CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 8, 1999

H.R. 2005
Workplace Goods Job Growth and Competitiveness Act of 1999

As ordered reported by the House Committee on the Judiciary on September 22, 1999

SUMMARY

CBO estimates that enacting this bill would have no significant impact on the federal budget. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 2005 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the bill would result in small costs to state, local, or tribal governments—well below the threshold established in UMRA ($50 million in 1996, adjusted annually for inflation). The bill also contains a private-sector mandate, but CBO estimates that the costs to firms and individuals would likely fall below UMRA's private-sector threshold ($100 million in 1996, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

H.R. 2005 would limit the length of time manufacturers and sellers of durable goods would be liable for injury and damages resulting from the use of their products. The bill defines a durable good as a product used in trade or business with an expected life of three years or more, and is subject to depreciation under the Internal Revenue Code. The bill would set the statue of repose (the length of time after which a manufacturer is no longer liable) at 18 years from the date the product first entered commerce, but would not apply in cases involving certain durable goods, or where the claimant is not covered by workers' compensation insurance. Under current law, there is not a uniform statue of repose for determining the liability of manufacturers of durable goods.

While some product liability cases are tried in federal court, the majority of the cases that would be covered under H.R. 2005 are tried in state courts and we estimate that enacting this bill would result in no significant increase in the number of cases that would be referred to federal courts. In addition, most cases that would be covered under H.R. 2005 are settled out of court and never go to trial. Therefore, CBO estimates that implementing H.R. 2005 would have no significant budgetary impact.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 2005 would establish that, in certain circumstances, a civil action may not be filed in any court against the manufacturer or seller of durable goods after 18 years. This provision would constitute a mandate as defined by UMRA because it would preempt state laws that have established different time periods for filing these types of civil suits and because this preemption would apply to state, local, and tribal governments as plaintiffs.

CBO estimates that imposing the federal standard of liability in these cases would impose no costs on states because they would not be required to take any action to comply. State, local, and tribal governments as potential plaintiffs, however, could face costs. For example, in those states where no time frame on filing these types of suits currently applies, government plaintiffs could lose court-awarded judgments or out-of-court settlements. In states where the time frame for filing these types of suits is extended by the bill, they would have a greater opportunity to collect damages. (At least 20 states now have statutes that range from six to 15 years.) Last year roughly 70 such cases were settled, averaging around $100,000 per case. Because suits brought by state, local, or tribal governments are likely to make up a very small number of the total cases filed and because the damages awarded are generally small, CBO estimates that, overall, the bill would have a small effect on the budgets of state, local, and tribal governments.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 2005 would create a new private-sector mandate by prohibiting certain property damage and personal injury suits against manufacturers and sellers of durable goods or capital equipment. Generally, the bill would prevent firms and individuals from recovering damages in cases where the equipment is more than 18 years old. The mandate would not affect existing claims or claims filed within one year of enactment. The bill also provides exceptions to the prohibition for claims involving passenger vehicles and general aviation aircraft and claims involving manufacturer warranties.

CBO estimates that the costs of the mandate would most likely fall below the threshold established by UMRA ($100 million in 1996, adjusted annually for inflation). The cost of the mandate for an affected firm or individual would be the amount of the court-awarded judgment or out-of-court settlement they would otherwise receive under current law. Because the mandate would not affect suits filed within a year of enactment, the first costs would not occur until 2001. Based on information collected by the Association for Manufacturing Technology, CBO estimates that the cost to firms and individuals would be less than $4 million in 2001. Costs in the first few years following enactment would be lower than in subsequent years because of a lag between when the suits are filed and when

they are resolved. For example, an individual filing a personal injury claim in 2001 might have to wait until 2002 or later for the suit to be settled. The costs of the mandate would be somewhat offset by plaintiffs' savings on legal fees.

ESTIMATE PREPARED BY:

Federal Costs: Lanette Keith
Impact for the State, Local, and Tribal Governments: Lisa Cash Driskill
Impact on the Private Sector: John Harris

ESTIMATE APPROVED BY:

Peter H. Fontaine
Deputy Assistant Director for Budget Analysis