

House _____ Amendment NO. _____

Offered By

1 AMEND Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 591, Page 15,
2 Section 538.210, Line 82, by inserting after all of said section and line the following:

3
4 "516.099. 1. Any action to recover damages for economic loss, personal injury, property
5 damage, or wrongful death arising out of a defective or unsafe condition of any product that is sold,
6 leased, or otherwise placed in the stream of commerce, or arising out of the negligent design,
7 manufacture, sale, or distribution of any such product shall be commenced within fifteen years of
8 the date on which such product is first sold or leased to any person or otherwise placed into the
9 stream of commerce.

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

13 3. This section shall not apply:

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

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

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

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

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

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

36 (7) To any action regarding a defective or unsafe condition of a product causing a

Action Taken _____ Date _____

1 respiratory or malignant disease with a latency of more than fifteen years. No action shall be
2 commenced under this subdivision based upon strict product liability, or negligence against a seller
3 of a product, in which the product is alleged to contain or possess a defective condition
4 unreasonably dangerous to the buyer, user, or consumer, unless such seller is also the manufacturer
5 of the product claimed to be defective; or

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

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

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

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

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

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

19 4. This section shall apply to all civil actions commenced on or after August 28, 2020, or
20 any new causes of action asserted in civil actions pending on that date; except that, any cause of
21 action falling within this section that accrued on or before August 28, 2020, may, in any event, be
22 brought no later than August 28, 2021, unless barred by another provision of law."; and

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