

SECOND REGULAR SESSION

HOUSE BILL NO. 1655

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RIDDLE.

5735L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 537, RSMo, by adding thereto one new section relating to products liability.

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

Section A. Chapter 537, RSMo, is amended by adding thereto one new section, to be known as section 537.763, to read as follows:

537.763. 1. Except as provided in subsection 2 of this section, a manufacturer or seller of a product shall not be subject to liability to a claimant for harm under sections 537.760 to 537.765 if the harm was caused after the product's useful safe life expired.

2. A manufacturer or seller of a product may be subject to liability for harm caused by a product used beyond its useful safe life, if:

(1) The manufacturer or seller of a product has warranted that the product may be utilized safely for such longer period; or

(2) The manufacturer or seller of a product intentionally misrepresents facts about its product, or intentionally conceals information about it, and that conduct was a proximate cause of the claimant's harm.

3. If the harm was caused more than twelve years after the time of delivery, a presumption arises that the harm was caused after the useful safe life had expired. This presumption may only be rebutted by a preponderance of the evidence.

4. No claim under sections 537.760 to 537.765 shall be brought more than five years from the time the claimant discovered the harm and its cause.

5. As used in this section, the following terms shall mean:

(1) "Materially altered", any alteration which changes the product from the original designed state from the manufacturer. Any work to repair such item shall be

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.

19 **conducted by a manufacturer's authorized facility. Any replacement part shall conform**
20 **to the original manufacturer's specifications;**

21 **(2) "Time of delivery", the time of delivery of a product to its first purchaser or**
22 **lessee who was not engaged in the business of either selling such products or using them**
23 **as component parts of another product to be sold, or in the case of a product which has**
24 **been remanufactured by a manufacturer, the time of delivery of the remanufactured**
25 **product to its first purchaser or lessee who was not engaged in the business of either selling**
26 **such products or using them as component parts of another product to be sold;**

27 **(3) "Useful safe life", the time period beginning at the time of delivery of the**
28 **product and extending for the time during which the product would normally be likely to**
29 **perform or be stored in a safe manner. The useful safe life of a product shall be terminated**
30 **if the product is materially altered in any way by the first purchaser or lessee who was not**
31 **engaged in the business of either selling such products or using them as component parts**
32 **of another product to be sold or any subsequent purchaser or lessee.**

33 **6. This section does not apply to any action to recover damages for economic loss,**
34 **personal injury, property damage, or wrongful death arising out of a defective or unsafe**
35 **condition of any improvement to real property.**

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