

SECOND REGULAR SESSION

SENATE BILL NO. 788

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR FLOTRON.

Read 1st time January 21, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S2881.03I

AN ACT

To repeal section 537.762, RSMo 1994, relating to products liability, and to enact in lieu thereof one new section relating to the same subject.

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

Section A. Section 537.762, RSMo 1994, is repealed and one new section enacted in lieu thereof, to be known as section 537.762, to read as follows: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 a seller in the stream of commerce may be dismissed from a products liability claim as provided in this section.

2. This section shall apply to any products liability claim in which another defendant, including the manufacturer, is properly before the court, **may be brought before the court or has been brought before the court**, and from whom total recovery may be had for plaintiff's claim. **For the purposes of this section, any manufacturer who enters into a settlement with the plaintiff and is voluntarily dismissed shall be considered properly before the court.**

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

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

5. Any party may move for a hearing on a motion to dismiss under this section. If the

requirements of subsections 2 and 3 of this section are met, and no party comes forward at such a hearing with evidence of facts which would render the defendant seeking dismissal under this section liable on some basis other than his status as a seller in the stream of commerce, the court shall dismiss without prejudice the claim as to that defendant.

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

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

Unofficial

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