

REVENUE: No revenue impact

FISCAL: May have fiscal impact, statement not yet issued

Action:	Do Pass as Amended and Be Printed Engrossed and Be Referred to the Committee on Elections, Ethics and Rules
Vote:	6 - 2 - 1
Yeas:	Barker, Bonamici, Komp, Krieger, Read, Macpherson
Nays:	Cameron, Whisnant
Exc.:	Flores
Prepared By:	Matt Kalmanson, Counsel
Meeting Dates:	3/15, 3/29, 4/24, 4/30

WHAT THE MEASURE DOES: Establishes statute of repose in product liability actions equal to the “useful safe life” of the product at issue. Defines “useful safe life” to mean “the period of time beginning on the date that the product is delivered to the product’s first purchaser or lessee” and ending on the earlier of 20 years or the “date on which the product would not reasonably be expected to perform in a safe manner or could not reasonably be stored in a safe manner.” Creates a presumption that the useful safe life of a product is 10 years, which a plaintiff may rebut by a preponderance of the evidence. Applies to all causes of action, whether arising before, on, or after the effective date of the Act, but does not revive already barred causes of action. Clarifies that limitation and repose periods for construction defect claims apply to actions involving manufactured dwellings and prefabricated structures.

ISSUES DISCUSSED:

- Differences between statutes of ultimate repose and statutes of limitation
- Impact of defective products on Oregonians
- Laws and experiences of other states
- Impact on businesses
- Benefits of predictability and certainty
- Tort reform

EFFECT OF COMMITTEE AMENDMENT: Replaces the bill.

BACKGROUND: A “statute of ultimate repose” is similar to a statute of limitation; both cut off the right of a party to bring a lawsuit after a specified time. However, while a statute of limitation period begins to run when a cause of action accrues (such as when a party discovers their injury), a statute of repose period begins to run when a specific event occurs (such as when the party purchases the product). The statute of repose in ORS 30.905(1) provides, in part, that a product liability action cannot be brought more than 10 years after the product was first purchased for use or consumption. By contrast, the statute of limitations in ORS 30.905(2) provides, in part, that a party must bring a product liability case within two years after first discovering the injury. According to the Oregon Trial Lawyers Association, forty states have no statute of ultimate repose.

HB 2909 A would make the statute of repose in product liability actions equal to the “useful safe life” of the product. The bill creates a presumption that the “useful safe life” of a product is 10 years, which the plaintiff may rebut by a preponderance of the evidence, and provides an absolute bar at 20 years. Finally, HB 2909 A removes ambiguity concerning whether manufactured dwellings and prefabricated structures are subject to the product liability or construction defect statutes of repose. The bill clarifies that manufactured dwellings and prefabricated structures are subject to the construction defect time periods.

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This summary has not been adopted or officially endorsed by action of the committee.