

SECOND REGULAR SESSION

# SENATE BILL NO. 792

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RICHARD.

Pre-filed December 9, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5223S.01I

## AN ACT

To repeal section 537.762, RSMo, and to enact in lieu thereof one new section relating to products liability civil actions.

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

Section A. Section 537.762, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 537.762, to read as follows:

537.762. 1. A defendant whose liability is based solely on his status as  
2 a seller in the stream of commerce may be dismissed from a products liability  
3 claim as provided in this section.

4 2. This section shall apply to any products liability claim in which another  
5 defendant, including the manufacturer, is properly before the court and from  
6 whom total recovery may be had for plaintiff's claim.

7 3. A defendant may move for dismissal under this section within the time  
8 for filing an answer or other responsive pleading unless permitted by the court  
9 at a later time for good cause shown. The motion shall be accompanied by an  
10 affidavit which shall be made under oath and shall state that the defendant is  
11 aware of no facts or circumstances upon which a verdict might be reached against  
12 him, other than his status as a seller in the stream of commerce.

13 4. The parties shall have sixty days in which to conduct discovery on the  
14 issues raised in the motion and affidavit. The court for good cause shown, may  
15 extend the time for discovery, and may enter a protective order pursuant to the  
16 rules of civil procedure regarding the scope of discovery on other issues.

17 5. Any party may move for a hearing on a motion to dismiss under this  
18 section. If the requirements of subsections 2 and 3 of this section are met, and  
19 no party comes forward at such a hearing with evidence of facts which would

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

20 render the defendant seeking dismissal under this section liable on some basis  
21 other than his status as a seller in the stream of commerce, the court shall  
22 dismiss without prejudice the claim as to that defendant.

23           6. [No order of dismissal under this section shall operate to divest a court  
24 of venue or jurisdiction otherwise proper at the time the action was commenced.  
25 A defendant dismissed pursuant to this section shall be considered to remain a  
26 party to such action only for such purposes.

27           7.] An order of dismissal under this section shall be interlocutory until  
28 final disposition of plaintiff's claim by settlement or judgment and may be set  
29 aside for good cause shown at anytime prior to such disposition.

Unofficial ✓

Bill

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