was not around back in the 1980s doing asbestos litigation, but I'm sure that Mr. Embry and others who were involved in this in the early eighties never expected to be sitting here in the year 2011 still seeing 3,000 new cases of mesothelioma diagnosed every year.

REP. HEWETT: Oh, yeah.

CHRISTOPHER MEISENKOTHEN: They probably thought that 60 years was sufficient at the time. It's not sufficient. There should be no statute of repose. There's no statute of repose for exposures to hazardous chemicals under 52577(c). There's no statute of repose for workers' compensation claims of any type. There's a statute of limitation for those things and there should be a statute of limitations here and that's in the statute. That's a three-year statute of limitations. There should be no statute of repose.

REP. HEWETT: I agree. I agree with you a hundred percent. I really agree with you now. Thank you so much.

REP. FOX: Well, thank you.

Are there any other questions?

Thank you very much for testimony.

CHRISTOPHER MEISENKOTHEN: Thank you for your time.
Thank you.

SENATOR COLEMAN: (Inaudible.)

Good afternoon.

FRANCIS VESCI: Good afternoon, Mr. Chairman and members of the committee. My name is

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HB 6341, An Act Concerning The Statute Of Repose For
Asbestos-Related Product Liability Claims

The Insurance Association of Connecticut is opposed to HB 6341, An Act Concerning The Statute Of Repose For Asbestos-Related Product Liability Claims.

HB 6341 seeks to eliminate completely the statute of repose for such actions. Statutes of repose are designed to provide a finite time in which a claim may be brought protecting defendants from limitless litigation. Statutes of repose ensure that information is available and evidence does not become stale. Current law already permits more than significant time, sixty years, to bring a claim. Such an extensive amount of time already makes it extremely difficult to gather relevant evidence to defend against such claims. Justice is supposed to be balanced and fair for both parties. Eliminating the statute of repose removes justice from the equation.

Additionally, HB 6341, as drafted, is not limited to courses of action that arise after the effective date. As such, it could apply to a cause of action that occurred years ago, thus revising a cause of action that may have already terminated.

The IAC urges your rejection of HB 6341.

Comments of Connecticut Trial Lawyers on Repose
for Victims of Asbestos.

I am Stephen Embry, an asbestos lawyer from Groton, Connecticut. I have represented the families of those killed and injured by asbestos for 35 years. When I met with my first asbestos clients in 1975 I did not know that it was to be a life long relationship that would span the generations. I did not imagine that the epidemic would last so long, or claim so many.

Most lawyers have cases, and when the cases are done the files are put away and all too often the memories of the clients fade. That is not the way it is with asbestos and its victims. The white hand of death we call asbestos reaches across the decades and continues to steal our loved ones. It produces lingering death and disability. It is sometimes handed down to the wives and children of the workers who only error was in hugging their husbands and fathers when they came home from work, with clothes covered in white powder.

Many of my clients contact with asbestos occurred when they built our submarines in World War two or in the 1950's when they built our nuclear navy to provide the walls of steel that kept us safe during the cold war, and during the Cuban missile crises in 1963. Others raised palaces of nuclear energy at Millstone in the early 1960's that continue to provide our electricity today.

Some worked in our office buildings built in the 1950's filled with asbestos insulation

Cases I am working today include:

A worker with severe asbestosis who worked during World War II at a shipyard in Quincy, Massachusetts during World War II.

A victim of mesothelioma who started at the Electric Boat Corp. in 1940.

The son of a pipe layer whose father worked with asbestos in the 1960's and brought contaminated clothes home to his family.

A women who died of mesothelioma from working in asbestos polluted buildings at the Department of Health in the 1950's.

Every week the widows of clients I first represented in the 1970's come to me because their husbands are now dying of the dust that first made them sick almost 40 years ago, and kept them sick across the decades.

When the Doctor's look into my client's shrunken and scarred lungs on the autopsy table they find the asbestos dust that the workers breathed as young men, proudly serving their country, building its ships and

factories. The asbestos lingers and stays. Hidden but not forgotten.

The Doctors find this deadly dust lingering in the bellows of life because it was made from rock, and rock lasts. It turns out that it lasts longer than its victims.

Asbestos, the rock of ages, not only lingers in the lungs of those who breathed it 60 years ago, but continues to hide in our schools, offices, boilers and buildings today and continues to produce clouds of dust which can sicken and kill. It is a rock and rock lasts.

It was sold and installed because it lasts. That is the message the purveyors of death used to sell and market their deadly products. "Buy our asbestos it will last as long as your ships, your buildings or your power plants." Certainly it will last a lifetime, as shortened as that may be. Certainly it will last 60 years and more.

Lasting product, lasting illness, illness for generations yet unborn. But the sellers told only part of this story. They told the part that would put money in their pockets, not the part about the death and illness that would last even longer, unto this day, and even until tomorrow.

Seventy-four years ago scientists in the employ of the asbestos industry agreed to withhold information from

the public that asbestos causes cancer.

Sixty three years ago Owens Illinois medical studies showed asbestos inhalation scars the human lung, and but kept this from the workers using their products.

More than 70 years ago Vandiver Brown of Johns Manville wrote to Sumner Simpson of Raybestos Manhattan saying he agreed, "Our interests are best served by having asbestosis receive the minimum of publicity"

As a result of this conspiracy asbestos was sold, and asbestos sickened, and it continues to sicken and kill. Conspiracy entered into more than 60 years ago, and a legacy that has lasted more than 60 years.

What do these events have in common? Many of the events, and the sales of asbestos occurred more than 60 years ago. But as Shakespeare said, the good that men do is oft interned with their bones, but their evil lives after them. Our law enshrines the evil, and buries the good. Under our law the manufacturers of asbestos, the malefactors of lasting death are granted repose after sixty years. Not so the costs of their product which we continue to pay for today.

After sixty years they are no longer held responsible for the costs of the disease they sowed. Those costs must

instead be borne by the heroes who built the country. Borne by the greatest generations who stood duty at Midway and the Cuban crisis, and by taxpayers of today who must pay for the hospital and funeral bills for diseases arising today from the conspiracies of the past.

There is no justice in a statue of repose that gives repose only to the sowers of death, and not to those who bear the wounds of asbestos today.

You can right the wrong by writing a law that says justice should be a way of life, not a reward for carelessness and evil. Repose should only come when the final victim of the asbestos conspiracy is laid to rest.

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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.

Written Testimony from the U.S. Chamber Institute for Legal Reform on H.B. 6341
State of Connecticut General Assembly
Joint Committee on the Judiciary
March 4, 2011

The U.S. Chamber Institute for Legal Reform (“ILR”) hereby submits its comments in strong opposition to H.B. 6341, legislation aimed at repealing the State of Connecticut’s statute of repose for personal injury claims involving exposure to asbestos. ILR is a national organization that represents the nation’s business community in a critical mission – to make America’s legal system simpler, fairer and faster for all stakeholders. To that end, ILR is committed to ensuring that asbestos litigation is guided by well-settled legal principles.

H.B. 6341 would in one fell swoop eliminate the State of Connecticut’s longstanding statute of repose as applied specifically to asbestos personal injury claims. The current statute of repose for such claims is 60 years – a period of time that the Connecticut legislature previously deemed amply long enough to allow for the latency period associated with many asbestos-related claims. Indeed, many experts agree that the manifestation of an injury from the time of exposure to asbestos is normally 20 to 40 years, especially with regard to asbestos-related malignancies such as mesothelioma and lung cancer. The proposed legislation, however, would effectively authorize asbestos claimants (and particularly their estates) to pursue litigation for asbestos exposures that occurred before 1951 *without limitation*. In other words, it is entirely plausible that asbestos plaintiffs could pursue litigation in Connecticut for alleged exposures and injuries dating back to the Great Depression.

Such an outcome clearly runs afoul of state public policy as previously established by the Connecticut legislature and confirmed by the state’s highest court. In addition to providing ample time to file asbestos claims, Connecticut’s current statute of repose serves important public policy objectives related to the integrity of the fact-finding process and fairness for defendants who should not be forced to litigate 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.”). Eliminating the 60-year statute of repose will inevitably force defendants to litigate more and more asbestos claims in Connecticut based on a dubious factual record of faded memories and missing documentary evidence – evidence that is vital towards confirming important occupational and exposure histories of any given asbestos claimant. The fact that many of those exposed in the 1930s and 1940s – and their co-workers -- are no longer

living, and therefore cannot be cross examined, also exacerbates the problem of access to meaningful evidence and the opportunity to contest such claims

To be sure, Connecticut's current statute of repose maintains heightened importance because it protects non-culpable defendants from attenuated litigation. During the 1980s and early 1990s asbestos litigation focused on the actual producers of asbestos and asbestos-containing products. James S. Kakalik et al, *Variation in Asbestos Litigation Compensation and Expenses* (1984). Many of these defendants ultimately resolved their asbestos liabilities in the tort system by securing bankruptcy relief through the establishment of personal injury settlement trusts that have proliferated considerably over the past decade. Because of their bankrupt status, these debtor/defendants can no longer be sued in the tort system. As such, asbestos plaintiffs' lawyers have shifted their litigation tactics towards suing the next solvent defendant, many of whom had peripheral involvement with the manufacturing and sale of asbestos containing products. Passing H.B. 6341 will only accelerate this litigation against the next solvent bystander based on injuries that were likely caused by now-bankrupt defendants. See Mealey's Litig. Rep.: Asbestos, vol. 17:3, Mar. 1 2002 (describing asbestos litigation as an "endless search for a solvent bystander.").

H.B. 6341 upsets well-settled public policy regarding the litigation of stale claims in the Connecticut civil justice system. It also embodies an initiative that will invite more asbestos litigation in the state that is patently unfair to defendants who will be forced to defend these factually dubious cases without adequate access to evidence. Advancing such legislation will also signal a step in the wrong direction if the State of Connecticut wants to attract future job creators and improve its overall business climate. For the foregoing reasons, we urge the Judiciary Committee to reject H.B. 6341.



CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION

Testimony of Kevin Hennessy
Assistant Counsel
Connecticut Business & Industry Association
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.

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(Inaudible.)

THE CHAIR:

Thank you, Senator.

Have all members voted? Have all members voted?

The machine will be locked.

Mr. Clerk, will you please call the tally?

THE CLERK:

Motion is on passage of House Bill 6474, in
concurrence with the action in the House.

Total number voting	36
Those voting Yea	25
Those voting Nay	11
Those absent and not voting	0

THE CHAIR:

The bill is passed.

Mr. Clerk.

THE CLERK:

Calendar page 17, Calendar Number 611, File 707
and 883, House Bill 6341, AN ACT CONCERNING THE
STATUTE OF REPOSE FOR ASBESTOS-RELATED PRODUCT
LIABILITY CLAIMS, as amended by House Amendment
Schedule "A"; Favorable Report of the Committee on
Judiciary.

THE CHAIR:

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Senator Coleman.

SENATOR COLEMAN:

Thank you, again, Madam President.

I move acceptance of the Joint Committee's Favorable Report and passage of the bill, in concurrence with the House.

THE CHAIR:

It's passage on the bill.

Will you remark further, sir?

SENATOR COLEMAN:

Madam President, the bill increases from 60 years to 80 years what is called the "statute of repose," so that a person's whose last exposure or contact to asbestos was 80 years ago can bring a lawsuit within that period of time, if and when they are diagnosed with an asbestos-related injury.

I'd urge passage of the bill, Madam President.

THE CHAIR:

Will you remark further? Will you remark further?

Senator Kissel.

SENATOR KISSEL:

Thank you, very much, Madam President.

I stand in support of the bill, as amended by the House. And what this does is the area of asbestos-related claims is a very nuanced area of the law, and unfortunately with asbestos, for a long period of time, it was considered completely safe and harmless.

In fact, when you go and you tour a lot of our old -- I got to be honest -- even some of our state buildings, people will say up -- if we went through this ceiling, there would be asbestos up there. And so we have to be cautious if we're going to do a renovation.

The other thing that's problematic about asbestos is -- is that it gets into your lungs and it manifests itself there for decades.

Because our construct is that a person can bring a suit after they either knew or reasonably should have known, it takes the bubbling up of the harmful effects of the asbestos, and then a certain quick period of time after that occurs, for the lawsuit to be brought. And as much as it seems like a very generous period of time for an individual to bring these claims, there was ample testimony at the public hearing that some of these individuals do not realize

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that they have this disease until they're in their seventies or eighties. And yet, you know, their family is still going to go through a long process; this disease is very debilitating.

And while it's generous, the -- the folks that bring these actions still have to make out the case that this person's injuries were related to asbestosis. And so with my -- again -- again thinking of the victims and allowing them into the courthouse by extending this period time lets them at least get into the courthouse to make their case.

Thank you, Madam President.

THE CHAIR:

Thank you, Senator.

Will you remark further?

Senator Roraback.

SENATOR RORABACK:

Thank you, Madam President.

And, through you, if I may, just a couple of quick questions to the proponent of the bill?

THE CHAIR:

Prepare yourself, Senator Coleman.

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Please proceed, sir.

SENATOR RORABACK:

Thank you, Madam President.

It's -- it is an unusual situation that we are creating an 80-year statute of limitations. As Senator Kissel said, there are people that came to the Judiciary Committee public hearing. Madam President, I -- it's hard for me to imagine that there's a large universe of people, whose last exposure to asbestos was more than 80 years ago, who are seeking now to get redress for their injuries.

Through you, to Senator Coleman, does -- does he know, is there a particular individual who would not be able to sue under current law who will now be able to sue, if this bill passes?

Through you, Madam President, to Senator Coleman.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Madam President.

And through you, to Senator Roraback, I guess we'll have to make some distinction between the statute of limitations and the statute of repose. There is a three-year statute of limitations, and I

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guess what that means is that, as Senator Kissel indicated, that sometimes it takes a -- a very long time for some -- the symptoms of an asbestos-related disease to actually manifest themselves.

Once there is a diagnosis, the statute of limitations requires that the injured party bring a lawsuit within a three-year period. Maybe the last contact to asbestos was when that person was a teenager, and so that last contact may have been more than 60 years ago, more than -- maybe near 80 years ago. So as long as the diagnosis occurs on the date within the 80-year period, then the injured party would have three years from whatever date the diagnosis was made in order to bring the suit.

Through you, Madam President.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Madam President.

And thank you, Senator Coleman. It's all coming back to me, the distinction between a statute of limitations and a statute of repose.

And what I'm curious about, Madam President, I -- I -- I well understand that the problems associated

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with exposure to asbestos can take decades -- decades to manifest themselves, and I appreciate that.

But I'm, I guess I'm wondering how -- through you, Madam President, to Senator Coleman. Did somebody come to the Judiciary Committee and ask for this bill to be passed? And, if so, Madam President, through you to Senator Coleman, does he remember who that was?

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

I do know, through you, Madam President, that Representative Olson is very much interested in this bill and that asbestos-related litigation, products' liability litigation is apparently something that neither I nor Senator Roraback engage in. But some of those attorneys who engage in that kind of practice were requesting that this bill was advisable.

Through you, Madam President.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, and thank you, Madam President.

And I appreciate Senator Coleman's answers.

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It's just 80 years -- and I think I'm going to support the bill -- it just seems like 80 years is an awfully long time. If someone last had their exposure to asbestos when they were a teenager, 80 years ago, that means that they're at least 93 today. And I guess maybe if asbestosis is finally surfacing when somebody reaches the age of 90, they have until the age of 93 to bring their claim; that's what this bill is getting at.

But I -- I just wanted to have an opportunity to ask those questions, because listening to what the bill is about -- and, Senator Kissel, you have to wonder; wow, there must be somebody out there that's actually going to benefit if this bill passes.

So thank you, Madam President. That's --

THE CHAIR:

Thank --

SENATOR RORABACK:

-- all I have.

THE CHAIR:

Thank you, Senator Roraback.

Will you remark further? Will you remark?

Senator Welch.

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SENATOR WELCH:

Thank you, Madam President.

I, too, rise with some of the same questions that Senator Roraback posed, and but maybe I can ask them a different way to kind of get my mind around what the situation is that we're trying to remedy.

And if -- if I could begin, I guess, a line of inquiry as to what -- well, first let me say, Madam President, asbestosis, mesothelioma, those are -- these are horrible diseases; they affect real people and they're very tragic situations which clearly merit redress and sensitivity, even as we discuss them here today. But -- but 80 years makes me scratch my head.

If -- if I may, through you, Madam President, what -- what kinds of products contained asbestos more than 80 years ago that would create this kind of exposure?

Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

I'm not sure I'm the most expert person to respond to this question, but I would say insulation of buildings, not plumbing but whatever piping may be

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used to conduct heat. Those may be the -- the two things that come to mind immediately.

Through you, Madam President.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

Thank you, Senator Coleman.

I -- I think those are the kinds of things that come to my mind, as I think of asbestos, and -- and they're also the -- the kinds of products that you -- you often don't find children around or younger people. In fact, we're talking about people who might not be in their teens, I would imagine, but more in their 20s and 30s, which, with an 80-year statute of repose, puts us out a long, long way. So I -- I mean, I guess, suffice it to say, I'm -- I'm just -- well, let me ask this other question, Madam President.

At some point the Legislature saw fit to put in a 60-year statute of repose. And -- and I appreciate that Senator Coleman might not know the answer to this question, but through you, Madam President, do -- do you know what the reasoning or wisdom was behind

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choosing 60 years as a statute of repose when -- when we did that?

Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Madam President.

I think the specific purpose behind the bill was in order to accommodate Korean War veterans and World War II veterans.

And I guess in response to Senator Welch's earlier question, apparently there were asbestos-related products that were on ships that some of our naval veterans worked on and were exposed to. And my recollection is fuzzy, but I do believe that the bill was primarily designed in order to provide some protection and benefit to individuals that participated in Korean War and World War II.

Through you, Madam President.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

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And -- and that actually, that sounds about right. And I appreciate the -- the response that Senator Coleman gave.

And -- and then so the -- the 60 years, I guess, Madam President -- back to my original question -- would have been attempting to deal with that -- that same population?

Through you, Madam President.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

I'm not sure the 60 years had the purpose of dealing with that same population. I think the reason for the extension to 80 years was to make certain that those individuals were accommodated.

Through you, Madam President.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

I appreciate Senator Coleman's answers.

THE CHAIR:

Thank you --

SENATOR COLEMAN:

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Thank you.

THE CHAIR:

-- sir.

Will you remark further? Will you remark further? I guess so.

Senator Frantz.

SENATOR FRANTZ:

Thank you, Madam President.

Through you, a question to the proponent of the -- of the bill.

Thank you, Madam President.

THE CHAIR:

Please proceed, Senator.

SENATOR FRANTZ:

Senator Coleman, one of the -- one of the great problems in industry today is that there is a great deal of uncertainty, I think, with respect to potential liability suits. And most of them only go back maybe five to ten years or so. And in this particular bill, we're looking at -- at an extension from 60 to 80 years from the date that the claimant last had contact with their exposure to asbestos. That strikes me as an extraordinarily long period of time. And I understand the concern that you have for

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veterans who may have been expose to it during, I -- I presume World War II and the Korean War.

But -- but through you, Madam President, in -- in your judgment, do you think, Senator Coleman, this sets a bad precedent for other industries that may be dealing with a substance that could be mildly harmful to humans but not necessarily provable?

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

I'm not sure that the bill actually sets a precedent; I think it is specifically related to asbestos-related conditions. And the medicine and the science regarding the treatment and diagnosis of those conditions is probably more advanced than it has been, in years prior, and probably indicates that for conditions like mesothelioma, the medicine and the science probably indicate that there are very long latency periods for that particular kind of condition.

And, as I indicated to Senator Welch, that's the primary reason while -- while the proponents of this piece of legislation are seeking an extension to the statute of repose.

Through you, Madam President.

THE CHAIR:

Senator Frantz.

SENATOR FRANTZ:

Thank you.

And, Madam President, just a comment. I -- I note that Senator Coleman has the best of intentions; he always does, especially when it relates to issues such as this one here.

But this -- this strikes me as perhaps an unreasonable period of time to be extending; 60 years already is, in the first place, is -- is an extraordinary period of time. To go to 80 years is another 30 percent of that, another 20 years. And I think if we start doing this, even if it is in the area of asbestos, which has been one of the most controversial areas for litigation, anyway, in the country's history, I -- I think that it does start to set a bad example for other industries.

And it's important for us to -- as Americans and as Connecticut citizens -- to recognize that if we throw this kind of uncertainty into the marketplace, that you could be sued for something as long as 80 years ago, I mean, there is logic to the statute of

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limitations principle of generally seven years in -- in most cases. There is logic to that. If we ignore that kind of -- thank you -- that line of thinking and we open up that window for that kind of potential exposure for those who may not even know that they're doing some harm, I think we're setting a very bad precedent.

And -- and -- and therefore, I'm -- I'm -- I'm -- I'm perplexed as to how to, on how to vote on this.

Thank you, Madam President.

THE CHAIR:

Thank you.

Will you remark further?

Senator Kane.

SENATOR KANE:

Thank you, Madam President. I will be brief.

I rise in favor of this bill, and the reason is I was just having a bit of this conversation, with Senator McKinney, just the other day; we were talking about our families and our dads. And my dad was a plumber, a steam fitter, a long, long time ago. And -- and back then, they used to wrap the pipes in asbestos. And, Madam President, they would literally mix the asbestos -- and it was just incredible the way

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it travelled through the air -- and wrapped these furnaces and the pipes in this material. And both he and his brother, who both did this job, suffered esophageal cancer, which from what I understand, is one of the worst, if not the worst, types of cancer to attract.

So at the time, you know, my family had no idea what was going on, and -- and we need this type of legislation to help families like that to be able to go back and realize the dangers of this, and harmful product, and have the ability to seek recourse in these type of situations.

So thank you for the indulgence of allowing me to put my own personal feel to this bill, but, Madam President, I will rise in favor of this legislation.

Thank you.

THE CHAIR:

Thank you, sir.

Senator Guglielmo.

SENATOR GUGLIELMO:

Thank you. Thank you, Madam President.

Just a couple of questions for Senator Coleman,
if --

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Senator Coleman.

SENATOR GUGLIELMO:

-- I might.

THE CHAIR:

Please proceed, sir.

SENATOR GUGLIELMO:

Through you, Madam President, I just was curious if any other states had an 80-year statute of limitation on asbestos. Would -- would we be the only ones? I don't -- I'm not trying to put you on a spot, I just thought that was an extraordinary amount of time.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Again, through you, Madam President, I would make a distinction between the statute of repose and the statute of limitations. And at my fingertips I don't have any information regarding --

SENATOR GUGLIELMO:

Okay.

SENATOR COLEMAN:

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-- the statute of repose that exists in -- in other states.

SENATOR GUGLIELMO: .

Yeah. I -- I know this came up from the House, Madam President, so I know that the Senator might not have as much information.

Do we know, through you, Madam President, if there were any witnesses from the public in -- in the public hearing that expressed a need for this or a concern about it?

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

I'm looking at some of the testimony that was provided at public hearing -- and this public hearing occurred back in March, so my recollection is -- is a little hazy -- but it looks as if members of the public included attorneys who represent workers who were exposed to and affected by exposure to asbestos, and not only workers but members of the families of workers.

SENATOR GUGLIELMO:

Okay.

SENATOR COLEMAN:

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And I guess at least one of the witnesses testified concerning exposure to asbestos, on the part of children and spouses who hugged the man of the house when he came home from work covered with white powder.

SENATOR GUGLIELMO:

Okay.

SENATOR COLEMAN:

And I guess it becomes clearer that the statute of repose, I guess, may be more for the benefit of family members, particularly children who may have become exposed to asbestos as a result of a father working in some kind of position --

SENATOR GUGLIELMO:

Okay.

SENATOR COLEMAN:

-- that caused him to be exposed to asbestos.

Through --

SENATOR GUGLIELMO:

Thank --

SENATOR COLEMAN:

-- you, Madam President.

SENATOR GUGLIELMO:

Thank you, Senator Coleman.

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Thank you, Madam President.

THE CHAIR:

Thank you.

Will you remark further? Will you remark further?

If not, Mr. Clerk, will you please call for a roll call vote? And the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber. An immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber.

THE CHAIR:

Have -- nobody coming? Have all members voted? Have all members voted?

If so, the machine will be closed.

And, Mr. Clerk, will you please call the tally.

THE CLERK:

Motion is on passage of House Bill 6341, in concurrence with the action in the House.

Total number voting	34
Those voting Yea	31
Those voting Nay	3

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Those absent and not voting 2

THE CHAIR: The bill passes.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, two additional items to mark as go at this time.

THE CHAIR:

Please proceed, sir.

SENATOR LOONEY:

Yes. Thank you, Madam President.

First, Calendar page 18, Calendar 617, House Bill 5 -- or excuse me -- House Bill 6549.

And then, secondly, Calendar page 16, Calendar 607, House Bill 5048.

Thank you, Madam President.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Calendar page 18, Calendar 617, File Numbers 538 and 887, substitute for House Bill 6549, AN ACT

CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S OVERSIGHT RESPONSIBILITIES RELATING TO SCOPE OF PRACTICE

DETERMINATIONS FOR HEALTH CARE PROFESSIONS, as amended