

FIRST REGULAR SESSION

HOUSE BILL NO. 1173

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES RIDDLE (Sponsor),
DIECKHAUS AND RUESTMAN (Co-sponsors).

2446L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 537.760, RSMo, and to enact in lieu thereof five new sections relating to products liability.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 537.760, RSMo, is repealed and five new sections enacted in lieu thereof, to be known as sections 516.115, 537.760, 537.766, 537.767, and 537.768, to read as follows:

516.115. Notwithstanding any provision of law to the contrary, no claim for the recovery of damages for personal injury, death, or damage to property based upon or arising out of any alleged defect or any failure in relation to a product shall be brought more than six years after the date of initial purchase for use or consumption or more than ten years after the product was manufactured, whichever comes first.

537.760. As used in sections 537.760 to [537.765] **537.768**, the term "products liability claim" means a claim or portion of a claim in which the plaintiff seeks relief in the form of damages on a theory that the defendant is strictly liable for such damages because:

(1) The defendant, wherever situated in the chain of commerce, transferred a product in the course of his business; and

(2) The product was used in a manner reasonably anticipated; and

(3) Either or both of the following:

(a) The product was then in a defective condition unreasonably dangerous when put to a reasonably anticipated use, and the plaintiff was damaged as a direct result of such defective condition as existed when the product was sold; or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 (b) The product was then unreasonably dangerous when put to a reasonably anticipated
12 use without knowledge of its characteristics, and the plaintiff was damaged as a direct result of
13 the product being sold without an adequate warning.

**537.766. Notwithstanding any provision of law to the contrary, a defendant in a
2 products liability claim shall have a complete defense in such claim if the defendant can
3 prove that the plaintiff was under the influence of intoxicating alcohol or any drug that
4 may not lawfully be sold over-the-counter without a prescription, and was not prescribed
5 by a physician for use by the plaintiff, and the plaintiff, as a result of such condition, was
6 more than fifty percent responsible for the accident or event that resulted in the plaintiff's
7 harm. This defense shall be pleaded as an affirmative defense and the party asserting it
8 shall have the burden of proof.**

**537.767. Notwithstanding any provision of law to the contrary, in a products
2 liability claim, the following evidence shall not be admissible for any purpose:**

3 (1) Evidence of any advancements or changes in technical or other knowledge or
4 techniques, in design theory or philosophy, in manufacturing or testing knowledge,
5 techniques or processes in labeling, warning of risks or hazards, instructions for the use
6 of such product, if such advancements or changes have been made, learned, or placed into
7 common use subsequent to the time the product in issue was designed, formulated, tested,
8 manufactured, or sold by the manufacturer; and

9 (2) Evidence of any changes made in the designing, planning, formulating, testing,
10 preparing, manufacturing, packaging, warnings, labeling, or instructing for use of, or with
11 regard to, the product in issue, or any similar product, which changes were made
12 subsequent to the time the product in issue was designed, formulated, tested,
13 manufactured, or sold by the manufacturer.

**537.768. 1. No manufacturer or seller of a product shall be held liable in any
2 products liability claim where a proximate cause of the personal injury, death, or damage
3 to property was either an alteration or modification of the product by a party other than
4 the manufacturer or seller, which alteration or modification occurred after the product left
5 the control of such manufacturer or such seller unless:**

6 (1) The alteration or modification was in accordance with the instructions or
7 specifications of such manufacturer or such seller; or

8 (2) The alteration or modification was made with the express consent of such
9 manufacturer or such seller.

10 **2. For the purposes of this section, alteration or modification includes changes in
11 the design, formula, function, or use of the product from that originally designed, tested,**

12 or intended by the manufacturer. It includes failure to observe routine care and
13 maintenance, but does not include ordinary wear and tear.

✓