

COMMITTEE OF ORIGIN: Special Committee on Litigation Reform

Currently, actions for personal injury must be brought within five years from the date the injury occurred. This bill reduces the time frame to two years from when the injury occurred.

The bill also allows school boards of any school district to purchase insurance contracts to insure against loss, damages, or expenses for a claim arising out of the sickness, bodily injury, or death by accident of any student injured on school premises or during school-sponsored activities; as well as insurance for the benefit of students to insure against losses resulting from loss of, theft of, or damage to personal property of students.

The bill also modifies the rule for determining the admissibility of evidence of collateral source payments in civil actions. The bill clarifies that Section 490.715, RSMo, applies only to a party in a plaintiff's case, and that no party shall introduce evidence of the amount billed for medical treatment if the amount has been discounted, written-off, or satisfied by payment of an amount less than the amount billed. The actual cost of medical care or treatment rendered and discounts shall be admissible evidence relevant to the potential cost of future treatment.

The bill also applies to asbestos tort actions filed on or after August 28, 2021, and to pending asbestos tort actions where trial has not commenced as of such date. The bill:

(1) Requires a claimant to provide all parties in an action a sworn statement indicating that all asbestos trust claims that the claimant can file have been completed and filed. In addition, the claimant must provide all parties with all trust materials relating to the asbestos exposure and related claims;

(2) Allows any defendant in an asbestos tort action to file a motion for an order to stay the proceedings. The motion must contain information the defendant believes supports any additional asbestos trust claim that the claimant may file;

(3) Requires trust claims materials and trust governance documents to be admissible in evidence. Claims of privilege do not apply to trust claims materials or trust governance documents;

(4) Allows the parties in the asbestos tort action to introduce at trial any trust claims material to prove alternative causation for the exposed person's claimed injury, death, or loss to person to prove a basis to allocate responsibility for the claimant's claimed

injury, death, or loss to person and to prove issues relevant to an adjudication of the asbestos claim, unless the exclusion of the trust claims material is otherwise required by the rules of evidence. Settlements with bankruptcy trusts shall reduce the claim by the stipulated amount of the agreement or amount of consideration paid; and

(5) Allows the court to, upon motion by the defendant, dismiss an action without prejudice for the claimant's failure to comply with these disclosure requirements. A defendant may, within three years after judgment, move to reopen a judgment in an asbestos action if a claimant files certain additional asbestos trust claims.

The bill shall not apply to asbestos actions filed by or on behalf of First Responders. "First Responder" is defined as any paid, volunteer, or retired firefighter, paramedic, or emergency medical technician.

The bill also provides that any arbitration award shall not be enforceable against insurers, as defined in the bill, unless the insurer has agreed in writing to the arbitration proceeding or agreement. Unless otherwise required by contract, an insurer's election to not participate in arbitration shall not constitute bad faith. These provisions shall not apply to any arbitration awards arising out of an arbitration agreement preceding the date of injury or loss.

The bill specifies that a person having an unliquidated claim for damages against a tort-feasor may enter into a contract with the tort-feasor if the person's insurer has refused to withdraw a reservation of rights or declined coverage for such unliquidated claim. The bill specifies what happens if there is any action seeking a judgment on a claim against a tort-feasor at the time of the execution of any contract between the two parties, what happens if there is a pending action at the time of the execution of a contract but the action is subsequently dismissed, and what happens if there is no action seeking judgment on a claim at the time of the execution of any contract between the two parties. Any insurer who receives notice under this section will have the unconditional right to intervene in any pending civil action involving the claim for damages within 30 days after receipt of the notice and insurers intervening in a court proceeding where the defendant has contracted to limit his or her liability to specified assets shall have all the same rights as are afforded to defendants. These provisions shall not alter or reduce an intervening insurer's obligations to any insureds other than the tort-feasor, including any co-insureds.

All terms of a covenant not to execute or any terms of any contract

to limit recovery to specified assets must be in writing and signed by the parties to the covenant or contract. No unwritten terms of any covenant or contract under this section will be enforceable against any party to the covenant or contract or any other person or entity. In any action asserting bad faith by the insurer, any agreement between the tort-feasor and the insured will be admissible in evidence. The exercise of any rights under this section will not be construed to be bad faith.

The bill also provides that a person who is injured by a defective or unsafe condition of a product due to negligence in the design, manufacture, sale, or distribution of a product has 15 years after the sale or lease of the product to bring a claim for damages. The time limitation shall not apply to actions relating to real property, actions where a person has knowingly concealed any defective or unsafe condition in a product, actions for indemnity or contribution by a defendant, when a product has a warranty that is greater than 15 years, actions regarding negligent service or maintenance of a product, actions regarding defective or unsafe conditions of a product when the product is the subject of a government-mandated recall, for certain products that cause respiratory or malignant disease, or to any action against a manufacturer where the harm occurred during the uses safe life of the product. The provisions of this bill apply to all civil actions commenced on or after August 28, 2021, or any new causes of action asserted in civil actions pending on that date. However, any cause of action falling within the provisions of this bill that accrued on or before August 28, 2021, may, in any event, be brought no later than August 28, 2022, unless barred by another provision of law.

The bill specifies that, in any civil action for personal injury, death, or property damage caused by a product, the plaintiff must prove that the defendant manufactured, sold, or leased the actual product that caused the injury. Manufacturers, sellers, or lessors of products not identified as having been used, ingested, or encountered by an alleged injured party will not be held liable for any alleged injury. A person or any business entity that designs, but does not manufacture, a product shall not be subject to liability for personal injury, death, or property damage caused by the manufacturer's product, even if use of the design is foreseeable.

The bill allows for appeals to orders changing or modifying the placement of a child from the parent, guardian ad litem, or the juvenile officer.

The bill states that an employee is not to be released from liability if the employee engaged in a willful act with the intent

to cause bodily injury or death. Currently, employees are immune for damages involving bodily injury or death unless they commit an affirmative negligent act that causes or increases the risk of injury.

The bill prohibits an owner, employee, or officer of a private campground from being liable for acts related to camping at a private campground if the injury or damage occurred as a result of an inherent risk of camping, as described within the bill. This bill does not apply to actions arising under Missouri Workers' Compensation Law. Additionally, this bill does not prevent or limit liability of an owner, employee, or officer who intentionally causes injury, death, or damage, who acts with a willful or wanton disregard for the safety of the person or property damaged, who fails to use the degree of care that an ordinarily careful and prudent person would use under the circumstances, or who fails to conspicuously post warning signs of known dangerous conditions on the property. Warning signs are required to appear in black letters of at least one inch in height on a white background. Warning signs and written contracts entered into by an owner, employee, or officer shall contain a warning notice, as specified in the bill.