

WEST VIRGINIA CODE: §55-7G-9

§55-7G-9. Statute of limitations; two-disease rule.

(a) With respect to an asbestos or silica action not barred by limitations as of this article's effective date, an exposed person's cause of action shall not accrue, nor shall the running of limitations commence, prior to the earlier of the date:

- (1) The exposed person received a medical diagnosis of an asbestos-related impairment or silica-related impairment;
 - (2) The exposed person discovered facts that would have led a reasonable person to obtain a medical diagnosis with respect to the existence of an asbestos-related impairment or silica-related impairment; or
 - (3) The date of death of the exposed person having an asbestos-related or silica-related impairment.
- (b) Nothing in this section shall be construed to revive or extend limitations with respect to any claim for asbestos-related impairment or silica-related impairment that was otherwise time-barred on the effective date of this article.
- (c) Nothing in this section shall be construed so as to adversely affect, impair, limit, modify, or nullify any settlement or other agreements with respect to an asbestos or silica action entered into prior to the effective date of this article.
- (d) An asbestos or silica action arising out of a nonmalignant condition shall be a distinct cause of action from an action for an asbestos-related or silica-related cancer. Where otherwise permitted under state law, no damages shall be awarded for fear or increased risk of future disease in an asbestos or silica action.

(e) Notwithstanding the provisions of this section, a plaintiff in an asbestos or silica action may not bring an action against the manufacturers of mining equipment used underground when the exclusive use of asbestos in the equipment was as a result of specific requirements under 30 CFR Part 18 or, as to the use of silica, the design was as specified in 30 CFR Part 33 when the equipment was originally manufactured, based on any theory or doctrine, except within the applicable limitations period and, in any event, within 12 years from the date of first sale, lease, or delivery of possession by the manufacturers or 10 years from the date of first sale, lease, or delivery of possession to its initial user, consumer, or other non-seller, whichever period expires earlier, unless the manufacturers of equipment used in coal mining have expressly warranted or promised the product for a longer period and the action is brought within that period. This subsection does not apply to the use of brakes and any brake material.