

Senate Bill No. 406

(By Senators Sypolt, Hall, K. Facemyer, Nohe, Barnes and Boley)

[Introduced February 3, 2011; referred to the Committee on the
Judiciary; and then to the Committee on Finance.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new chapter, designated §55A-1-1, relating to
establishing an eighteen-year statute of limitations for
durable goods; defining a term; and providing an exception.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended
by adding thereto a new chapter, designated §55A-1-1, to read as
follows:

CHAPTER 55A. STATUE OF LIMITATIONS FOR DURABLE GOODS.

ARTICLE 1. STATUTE OF REPOSE.

§55A-1-1. Eighteen year statute of limitations for durable goods.

(a) Notwithstanding any other provision in this code to the
contrary, a product liability action concerning a durable good, as
that term is defined in subsection (b) of this section, may not be
filed after the eighteen year period that begins when the product

1 is delivered to the first purchaser or lessee.

2 (b) For purposes of this section, "durable good" means any
3 product, or any component of that product, that:

4 (1) (A) Has a normal life expectancy of three or more years;
5 or

6 (B) Is of a character subject to allowance for depreciation
7 under the Internal Revenue Code of 1986, as amended;

8 (2) Is:

9 (A) Used in a trade or business;

10 (B) Held for the production of income; or

11 (C) Sold or donated to a governmental or private entity for
12 the production of goods, training, demonstration, or any other
13 similar purpose; and

14 (3) Is used in a workplace and is alleged to have caused harm
15 that is covered under chapter twenty-three of this code.

16 (c) Subsection (a) of this section does not bar a product
17 liability action against a defendant who made an express written
18 warranty concerning the safety or life expectancy longer than
19 eighteen years. In that event, a product liability action
20 concerning a durable good, as that term is defined in subsection
21 (b) of this section, may not be filed after the expiration of that
22 warranty.

NOTE: The purpose of this bill is to establish an eighteen
year statute of limitations for durable goods. The bill defines
the term "durable good." The bill also provides an exception for

goods that have a written warranty that is longer than eighteen years.

This chapter is new; therefore, strike-throughs and underscoring have been omitted.