

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 922, Page 1, Section A, Line 2, by
2 inserting after all of said section and line, the following:

3
4 "287.120. 1. Every employer subject to the provisions of this chapter shall be liable,
5 irrespective of negligence, to furnish compensation under the provisions of this chapter for personal
6 injury or death of the employee by accident or occupational disease arising out of and in the course
7 of the employee's employment. Any employee of such employer shall not be liable for any injury or
8 death for which compensation is recoverable under this chapter and every employer and employees
9 of such employer shall be released from all other liability whatsoever, whether to the employee or
10 any other person, except that an employee shall not be released from liability for injury or death if
11 the employee engaged in ~~[an affirmative negligent act that purposefully and dangerously caused or~~
12 ~~increased the risk of injury]~~ a willful act with the intent to cause bodily injury or death. The term
13 "accident" as used in this section shall include, but not be limited to, injury or death of the employee
14 caused by the unprovoked violence or assault against the employee by any person.

15 2. The rights and remedies herein granted to an employee shall exclude all other rights and
16 remedies of the employee, the employee's spouse, parents, personal representatives, dependents,
17 heirs or next kin, at common law or otherwise, on account of such injury or death by accident or
18 occupational disease, except such rights and remedies as are not provided for by this chapter.

19 3. No compensation shall be allowed under this chapter for the injury or death due to the
20 employee's intentional self-inflicted injury, but the burden of proof of intentional self-inflicted injury
21 shall be on the employer or the person contesting the claim for allowance.

22 4. Where the injury is caused by the failure of the employer to comply with any statute in
23 this state or any lawful order of the division or the commission, the compensation and death benefit
24 provided for under this chapter shall be increased fifteen percent.

25 5. Where the injury is caused by the failure of the employee to use safety devices where
26 provided by the employer, or from the employee's failure to obey any reasonable rule adopted by the
27 employer for the safety of employees, the compensation and death benefit provided for herein shall
28 be reduced at least twenty-five but not more than fifty percent; provided, that it is shown that the
29 employee had actual knowledge of the rule so adopted by the employer; and provided, further, that
30 the employer had, prior to the injury, made a reasonable effort to cause his or her employees to use
31 the safety device or devices and to obey or follow the rule so adopted for the safety of the
32 employees.

33 6. (1) Where the employee fails to obey any rule or policy adopted by the employer relating
34 to a drug-free workplace or the use of alcohol or nonprescribed controlled drugs in the workplace,
35 the compensation and death benefit provided for herein shall be reduced fifty percent if the injury
36 was sustained in conjunction with the use of alcohol or nonprescribed controlled drugs.

Action Taken _____ Date _____

1 (2) If, however, the use of alcohol or nonprescribed controlled drugs in violation of the
2 employer's rule or policy is the proximate cause of the injury, then the benefits or compensation
3 otherwise payable under this chapter for death or disability shall be forfeited.

4 (3) The voluntary use of alcohol to the percentage of blood alcohol sufficient under
5 Missouri law to constitute legal intoxication shall give rise to a rebuttable presumption that the
6 voluntary use of alcohol under such circumstances was the proximate cause of the injury. A
7 preponderance of the evidence standard shall apply to rebut such presumption. An employee's
8 refusal to take a test for alcohol or a nonprescribed controlled substance, as defined by section
9 195.010, at the request of the employer shall result in the forfeiture of benefits under this chapter if
10 the employer had sufficient cause to suspect use of alcohol or a nonprescribed controlled substance
11 by the claimant or if the employer's policy clearly authorizes post-injury testing.

12 (4) Any positive test result for a nonprescribed controlled drug or the metabolites of such
13 drug from an employee shall give rise to a rebuttable presumption, which may be rebutted by a
14 preponderance of evidence, that the tested nonprescribed controlled drug was in the employee's
15 system at the time of the accident or injury and that the injury was sustained in conjunction with the
16 use of the tested nonprescribed controlled drug if:

17 (a) The initial testing was administered within twenty-four hours of the accident or injury;

18 (b) Notice was given to the employee of the test results within fourteen calendar days of the
19 insurer or group self-insurer receiving actual notice of the confirmatory test results;

20 (c) The employee was given an opportunity to perform a second test upon the original
21 sample; and

22 (d) The initial or any subsequent testing that forms the basis of the presumption was
23 confirmed by mass spectrometry using generally accepted medical or forensic testing procedures.

24 7. Where the employee's participation in a recreational activity or program is the prevailing
25 cause of the injury, benefits or compensation otherwise payable under this chapter for death or
26 disability shall be forfeited regardless that the employer may have promoted, sponsored or supported
27 the recreational activity or program, expressly or impliedly, in whole or in part. The forfeiture of
28 benefits or compensation shall not apply when:

29 (1) The employee was directly ordered by the employer to participate in such recreational
30 activity or program;

31 (2) The employee was paid wages or travel expenses while participating in such recreational
32 activity or program; or

33 (3) The injury from such recreational activity or program occurs on the employer's premises
34 due to an unsafe condition and the employer had actual knowledge of the employee's participation in
35 the recreational activity or program and of the unsafe condition of the premises and failed to either
36 curtail the recreational activity or program or cure the unsafe condition.

37 8. Mental injury resulting from work-related stress does not arise out of and in the course of
38 the employment, unless it is demonstrated that the stress is work related and was extraordinary and
39 unusual. The amount of work stress shall be measured by objective standards and actual events.

40 9. A mental injury is not considered to arise out of and in the course of the employment if it
41 resulted from any disciplinary action, work evaluation, job transfer, layoff, demotion, termination or
42 any similar action taken in good faith by the employer.

43 10. The ability of a firefighter to receive benefits for psychological stress under section
44 287.067 shall not be diminished by the provisions of subsections 8 and 9 of this section.

45 516.099. 1. Any action to recover damages for economic loss, personal injury, property
46 damage, or wrongful death arising out of a defective or unsafe condition of any product that is sold,
47 leased, or otherwise placed in the stream of commerce, or arising out of the negligent design,
48 manufacture, sale, or distribution of any such product shall be commenced within fifteen years of
49 the date on which such product is first sold or leased to any person or otherwise placed into the

1 stream of commerce.

2 2. This section shall apply to all actions falling within it, whether arising under the common
3 law or by operation of statute; except that, if an action within this section is barred by another
4 provision of law, such other provision of law shall govern.

5 3. This section shall not apply:

6 (1) To any action brought with respect to a product that is real property or an improvement
7 to real property;

8 (2) If the person against whom an action is brought has knowingly concealed any defective
9 or unsafe condition in the product that is the subject of the action, or has knowingly concealed any
10 negligence in the product's construction, manufacture, sale, distribution, or placing into the stream
11 of commerce, and if any matter so concealed directly resulted in the economic loss, personal injury,
12 property damage, or wrongful death for which the action is brought;

13 (3) If a manufacturer, lessor, seller, or person who first placed a product in the stream of
14 commerce against whom an action within this section is brought brings an action for indemnity or
15 contribution against a person who is or may be liable to such person for all or any portion of any
16 judgment rendered against such person, in which event such action for indemnity or contribution
17 shall not be barred by this section;

18 (4) If a manufacturer, lessor, seller, or person who first placed a product in the stream of
19 commerce has stated in a written warranty or an advertisement to the public that the product has an
20 expected useful life for a period certain that is greater than fifteen years, in which event any action
21 that is otherwise within this section and is not barred by any other provision of law shall be brought
22 no later than two years following the expiration of that period certain;

23 (5) To any action regarding negligent service or negligent maintenance of a product;

24 (6) To any action regarding a defective or unsafe condition of a product if the product is
25 subject to a government mandated product recall related to consumer safety, provided that the action
26 shall be limited to the extent that the subject of the action and the underlying reason for the recall
27 are the same;

28 (7) To any action regarding a defective or unsafe condition of a product causing a
29 respiratory or malignant disease with a latency of more than fifteen years. No action shall be
30 commenced under this subdivision based upon strict product liability, or negligence against a seller
31 of a product, in which the product is alleged to contain or possess a defective condition
32 unreasonably dangerous to the buyer, user, or consumer, unless such seller is also the manufacturer
33 of the product claimed to be defective; or

34 (8) Notwithstanding subdivision (4) of this subsection, to any action against a manufacturer
35 of a mechanical device where the harm occurred during the useful safe life of the product. In
36 determining whether a product's useful safe life has expired, the trier of fact may consider:

37 (a) The amount of wear and tear to which the product had been subject;

38 (b) The effect of deterioration from natural causes, and from climate and other conditions
39 under which the product was used or stored;

40 (c) The normal practices of the user, similar users, and the product seller with respect to the
41 circumstances, frequency, and purposes of the product's use, and with respect to repairs, renewals,
42 and replacements;

43 (d) Any representations, instructions, or warnings made by the product manufacturer
44 concerning proper maintenance, storage, and use of the product or the expected useful safe life of
45 the product; and

46 (e) Any modification or alteration of the product by a user or third party.

47 4. This section shall apply to all civil actions commenced on or after August 28, 2021, or
48 any new causes of action asserted in civil actions pending on that date; except that, any cause of
49 action falling within this section that accrued on or before August 28, 2021, may, in any event, be

1 brought no later than August 28, 2022, unless barred by another provision of law."; and

2
3 Further amend said bill, Page 2, Section 516.140, Line 13, by inserting after all of said section and
4 line the following:

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6 "537.771. 1. In any civil action for personal injury, death, or property damage caused by a
7 product, regardless of the type of claims alleged or the theory of liability asserted, the plaintiff shall
8 prove, among other elements, that the defendant manufactured, sold, or leased the particular product
9 the use of which is alleged to have caused the injury on which the claim is based and not a similar or
10 equivalent product. Manufacturers, sellers, or lessors of products not identified as having been used,
11 ingested, or encountered by an allegedly injured party shall not be held liable for any alleged injury.
12 A person, firm, corporation, association, partnership, or other legal or business entity that designs,
13 but does not manufacture, a product shall not be subject to liability for personal injury, death, or
14 property damage caused by the manufacturer's product, even if use of the design is foreseeable.

15 2. This section shall not be intended to alter or affect any other principle of law, including
16 those that apply to successor entities, distributors, component manufacturers, or manufacturers who
17 use component parts in assembling products for sale as complete units or those that apply to the
18 operation of a contract, including a licensing agreement."; and

19
20 Further amend said bill and page, Section B, Line 1, by inserting after the first occurrence of the
21 word "of" the words "section 516.120 of"; and

22
23 Further amend said bill by amending the title, enacting clause, and intersectional references
24 accordingly.