



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2005 Senate Bill 58

Senate Amendments 1 and 2

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2005 Senate Bill 58 contains a number of provisions relating to the liability, under a claim of strict liability in tort, of product manufacturers, distributors, and sellers. Senate Amendments 1 and 2 address two provisions of Senate Bill 58.

Senate Amendment 1

Senate Bill 58 provides that a nonmanufacturing seller or distributor of a product is not liable under strict liability if the seller or distributor receives a product in a sealed container and has no reasonable opportunity to test or inspect the product.

Senate Amendment 1 provides that the sealed container defense does not apply to a nonmanufacturing seller or distributor if the manufacturer of the product is not subject to service of process or if the claimant would not be able to enforce a judgment against the manufacturer or its insurer.

Senate Amendment 2

Senate Bill 58 provides a “statute of repose” for product liability claims brought under the theory of strict liability. Under the bill, a defendant is not liable if the product alleged to have caused the damage was manufactured 15 years or more before the claim accrues, unless the manufacturer makes a specific representation that the product will last for a period of time beyond 15 years. The bill further provides that the statute of repose does not bar a claim if the claimant establishes that the defective product caused a latent disease that did not manifest itself until a date on or after three years before the expiration of the 15-year period and the claimant commenced the action within three years of the manifestation date of the latent disease.

Senate Amendment 2 provides that the 15-year statute of repose under the bill does not apply to actions based on a claim for damages caused by a latent disease; it substitutes this blanket exemption for the bill's treatment of latent diseases under the statute of repose, described above.

Legislative History

Senate Amendments 1 and 2 were offered by Senator Kanavas. The Senate Committee on Judiciary, Corrections and Privacy recommended adoption of both amendments by a vote of Ayes, 3; Noes, 2.

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