

Legislative History for Connecticut Act

PA 17-97

HB7194

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Transcripts from the Joint Standing Committee Public
Hearing(s) and/or Senate and House of Representatives
Proceedings

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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2017**

**VOL.60
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3073 – 3542**

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HOUSE OF REPRESENTATIVES

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May 17, 2017

On page 12, Calendar No. 204, House Bill 7194,
AN ACT CONCERNING EXCEPTIONS TO THE TEN-YEAR REPOSE
PERIOD FOR CERTAIN PRODUCT LIABILITY CLAIMS.

Favorable report of the Joint Standing Committee on
Judiciary.

DEPUTY SPEAKER MORIN (28TH):

The distinguished Vice-Chairman of the
Judiciary Committee, Representative Stafstrom, you
have the floor, sir.

REP. STAFSTROM (129TH):

Thank you, Mr. Speaker. Good to see you up
there, Mr. Speaker. Mr. Speaker, I move for
acceptance of the Joint Committee's favorable report
and passage of the bill.

DEPUTY SPEAKER MORIN (28TH):

The question before the Chamber is on
acceptance of the Joint Committee's favorable report
and passage of the bill. Representative Stafstrom,
you have the floor.

REP. STAFSTROM (129TH):

Thank you, Mr. Speaker. Mr. Speaker, the bill
before us extends an exception to the ten-year

statute of repose period in certain product liability claims and in doing so, clears up -- I guess what I would coin a little bit of inequity in our statutes concerning when workers are injured by -- on-the-job by defective products. Under our current product liability statutes, citizens may bring a claim against a manufacturer if they prove that they are injured by a defective product within the product's useful life. The only exception is the part of the statute we are seeking to remove here which limits the time for workers injured on the job to ten years. If the product -- so for example, if the product is nine years old, the worker has a claim for the injury. However, if the product is over 10 years, the worker may not have a claim based on our current law.

We believe this bill will help to clear up that inequity and actually, will be good for many businesses and employers in our state, including the state itself and municipalities when they have workers who are injured on the job after the ten-year statute of repose period has run for a

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particular product but the product still has a useful viable life moving forward. The employer, in that circumstance, would be entitled to a lean in the personal injury action and could recover the Worker's Comp benefits it has paid out; thereby, recouping and saving money for the employer. I would ask for the Chamber's support for the bill.

DEPUTY SPEAKER MORIN (28TH):

Thank you, Representative. Will you remark further. the distinguished Ranking Member of the Judiciary Committee, Representative Rebimbas.

REP. REBIMBAS (70TH):

Thank you, Mr. Speaker. Mr. Speaker, I rise in support of the legislation that's before us but I certainly did want to just clarify. I think the Vice-Chairman did an excellent job in highlighting the bill before us but just for some clarification, through you, Mr. Speaker?

DEPUTY SPEAKER MORIN (28TH):

Representative Stafstrom.

REP. REBIMBAS (70TH):

Through you, Mr. Speaker, if the good Vice-

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Chairman could just clarify whether or not this proposal would change the statute of limitations in filing a lawsuit. It's my understanding under current law the statute of limitations is to bring a lawsuit within three years of the date of injury or damage was first sustained or discovered or should have been discovered. Does the legislation before us change that at all?

Through you, Mr. Speaker.

DEPUTY SPEAKER MORIN (28TH):

Representative Stafstrom.

REP. STAFSTROM (129TH):

Through you, Mr. Speaker, no. The statute of limitations is not affected by this legislation. The three-year statute of limitation period which the good Ranking Member referenced remains in effect regardless of the age of the product.

DEPUTY SPEAKER MORIN (28TH):

Representative Rebimbas.

REP. REBIMBAS (70TH):

Thank you, Mr. Speaker, and through you, Mr. Speaker, it's my understanding that we currently

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also have some exceptions in our law regarding certain products such as asbestos and when there is an explicit written warranty that goes beyond this time period. Are there any changes to that?

Through you, Mr. Speaker.

DEPUTY SPEAKER MORIN (28TH):

Representative Stafstrom.

REP. STAFSTROM (129TH):

Through you, Mr. Speaker, no. The bill does not change that.

DEPUTY SPEAKER MORIN (28TH):

Representative Rebimbas.

REP. REBIMBAS (70TH):

Thank you, Mr. Speaker, and through you, Mr. Speaker, I believe the good Vice-Chairman had indicated earlier that we are trying to put a person who is currently hurt at work and someone who is hurt and unemployed in the same position but for clarification purposes, again, if the individual who is hurt at work and does have a Worker's Compensation claim, again, just to make sure that it is clear. That worker's compensation claim the

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employer would still be able to have an interest in anything that would be recovered for lost wages for example in the product liability claim. Is that correct?

Through you.

DEPUTY SPEAKER MORIN (28TH):

Representative Stafstrom.

REP. STAFSTROM (129TH):

Through you, Mr. Speaker, that is correct.

DEPUTY SPEAKER MORIN (28TH):

Representative Rebimbas.

REP. REBIMBAS (70TH):

Thank you, Mr. Speaker, and through you, Mr. Speaker if the good Vice-Chairman knows -- are we anticipating that this is going to have a large impact? In other words, will there be a lot of individuals that can avail themselves of this change in legislation or do we believe that the impact will be fairly small?

DEPUTY SPEAKER MORIN (28TH):

Representative Stafstrom.

REP. STAFSTROM (129TH):

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Thank you, Mr. Speaker. Through you, I believe it was the testimony submitted to the committee by the trial lawyers who would be most intimately familiar with that that this will affect a very limited number of instances. Of course, we are talking about a product that is already over ten years old and there's a personal injury from that so the likelihood of this occurring is somewhat remote and will cut down on the number of filings as a result.

Through you.

DEPUTY SPEAKER MORIN (28TH):

Representative Rebimbas.

REP. REBIMBAS (70TH):

Thank you, Mr. Speaker, and I want to thank the Vice-Chairman for his answers to those questions and also his introduction. I do believe that this is good legislation. Again, we should be looking at an individual who gets hurt as a result of a damaged product equally the same whether or not the injury took place at work versus if the injury took place off of work time so I think that's important, and

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again, it also gives the ability that that individual who's filing a Worker's Compensation claim that that employer may be able to have a lien and recoup for any payments that that individual had made as a result of a damaged product, so I do believe that this is a good business bill as well in that regard and does set the individual who was injured in the same level playing field, so Mr. Speaker, I rise in support of the legislation before us.

DEPUTY SPEAKER MORIN (28TH):

Thank you, madam. Will you remark further? Will you remark further? Representative O'Dea of the 125th district, good to see you, sir.

REP. O'DEA (125TH):

Thank you, Mr. Speaker, good to see you up there. A few questions to the proponent if I may?

DEPUTY SPEAKER MORIN (28TH):

Please proceed, sir.

REP. O'DEA (125TH):

In taking a look or examining this, I voted for it out of committee but I had some questions and

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concerns. I see on lines 10 the factors be considered on what the useful life is. Would -- would the depreciation age -- so say like for example a product has a depreciation schedule for that you can deduct on your taxes, would that come into play on what a useful life would be of a certain product?

Through you, Mr. Speaker.

DEPUTY SPEAKER MORIN (28TH):

Representative Stafstrom.

REP. STAFSTROM (129TH):

Through you, Mr. Speaker, this is actually existing law, which would remain unchanged by the bill -- just for the benefit of the good Representative and for the Chamber -- the factors to be considered in the useful life. We are not seeking to change those through this bill but to the Representative's question, I believe deterioration would qualify or depreciation would qualify under the first factor to be considered in lines 10 or 11, which are currently in statute at section 52-577a. The effect of the product of wear and tear or

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deterioration from natural causes.

DEPUTY SPEAKER MORIN (28TH):

Representative O'Dea.

REP. O'DEA (125TH):

Thank you, Mr. Speaker, and thank you to the proponent. I understand and so simply eliminating 6 and 7 the purpose of this bill is then to do what?

Through you, Mr. Speaker.

DEPUTY SPEAKER MORIN (28TH):

Representative Stafstrom.

REP. STAFSTROM (129TH):

Through you, Mr. Speaker, the purpose of this bill is to give a worker who is injured by a product whose useful life is over ten years of age the same opportunity to file a personal injury suit as someone who was injured by a similar product who was not on the job. If I could, Mr. Speaker, perhaps give an example or an illustration to the good Representative. If I owned a certain piece of equipment, say I owned a Bobcat earthmoving piece of equipment that had a useful life of over 10 years. If I was injured using that piece of equipment

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through my job on the job site, under our current law, I would be barred from bringing a personal injury action based on our current statute of repose. However, if I owned that piece of equipment in my personal use and used it on my land on my property for my own personal use and maybe I was building a stone wall or something in my backyard, I would still have a personal injury case in the event that that product was defective against the manufacturer or again -- excuse me -- against the manufacturer of that Bobcat.

Through you.

DEPUTY SPEAKER MORIN (28TH):

Representative O'Dea.

REP. O'DEA (125TH):

Thank you, Mr. Speaker, and so as I understand it this is simply a mechanism by which an employer can recoup monies paid out for Worker's Compensation? Through you, Mr. Speaker -- in addition to what was already articulated?

Through you, Mr. Speaker.

DEPUTY SPEAKER MORIN (28TH):

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Representative Stafstrom.

REP. STAFSTROM (129TH):

That is correct, Mr. Speaker. Through you, I think this bill has a dual purpose. It would allow the worker to recover additional personal injury damages they might have sustained but it also would allow the employer to recoup Worker's Comp payments, which were previously made.

Through you.

DEPUTY SPEAKER MORIN (28TH):

Representative O'Dea.

REP. O'DEA (125TH):

Thank you, Mr. Speaker, and so in looking through the -- the comments and the testimony that was submitted, I didn't see any negative testimony and I'm wondering if the proponent is aware of any negative testimony concerning this bill?

Through you, Mr. Speaker.

DEPUTY SPEAKER MORIN (28TH):

Representative Stafstrom.

REP. STAFSTROM (129TH):

Through you, Mr. Speaker, you know, I'm not --

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I believe initially there was -- there was some comment or concern from some in the business community during the initial public hearing of this bill when it was in its infancy. I have not heard much objection or opposition to it as of late as it's moved through our process. I guess the only -- in the interest in fairness to the Representative -- I guess the only real opposition could be if I was a manufacturer of a product in the state of Connecticut that had a useful life longer than ten years and I was worried about somebody using that product in the state of Connecticut through their job and then eventually being able to recoup the costs but aside from that, I -- I can't see any downside to the bill.

Through you, Mr. Speaker.

DEPUTY SPEAKER MORIN (28TH):

Representative O'Dea.

REP. O'DEA (125TH):

Thank you very much, Mr. Speaker. I appreciate the comments by the proponent and I would urge my colleagues to vote in favor of this bill. Thank

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you, Mr. Speaker.

DEPUTY SPEAKER MORIN (28TH):

Thank you, sir. Representative Carpino of the 32nd district, you have the floor, ma'am.

REP. CARPINO (32ND):

Thank you, Mr. Speaker. A question through you to the proponent if I may?

DEPUTY SPEAKER MORIN (28TH):

Please proceed, madam.

REP. CARPINO (32ND):

Thank you. If the proponent can just tell me how often he expects this particular bill to come into play in the event it's passed? I think it's important that we have a perspective as to how often this particular situation is happening here in Connecticut? Through you, sir.

DEPUTY SPEAKER MORIN (28TH):

Representative Stafstrom.

REP. STAFSTROM (129TH):

Thank you, Mr. Speaker. Mr. Speaker, I believe the testimony from the Connecticut Trial Orders Association, who would be most intimately involved

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with this issue, during our public hearing was that they perceived this to be relatively infrequent. Of course, we are only dealing with products that have a useful lifespan over ten years of age and only then would the bill be effective in an instance where an employer -- excuse me -- where an employee is injured using that product so the chances of giving rise to the statute are fairly slim and so I would not anticipate more than a couple filings a year.

Through you.

DEPUTY SPEAKER MORIN (28TH):

Representative Carpino.

REP. CARPINO (32ND):

I thank the good gentleman for his answer.

Thank you.

DEPUTY SPEAKER MORIN (28TH):

Thank you, Representative. Will you remark further? Will you remark further on this bill? If not, will staff and guests please come to the well of the house? Will the members please take your seats? The machine will be opened. (Ringing)

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CLERK:

The House of Representatives is voting by roll.

Members to the Chamber. The House of
Representatives is voting by roll. Members to the
Chamber.

DEPUTY SPEAKER MORIN (28TH):

Have all the members voted? Have all the
members voted? Will the members please check the
board to determine if your vote is properly cast?
If all members have voted, the machine will be
locked and the Clerk will take a tally. Will the
Clerk please announce the tally?

CLERK:

House Bill 7194.

Total number Voting	146
Necessary for Passage	74
Those voting Yea	119
Those voting Nay	27
Absent not Voting	5

DEPUTY SPEAKER MORIN (28TH):

The bill passes. (Gavel). Are there any
announcements or introductions? Are there any

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Seeing no objection, sir. So, ordered. Senator Duff.

SENATOR DUFF (25TH):

Thank you, Madam President. Madam President if the Clerk could PT the next item we can move on to calendar page 28, Calendar 482, House Bill 7194.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On page 28, Calendar 482, House Bill No. 7194, AN ACT CONCERNING EXCEPTIONS TO THE TEN-YEAR REPOSE PERIOD FOR CERTAIN PRODUCT LIABILITY CLAIMS.

THE CHAIR:

Good evening still, Senator Kissel.

SENATOR KISSEL (7TH):

Thank you very much, Madam President. It is evening, shy of just a few minutes of our final day of our regular session. Madam President I would move Acceptance of the Joint Committee's Favorable Report and Passage of the Bill in concurrence with the House.

THE CHAIR:

Motion is on Acceptance and Passage in Concurrence. Will you remark, sir?

SENATOR KISSEL (7TH):

Thank you very much Madam President. Typically, in the State of Connecticut we have a ten-year statute of limitations for bringing a product liability claim. What this would do is would change it for certain products namely heavy equipment typically used on construction sites and what it would do is it would change the statute of limitations if there was an injury on the job and the statute of limitations would be for the expected useful life of the product and this was borne out by a very unfortunate instance here in State of Connecticut where an individual was working on a construction site and the bucket on a crane loosened and fell on the individual ultimately killing him. His wife came, his widow came and testified before the Committee and the manufacturer said, "Well we're not responsible because it has been over the ten years" and the argument back was but this heavy equipment is expected to have a useful life of in excess of ten years and it is not really fair. It would not apply to that case but going forward it would apply and manufactures should be held liable if the products they are putting out to the public, even if it heavy equipment, has an expected life in excess of ten years and I would urge my colleagues to support this bill. Thank you, Madam President.

THE CHAIR:

Thank you. Will you remark further? Senator Doyle.

SENATOR DOYLE (9TH):

Yes, thank you, Madam President. Similar to the earlier claims, I do associate myself with the

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remarks of Senator Kissel. This piece of legislation was considered by the Judiciary Committee, it was narrowed a bit, but I think it provides a reasonable compromise to provide some satisfaction for individuals that are in a difficult situation and are entitled to some redress and I urge the Chamber to approve this piece of legislation. Thank you, Madam President.

THE CHAIR:

Thank you. Will you remark further? Will you remark further? It not, Senator Kissel.

SENATOR KISSEL (7TH):

Thank you very much, Madam President. Seeing no other questions or comments I would like to ask to have this placed on our Consent Calendar.

THE CHAIR:

Seeing no objections, so ordered, sir. Mr. Clerk.

SENATOR KISSEL (7TH): Happy Wednesday.

THE CHAIR: Oop, (laughter) thank you. It will be, sir.

THE CLERK:

On page 15, Calendar 370 House Bill No. 7002 AN ACT CONCERNING PERSONAL RISK INSURANCE RATE FILINGS.

THE CHAIR:

I'm sorry. Senator Kelly.

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SENATOR KELLY (21ST):

Good morning, Madam President.

THE CHAIR:

Good morning, sir.

SENATOR KELLY (21ST):

I move Acceptance of the Joint Committee's Favorable Report and Passage of the Bill.

THE CHAIR:

Motion is on Acceptance and Passage. Will you remark, sir.

SENATOR KELLY (21ST):

Thank you, Madam President. Yes. This Bill would extend the sunset date for personal risk insurance rate filings in order to allow the use of flex-rating my insurers until 2021. Flex-rating may allow insurers more flexibility in establishing rates that are responsive to the market to encourage competition within the market place by creating more option and incentivizing insurers to lower their rates. I would certainly, this is a Bill that come before us periodically, normally it is extended for two years. We have this Bill for four years and I would move its adoption.

THE CHAIR:

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You have to do that, sir. If you just comment on the Bill please.

SENATOR KELLY (21ST):

Right. Madam President if there is no objection I would like to move this to the Consent Calendar.

THE CHAIR:

Will you remark further on this matter Bill? Will you remark further on this Bill? If not Senator Kelly we will move it the Consent Calendar. Thank you.

SENATOR KELLY (21ST):
Thank you, Madam President.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On page 34, Calendar 542, excuse me.

THE CHAIR:

House Bill 6992.

THE CLERK:

House Bill No. 6992, AN ACT PROTECTING THE INTERESTS OF CONSUMERS DOING BUSINESS WITH FINANCIAL PLANNERS.

THE CHAIR:

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Seeing no objections, so ordered, sir.

SENATOR DUFF (25TH):

Thank you, Madam President. I apologize for that error and now Madam President if the Clerk can call the items on the Consent Calendar and followed by a vote please.

THE CHAIR:

We will stand at ease for two seconds. Well maybe a minute, got to get this all done.

Mr. Clerk, now will you start calling the, what's on the Consent Calendar please.

THE CLERK:

On page 8, Calendar 260, House Bill 5884; page 8, Calendar 259 House Bill 5583; also on page 8, Calendar 265 House Bill 7007; on page 14, Calendar 364 House Bill 7062; page 15, Calendar 370 House Bill 7002; page 16, Calendar 381 House Bill 7169; on page 17, Calendar 393 House Bill 7161; page 17, Calendar 395, House Bill 7230; page 18, Calendar 402 House Bill 7082; on page 18, Calendar 401 House Bill 7081; on page 18 Calendar 397 House Bill 7120; page 20 Calendar 413 House Bill 5764; on page 21, Calendar 416 House Bill 7243; also on page 21, Calendar 418 House Bill 6741; page 22, Calendar 432 House Bill 5077; page 23, Calendar 426 House Bill 7214; also on page 23, Calendar 437 House Bill 7284; page 25, Calendar 457 House Bill 7164; also on page 25, Calendar 455 House Bill 7102; page 26, Calendar 465 Senate Bill 1056; page 26, Calendar 471 House Bill 7032; on page 28, Calendar 482 House Bill 7194;

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on page 29, Calendar 486, House Bill 7020; page 29, Calendar 487 House Bill 7205; also on page 29, Calendar 488 House Bill 5554; page 30, Calendar 492 House Bill 7080; page 30, Calendar 493 House Bill 7132; page 32, Calendar 530 House Bill 7202; on page 32, Calendar 533 House Bill 7202; page 32, Calendar 532 House Bill 7198; page 32 again, 534 House Bill 7190; on page 33, Calendar 535 House Bill 7195; also on page 33, Calendar 536 House Bill 7311; page 33 again, Calendar 538 House Bill 5963; on page 34, Calendar 542 House Bill 6992; page 35, Calendar 551 House Bill 7013; on page 38 Calendar 562 House Bill 7263; on page 39, Calendar 567 House Bill 7312; page 48, Calendar 240 Senate Bill No. 966; also on page 48, Calendar 291 Senate Bill 644; page 50, Calendar 480 House Bill 7059; on page 51, Calendar 443 House Joint Resolution No. 63; and on page 51, Calendar 444 House Joint Resolution No. 67; page 51, Calendar 445 House Joint Resolution No. 3 and House Joint Resolution No. 74.

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THE CHAIR:

Do you want to repeat that back?

THE CLERK:

No.

THE CHAIR:

No? (Laughter and Gavel). At this time, I call for a Roll Call Vote on the Consent Calendar and the machine is open.

THE CLERK:

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Immediate Roll Call has been ordered in the Senate on the Consent Calendar for the day. Immediate Roll Call has been ordered in the Senate.

THE CHAIR:

If all members have voted, all members have voted the machine will be closed. Mr. Clerk.

THE CLERK:

On the Consent Calendar for today:

Total number voting	36
Necessary for Adoption	19
Those voting Yea	36
Those voting Nay	0
Those absent and not voting	0

THE CHAIR:

The Consent Calendar has passed. (Gavel)

SENATOR DUFF (25TH):

Madam President, may we stand at ease for a moment?

THE CHAIR:

Senate will stand at ease.

SENATOR DUFF (25TH):

Madam President.

THE CHAIR:

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
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JUDICIARY COMMITTEE
PUBLIC HEARING

March 6, 2017
10:00 A.M.

RALPH MONACO: Good morning Mr. Chairman, Senator Kissel, Representative Tong, and other members of the committee. My name is Ralph Monaco, I'm an attorney in New London at the Law Firm on Conway, Londregan, Sheehan & Monaco, and I'm appearing today in support of Bill 7194, an act concerning the exception to the 10-year repose period for certain product liability claims.

Instead of hearing from me, I want to share with you a story of Ms. Danita King. Ms. King has worked for my law firm as a paralegal for 25 or more years, and her husband tragically died in an accident back in 2014, a construction accident. The purpose of the bill before is to avoid the unfair application of the repose period to certain individuals, such as Mr. King. So, I'd like Ms. King to just share her story with you.

DANITA KING: Thank you. Members of the Judiciary Committee, my name is Danita King and for many years I lived in Waterford, Connecticut with my husband Danny King. My life was forever changed on May 30, 2014 when my husband Danny died while working on a construction crew in Windsor.

Danny was installing a water main in Windsor on May 30, 2014 when a large metal bucket fall off an excavator, rolled into him, pinned him against a trench box, and crushed him. The warning light and siren in the cockpit of the excavator had gone off indicating to Danny's coworker who was in the cockpit that the machine was safe for operation.

Unfortunately, when the warning signal went off it tricked the operator into thinking that it was safe to use, it was a false positive because the bucket did not always properly lock in place.

Danny died from internal injuries later that day. He was 51 years old, and we would have been married for 31 years. Our only daughter pre-deceased Danny after dying an automobile accident a few years prior. I am now left without my husband, and my only child.

The manufacturer of the excavator involved in Danny's accident knew about this danger. They had memos on it, however, they never bothered telling people like Danny or make modifications to prevent such a tragedy. They kept profiting and selling these machines for hundreds and thousands of dollars each.

I am pursuing a product liability claims against the manufacturer and seller of the defective excavator because I want to prevent this from happening again. However, the manufacturer of the defective machine is trying to be dismissed from the case because of Connecticut Statute of Repose. They argue that they sold the machine 14 years before this accident.

They claim that they should be off the hook after 10 years from the date of the sale. I totally and completely disagree. These machines are made to last more than 10 years. There are many pieces of heavy equipment that are older than 10 years old and still in use.

The machine that was involved in Danny's accident was otherwise in good shape. It had one terrible defect, which caused my husband's death. If Danny was an ordinary passerby at the time, the 10-year limitation could not be argued against him, and that's unfair. He was a wonderful man and a hard worker. Connecticut workers, especially like Danny who build our infrastructures, should be able to

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[ringing] pursue these manufacturers of dangerous machines so that these machines are made safe. I want to pursue the manufacturer of the dangerous machine that took Danny's life so that other spouses don't have to endure the pain that surrounds me day and day -- day in and day night -- out.

I cannot begin to explain the emptiness that I have felt from losing my husband. When I found out about Raised Bill No. 7194, I knew I had to come here and speak in favor of it. I want to do everything I can to prevent another woman from living through the horror that I have experienced. Thank you.

SENATOR DOYLE (9TH): Thank you. Any questions from the committee? Representative Rebimbas.

REP. REBIMBAS (70TH): Thank you Mr. Chairman, and thank you for your -- sharing your story, and certainly my condolences for the experience that you've gone through, and I guess maybe it's -- I don't know if it's a legal question, but if either one of you can response. If we were to make a change now, would there be any impact to the pending -- any pending matters? So, in other words, would this only affect from the date of injury moving forward or if there was a prior injury but pending matters currently, how that would affect it?

RALPH MONACO: As I understand the current state of the law, Representative Rebimbas, is your -- any legislation would be prospective not retrospective unless you stated otherwise.

REP. REBIMBAS (70TH): Thank you for your response. Thank you, Mr. Chairman.

SENATOR DOYLE (9TH): Representative Gonzalez.

REP. GONZALEZ (3RD): Thank you Mr. Chair. You said that if you -- want to go after the manufacturer, what is the responsibility for the company that he was working for?

DANITA KING: Could you restate that please?

REP. GONZALEZ (3RD): The responsibility for the person -- for that -- for the company that he was working for. Because here you are after the manufacturer, right?

RALPH MONACO: Right, so I can speak to that Representative. The product had been in use for 14 years and had never -- there had been prior incidents but no injuries or fatalities. So, you know, the employer is protected by Connecticut's Worker's Compensation statutes, and the issue here I think that is raised is whether the law should fall on the employer and their insurance or the manufacturer of the defective equipment. This would, by the way, apply for example to state workers.

Right now, if a state worker is injured or killed on the job, and the machine was more than 10 years old, the state would be stuck paying that. There would be no redress for the state to collect its medical bills or any other payments that it makes. The statute, as it is now, distinguishes between two groups, it treats workers and non-workers in a different way.

If someone is injured when they're not working, they -- this provision doesn't apply to them, but if they are injured or killed while working, it would apply to them. So, for example a state DOT worker injured by -- in the same scenario here there was

construction -- road construction going, the state would be stuck, you know, paying that, and the employee would have no recourse, nor would the state be able to recoup its payments made under the worker's compensation statutes.

REP. GONZALEZ (3RD): Thank you. Thank you.

SENATOR DOYLE (9TH): Thank you. Any further questions from the committee? I see none. Thank you for being patient.

RALPH MONACO: Thank you Mr. Chairman. Thank you.

SENATOR DOYLE (9TH): Next speaker is Marcellius Edwards, then Carolyn Naylor Flynn, then Frank Kolb. Is Marcellius? Mr. Edwards? Yes, he is. Thank you.

MARCELLIUS EDWARDS: Good afternoon Chairman Doyle, Chairman Kissel, and Chairman --

SENATOR DOYLE (9TH): Sir, please push the button there. Yeah, please start from scratch. Thank you.

MARCELLIUS EDWARDS: Oh, I'm sorry. Good afternoon Chairman Doyle, Chairman Kissel, and Chairman Tong and members of the Judiciary Committee. My name is Marcellius Edwards of the Association of Commuter Rail Employees, and with me this afternoon I have the local chairman on the Connecticut side, Mr. Michael Bernard.

We represent the organization today in support of H.B. No. 7215, section 3, an act concerning courthouse security, indemnification of law enforcement professionals, and aggravated assault of public transit employees. The Association of Commuter Rail Employees, ACRE, respectfully request

compliment for being here all day. I know it's certainly not easy, and specifically sharing your story, which is so educational and important to us. So, I just want to extend a thank you again.

CHRISTINE ELKINS: Thank you very much.

SENATOR KISSEL (7TH): Thank you. Representative, any other questions or comments? I see none. Thank you. Next is Louise DiCocco.

LOUISE DICOCOCO: Good afternoon members of the Judiciary Committee. My name is Louise DiCocco and I am counsel with CBIA. I submitted written testimony, so I'll keep my comments brief.

4B7194
I'm here today in opposition to three bills on the agenda. I'm going to hit -- touch on two of them because I think it's take a little while longer. I'll start with S.B. No. 929, and that's an act extending whistleblower protections to certain employers. The bill expands the states whistleblower laws in ways that will subject an employer to potentially huge compliance and liability cost. The bill also broadens the circumstances under which employees can bring a whistleblower action to include situations where an employee objects or refuses to participate in an activity that the employer reasonably believes constitutes a violation of suspected violation.

Last but not least, the bill sets forth new penalties available in civil actions for the violations, and those include compensatory damages, future economic damages, punitive damages. CBIA opposes that provision of the bill and would like to see it stay with just reinstatement and back pay. In addition, I believe current law allows the court to

PUBLIC HEARING

award attorney's fees and cost to the prevailing party.

I move along to H.B. No. 7194, an act concerning exceptions to the 10 statutory repose period for certain product liability claims. This bill essentially seeks out to eliminate the requirement that a claimant not be entitled to worker's comp under chapter 568 of the Connecticut General Statutes, in which the claimant claims injury during useful safe life of the product when determining the period for liability.

Bill -- this bill will do away with the longstanding statutory authority addressing the current statutory repose for cases involving product liability. The current statute of repose is an important limitation on when lawsuits can be filed. It brings certainty, predictably and balance in the system.

Under current law, which I believe is 52-577a, it sets out a 10-year period with one exception. It says claimants not entitled to the worker's comp who can prove harm occurred during safe life of the product, though now seeks to open up this exception to those that are entitled to worker's comp.

This expansion will raise issues with the interplay of the exclusive remedy of worker's compensation system and litigation system in Connecticut, and is likely to substantially increase the cost of businesses and manufacturers. For that reason, CBIA is opposed. I'll stop there and thank you for your consideration. I'll take any questions if there are any.

SENATOR KISSEL (7TH): Thank you. Representative Stafstrom.



Statement

Insurance Association of Connecticut

Judiciary Committee

March 6, 2015

HB 7194, AN ACT CONCERNING EXCEPTIONS TO THE TEN-YEAR REPOSE PERIOD FOR CERTAIN

PRODUCT LIABILITY CLAIMS.

I am Eric George, President of the Insurance Association of Connecticut (the IAC). The IAC is opposed to HB 7194, An Act Concerning Exemptions to the Ten-Year Repose Period for Certain Product Liability Claims, which seeks to eliminate the requirement that a claimant not be entitled to compensation under the Connecticut Workers' Compensation statutes when determining the repose period for a product liability claim in which the claimant alleges that harm occurred during the useful sale life of the product.

Statutory periods of repose, similar but not identical to statutes of limitations, are designed to protect parties from limitless litigation. For situations involving products liability actions, the difference between a statute of limitations and a statutory period of repose is that, with a statute of limitations, lawsuits may only be allowed to be brought within a set number of years after the product causes an injury. By comparison, a statutory period of repose may bar an action after a certain number of years from the date when the product was initially delivered. For example, if a defective product sold to a consumer more than ten years ago injures someone, a ten-year statutory

period of repose (which starts on the product's purchase date) might bar a claim even if the statute of limitations (which starts on the date of injury) does not.

HB 7194 would allow individuals who are receiving workers' compensation to also have the ability to sue under a products liability theory without the current liability limitations required under Connecticut's statutory period of repose.

The IAC opposes HB 7194 for two reasons.

First, such a deviation from the existing statutory period of repose liability limitations will increase the costs of litigation for insurers, as they undoubtedly will be faced with an increased number of lawsuits. This will have a direct impact on the cost of these insurers doing business in Connecticut.

Second, HB 7194 directly cuts against the "exclusivity" that was intended by Connecticut's workers' compensation system.

By way of back ground, workers' compensation is premised on the "Grand Bargain." Employers benefit from reduced financial liability for work-related injuries and diseases and, in return, employees benefit from a no-fault system in which they receive prompt medical care and disability pay for injuries sustained while working. Connecticut's workers' compensation system is one of the most generous and fair systems in the entire country. However, HB 7194 would undermine this "Grand Bargain."

The IAC thanks this Committee and asks you to oppose HB 7194.



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Raised Bill 7194
Public Hearing: 3-6-17

TO: MEMBERS OF JUDICIARY COMMITTEE
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION (CTLA)
DATE: MARCH 6, 2017

RE: **SUPPORT OF 7194, An Act Concerning Exceptions to the Ten-Year Repose Period for Certain Product Liability Claims¹**

The Connecticut Trial Lawyers Associations submits this statement in support of Raised Bill No. 7194, An Act Concerning Exceptions to the Ten-Year Repose Period for Certain Product Liability Claims.

The proposed bill eliminates discrimination against Connecticut workers who are injured by defective products. Under the current statute, Section 52-577a, workers who are injured or killed by defective products may be prohibited from filing claims against the manufacturer and/or seller of the defective product if the product is more than ten (10) years old. This same rule does not apply to people injured by defective products who are not working. By way of example, a person injured by a defective product being used at their home may have a claim, whereas a worker injured by the same defective product at their place of business may be precluded from filing a claim. We believe that such dissimilar treatment is unfair to Connecticut workers.

The Connecticut Product Liability Act, Section 52-572n(a) states that the statute "shall be in lieu of all other claims against product sellers, including actions of negligence, strict liability and warranty, for harm caused by a product." Under Section 52-577a, injured people have three years to bring a claim from the date when the injury, death or property damage is first sustained or discovered. However, no claim may be brought "later than ten years from the date that the party last parted with possession or control of the product." This ten year period is known as the repose period. The statute provides an exception to the repose period, which is known as the "useful life" exception. Under this exception, a person may bring a claim if they can prove that the injury or death occurred during the useful life of the product. This useful life exception, however, is not available to Connecticut workers because the language of the statute excludes people who are injured at work and entitled to bring a workers' compensation claim.

Many products used by Connecticut workers' today are intended to be in use for over ten years, and indeed are used for more than ten years. Raised Bill 7194 protects those workers by allowing them the same right as non-workers to the benefit of the useful life exception.

We do not believe that Connecticut workers should be treated differently from non-workers in the application of this statute. Raised Bill 7194 eliminates the disparate treatment of Connecticut workers under the statute. Moreover, the proposal is pro-worker and pro-business because it allows Connecticut businesses to recover benefits that are paid under the workers' compensation system, while allowing workers to pursue claims against manufacturers and/or sellers of unreasonably

¹ This testimony was prepared by Attorney Ralph Monaco of Conway, Londregan, Sheehan & Monaco, P.C. New London, CT.

dangerous products. Notably, this right of recovery applies to the State of Connecticut. Under this Raised Bill the State of Connecticut would recoup any workers' compensation benefits that it paid to a State employee who is injured by a defective product. Therefore, the Raised Bill proposes an amendment that will have a positive fiscal benefit for the State and positive financial benefit to private employers within the state.

We urge you to support Raised Bill 7194.



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HB 7194 AN ACT CONCERNING EXCEPTIONS TO THE TEN-YEAR REPOSE PERIOD FOR CERTAIN PRODUCT LIABILITY CLAIMS

Statement of the American Insurance Association

March 6, 2017

The American Insurance Association (AIA) is a leading national trade association representing approximately 320 major property and casualty insurance companies that collectively underwrite nearly \$125 billion in direct property and casualty premiums nationwide, including in the State of Connecticut. AIA must respectfully oppose House Bill 7194, which would eliminate the requirement that a claimant not be entitled to compensation under chapter 568 of the general statutes when determining the repose period for a product liability claim in which the claimant alleges that harm occurred during the useful sale life of the product.

AIA has serious concerns that this bill would erode longstanding, existing statutory authority addressing the current statute of repose for cases involving product liability claims. The current statute of repose is an important limitation on when these lawsuits may be filed. Limitations, such as the statute of repose in this instance, help to bring about certainty and predictability in the liability system. Their enactments also serve as important measures to help manage the potential for negative impacts on costs in the litigation system.

The current statute of repose, set out in section 52-577a(a), runs for a ten year period. One exception to this limitation is provided in subsection (c) to claimants not entitled to workers' compensation who can prove that the harm incurred from the product occurred during the useful safe life of the product. This exception is limited and specific, but this bill, if enacted, would now open up the exception to claimants entitled to workers' compensation (who meet the specific conditions). It stands to reason that doing so would necessarily expand the number of potential claimants who would not be affected by the statute of repose and could include claimants compensated under the workers' compensation system.

As such, this presents challenges and questions about the interplay of the workers' compensation system and the litigation system in the state. Such an expansion of the exception has the potential to increase costs substantially. In short, the benefits of statutes of repose for all participants in the liability system would be eroded by HB 7194.

Thank you for the opportunity to provide comments and share our concerns on this issue. For the foregoing reasons, AIA urges the Committee to reject proposed House Bill 7194.

Alison Cooper
Vice President, Northeast Region