

April 8, 2009

**H 1226. STATUTE OF REPOSE/PRODUCTS LIABILITY.** Filed 4/8/09. *TO CLARIFY AND REFORM THE STATUTES OF LIMITATION AND REPOSE IN PRODUCT LIABILITY ACTIONS.*

Repeals GS 1-50(a)(6), which provides that no action for personal injury, death, or damage to property based upon product defect or failure may be brought more than six years after the date of the initial purchase for use or consumption. Replaces it with new GS 99B-7 to define time limits for commencing product liability actions, to protect the citizens, manufacturers, and sellers in the state, and to reaffirm that the statute of repose for product liability actions does not apply to diseases. Provides that (1) all product liability actions, except for wrongful death actions, must be commenced within three years of the date on which the property damage or personal injury occurs and (2) in a product liability action for wrongful death, the action must be brought within two years of death, unless barred by the statute's repose provisions. Adds repose provisions that differentiate between product liability actions as follows: (1) if the action is against a manufacturer and the product was manufactured in North Carolina, the action must be brought within six years after the date that the product was first sold or leased or if the action is against a manufacturer and the product was manufactured outside North Carolina, then within the same six years, unless the state or county of manufacture has a longer statute of repose and (2) if against a seller and the product was sold in North Carolina, then within six years of the time the product was first sold or leased for use or consumption or if against a seller and the product was sold outside North Carolina, then within the same six years, unless the state or county of sale has a longer statute of repose. Provides that in all product liability actions in which a disease allegedly resulted from exposure to or use of the product, the action must be brought within three years of the diagnosis of the disease, and the repose provisions do not apply. Provides that the manufacturer or seller has the burden of proving when the repose period began if the manufacturer asserts that the statute of repose bars a product liability action. Specifies that the statutes of limitation and repose for product liability actions are subject to the tolling provisions of GS 1-17 and GS 1-22.

Amends GS 99B-2(b) to allow a lessee, as defined in the Uniform Commercial Code, a member or guest of a member of the lessee's family, a guest of a lessee, or an employee of a lessee to bring a product liability action directly against the manufacturer of a product for breach of implied warranty.

Effective October 1, 2009, and applies to causes of action accruing on or after that date.

**Intro. by Love, Faison, Blue, Moore.**

GS 1, 99B