Changes to North Carolina Statute of Repose Doubles Potential Exposure Time for Product Manufacturers

BY ELIZABETH DAVENPORT SCOTT

Thanks to the North Carolina General Assembly, a manufacturer’s length of exposure to civil suits for allegedly defective products doubled in the last legislative session. Effective Oct. 1, 2009, the statute of repose applicable to product liability actions moves from six to 12 years. The new statute applies to causes of action accruing on or after Oct. 1, 2009.

In North Carolina there are two types of statutes that control the time period within which a civil suit may be brought: statutes of limitation and statutes of repose. Statutes of limitation place a limit on the time within which a civil action may be brought. However, the statute of limitation for personal injury actions, for example, does not begin to run until the injury becomes apparent or ought reasonably to have become apparent. Thus the limitations period for bringing suit might not begin running until long after the product was introduced into the stream of commerce.

Statutes of repose were introduced to stem the tide of suits being filed many years after a product had left control of the manufacturer. Typically the repose period runs from an easily identifiable point in time. For product liability actions in North Carolina, the repose period runs from the date of initial purchase for use or consumption. Repose statutes cut off a manufacturer’s liability by placing an outside cap on the period within which an action may be brought, regardless of when the injury first becomes apparent, and thus may cut off liability even before an accident occurs.

While the newly ratified legislation lengthens the period of exposure for manufacturers, it provides that nothing in the act is intended to change the existing law relating to product liability actions based upon disease. The act further provides that it does not change the six year repose statute applicable to defective or unsafe conditions resulting from improvements to real property.

For more information pertaining to this matter, please contact Elizabeth Davenport Scott at 919.981.4004 or escott@williamsmullen.com.