

**REVENUE:** No revenue impact

**FISCAL:** Fiscal statement issued

---

**Action:** Do Pass as Amended and Be Printed Engrossed

**Vote:** 4 - 2 - 1

**Yeas:** Buckley, Hunt, Roblan, Rosenbaum

**Nays:** Berger, Esquivel

**Exc.:** Thatcher

**Prepared By:** Jim Stenbridge, Administrator

**Meeting Dates:** 5/18, 6/8

---

**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 less” 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 evidence. Specifies circumstances under which liability continues for damages caused by a product after the expiration of the product’s useful safe life. Applies to all causes of action, whether arising before, on, or after the effective date of the Act, but does not revive causes of action already barred. Adds definition for “R-type metal halide or mercury vapor lightbulb” and specific parameters for civil actions for damages caused by R-type metal halide or mercury vapor lightbulbs. Clarifies that limitation and repose periods for construction defect claims apply to actions involving manufactured dwellings and prefabricated structures.

**ISSUES DISCUSSED:**

- Fairness of arbitrary bars to product liability civil action
- Comparison of repose statutes with “useful life” statutes; language used in other states
- Recent injuries in Lake Oswego
- Specific exceptions for specific products, in hindsight, as opposed to broad relaxing of restrictions
- Impact of product-liability-environment on state economy
- Possible impact on physicians

**EFFECT OF COMMITTEE AMENDMENT:** Adds definition for “R-type metal halide or mercury vapor lightbulb” and specific parameters for civil actions for damages caused by R-type metal halide or mercury vapor lightbulbs. Specifies circumstances under which liability continues for damages caused by a product after the expiration of the product’s useful safe life.

**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 eight 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.

HB 2909-B would make the statute of repose in product liability actions equal to the “useful safe life” of the product. HB 2909-B 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. HB 2909-B clarifies that manufactured dwellings and prefabricated structures are subject to the construction defect time periods.

6/18/2007 4:33:00 PM

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