

SECOND REGULAR SESSION

SENATE BILL NO. 626

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEHOE.

Read 1st time January 9, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5135S.011

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 pursuant to 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:

22 (1) "Materially altered", any alteration which changes the
23 product from the original designed state from the manufacturer. Any
24 work to repair such item shall be conducted by a manufacturer's
25 authorized facility. Any replacement part shall conform to the original
26 manufacturer's specifications;

27 (2) "Time of delivery", the time of delivery of a product to its first
28 purchaser or lessee who was not engaged in the business of either
29 selling such products or using them as component parts of another
30 product to be sold, or in the case of a product which has been
31 remanufactured by a manufacturer, the time of delivery of the
32 remanufactured product to its first purchaser or lessee who was not
33 engaged in the business of either selling such products or using them
34 as component parts of another product to be sold;

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

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

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