

**A-Engrossed**  
**House Bill 2909**

Ordered by the House May 3  
Including House Amendments dated May 3

Sponsored by COMMITTEE ON JUDICIARY

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Provides that product liability civil actions are not subject to statutes of ultimate repose.]*  
**Establishes statute of repose in product liability civil actions equal to useful safe life of product. Defines useful safe life of product. Establishes rebuttable presumption.**

**A BILL FOR AN ACT**

1  
2 Relating to statutes of limitation; creating new provisions; and amending ORS 12.115, 12.135, 12.278,  
3 12.282, 30.656, 30.905 and 30.907.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 30.905 is amended to read:

6 30.905. *[(1) Except as provided in ORS 30.907 and 30.908 (1) to (4), a product liability civil action*  
7 *may not be brought for any death, personal injury or property damage that is caused by a product and*  
8 *that occurs more than eight years after the date on which the product was first purchased for use or*  
9 *consumption.]*

10 *[(2) Except as provided in ORS 30.907 and 30.908 (1) to (4), a product liability civil action for*  
11 *personal injury or property damage must be commenced not later than the earlier of:]*

12 *[(a) Two years after the date on which the plaintiff discovers, or reasonably should have discov-*  
13 *ered, the personal injury or property damage and the causal relationship between the injury or damage*  
14 *and the product, or the causal relationship between the injury or damage and the conduct of the de-*  
15 *fendant; or]*

16 *[(b) Ten years after the date on which the product was first purchased for use or consumption.]*

17 *[(3) Except as provided in ORS 30.907 and 30.908 (1) to (4), a product liability civil action for death*  
18 *must be commenced not later than the earlier of:]*

19 *[(a) The limitation provided by ORS 30.020; or]*

20 *[(b) Ten years after the date on which the product was first purchased for use or consumption.]*

21 **(1) Except as otherwise provided in this section, a product liability civil action must be**  
22 **commenced not later than two years after the date on which the plaintiff first discovered,**  
23 **or in the exercise of reasonable care should have discovered, the injury, death or damage**  
24 **giving rise to a claim for relief and the cause of the injury, death or damage.**

25 **(2) A manufacturer, distributor, seller or lessor of a product is not liable in a product**  
26 **liability civil action if the manufacturer, distributor, seller or lessor proves by a preponder-**  
27 **ance of the evidence that the injury, death or damage was caused after the useful safe life**  
28 **of the product had expired.**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.  
New sections are in **boldfaced** type.

1           **(3) For the purposes of this section, the useful safe life of a new or remanufactured**  
2 **product is the period of time beginning on the date that the product is delivered to the pro-**  
3 **duct's first purchaser or lessee who is not engaged in the business of selling that product**  
4 **or using the product as a component part in another product, and ending on the earlier of:**

5           **(a) The date on which the product would not reasonably be expected to perform in a safe**  
6 **manner or could not reasonably be stored in a safe manner; or**

7           **(b) Twenty years after the date that the product is delivered to the product's first pur-**  
8 **chaser or lessee who is not engaged in the business of selling that product or using the**  
9 **product as a component part in another product.**

10           **(4) Unless a manufacturer, distributor, seller or lessor of a product has expressly war-**  
11 **ranted the product for a longer period, any injury, death or damage caused by the product**  
12 **more than 10 years after the commencement of the useful safe life of the product is**  
13 **rebuttably presumed to have been caused after the useful safe life of the product. The**  
14 **presumption established by this subsection may be rebutted by a preponderance of the evi-**  
15 **dence.**

16           **SECTION 2.** ORS 12.115 is amended to read:

17           12.115. (1) In no event shall any action for negligent injury to person or property of another be  
18 commenced more than 10 years from the date of the act or omission complained of.

19           (2) Nothing in this section shall be construed to extend any period of limitation otherwise es-  
20 tablished by law, including but not limited to the limitations established by ORS 12.110.

21           **(3) This section does not apply to any action under ORS 30.900 to 30.920.**

22           **SECTION 3.** ORS 12.278 is amended to read:

23           12.278. (1) A civil action against a manufacturer of pickup trucks for injury or damage resulting  
24 from a fire caused by rupture of a sidesaddle gas tank in a vehicle collision, including any product  
25 liability action under ORS 30.900 to 30.920 and any action based on negligence, must be commenced  
26 not later than two years after the injury or damage occurs. A civil action against a manufacturer  
27 of pickup trucks for death resulting from a fire caused by rupture of a sidesaddle gas tank in a ve-  
28 hicle collision, including any product liability action under ORS 30.900 to 30.920 and any action  
29 based on negligence, must be commenced not later than three years after the death.

30           (2) A civil action against a manufacturer of pickup trucks for death, injury or damage resulting  
31 from a fire caused by rupture of a sidesaddle gas tank in a vehicle collision is not subject to ORS  
32 12.115, 30.020, 30.905 [(1)] or any other statute of repose in Oregon Revised Statutes.

33           (3) For the purposes of this section, "sidesaddle gas tank" means a gas tank mounted outside  
34 of the side rails of the frame of a pickup truck.

35           **SECTION 4.** ORS 12.282 is amended to read:

36           12.282. (1) A civil action against a manufacturer of extendable equipment for injury or other  
37 damage arising out of contact with power lines, including any product liability action under ORS  
38 30.900 to 30.920 and any action based on negligence, must be commenced not later than two years  
39 after the injury or damage occurs. A civil action against a manufacturer of extendable equipment  
40 for death arising out of contact with power lines, including any product liability action under ORS  
41 30.900 to 30.920 and any action based on negligence, must be commenced not later than three years  
42 after the death.

43           (2) A civil action against a manufacturer of extendable equipment for injury, death or other  
44 damage arising out of contact with power lines is not subject to ORS 12.115, 30.020 or 30.905 [(1)]  
45 or any other statute of repose in Oregon Revised Statutes.

1 (3) For purposes of this section, “extendable equipment” means cranes, truck-mounted cranes,  
2 truck-mounted booms, and any self-powered vehicle with booms or other extensions that can reach  
3 power lines from the ground.

4 **SECTION 5.** ORS 30.656 is amended to read:

5 30.656. (1) A person may not bring an action for damages caused by a computer date failure  
6 unless the complaint in the action alleges with specificity a material defect in a computer product  
7 that caused the computer date failure and that caused the damages that are alleged to have resulted  
8 from the computer date failure.

9 (2) Notwithstanding any other provision of law, an action for damages caused by a computer  
10 date failure may not be brought by any person later than two years from the date that the person  
11 discovered, or in the exercise of reasonable diligence should have discovered, that the computer  
12 product or computer service had experienced a computer date failure.

13 (3) **An action for damages caused by a computer date failure is not subject to ORS 30.905.**  
14 Except as provided in subsection (4) of this section, a person must bring an action against a man-  
15 ufacturer or seller of a computer product or computer service for damages caused by a computer  
16 date failure no later than eight years after the product or the service was first purchased for use  
17 or consumption in this state. This subsection does not apply to a manufacturer or seller that ex-  
18 pressly warranted that the product would not experience a computer date failure.

19 (4) If a manufacturer or seller of an item that contains a computer product expressly warranted  
20 to a person that the item had a useful safe life longer than eight years, the person must bring an  
21 action against the manufacturer or seller for damages caused by a computer date failure before the  
22 end of the time period warranted by the manufacturer or seller as the useful safe life of the item.

23 **SECTION 6.** ORS 30.907 is amended to read:

24 30.907. (1) A product liability civil action for damages resulting from asbestos-related disease  
25 shall be commenced not later than two years after the date on which the plaintiff first discovered,  
26 or in the exercise of reasonable care should have discovered, the disease and the cause thereof. **A**  
27 **product liability civil action for damages resulting from asbestos-related disease is not sub-**  
28 **ject to ORS 30.905 or any other statute of repose in Oregon Revised Statutes.**

29 (2) A product liability civil action may not be brought against a contractor, as defined in ORS  
30 701.005, for damages resulting from asbestos-related disease if the contractor:

31 (a) Used or installed products containing asbestos pursuant to plans, specifications or directions  
32 prepared for a project by or on behalf of the owner of the project;

33 (b) Is not the manufacturer or distributor of the products containing asbestos; and

34 (c) Did not furnish the products containing asbestos independent of the provision of labor.

35 (3) Subsection (2) of this section does not affect a plaintiff’s ability to bring a product liability  
36 civil action against a contractor if:

37 (a) The contractor substituted a product containing asbestos on a project when the plans, spec-  
38 ifications or directions for the project prepared by or on behalf of the owner did not specify the use  
39 or installation of a product containing asbestos; and

40 (b) The owner or the owner’s representative did not expressly direct or consent to the substi-  
41 tution of the product containing asbestos.

42 **SECTION 7. (1) Except as provided by subsection (2) of this section, the amendments to**  
43 **ORS 12.115, 12.278, 12.282, 30.656, 30.905 and 30.907 by sections 1 to 6 of this 2007 Act apply**  
44 **to all causes of action, whether arising before, on or after the effective date of this 2007 Act.**

45 (2) **The amendments to ORS 12.115, 12.278, 12.282, 30.656, 30.905 and 30.907 by sections 1**

1 **to 6 of this 2007 Act do not act to revive any cause of action that was barred on the effective**  
2 **date of this 2007 Act by the operation of ORS 30.905, as in effect immediately before the ef-**  
3 **fective date of this 2007 Act.**

4 **SECTION 8.** ORS 12.135 is amended to read:

5 12.135. (1) An action against a person, whether in contract, tort or otherwise, arising from such  
6 person having performed the construction, alteration or repair of any improvement to real property  
7 or the supervision or inspection thereof, or from such person having furnished the design, planning,  
8 surveying, architectural or engineering services for such improvement, shall be commenced within  
9 the applicable period of limitation otherwise established by law; but in any event such action shall  
10 be commenced within 10 years from substantial completion or abandonment of such construction,  
11 alteration or repair of the improvement to real property.

12 (2) Notwithstanding subsection (1) of this section, an action against a person for the practice  
13 of architecture, as defined in ORS 671.010, the practice of landscape architecture, as defined in ORS  
14 671.310, or the practice of engineering, as defined in ORS 672.005, to recover damages for injury to  
15 a person, property or to any interest in property, including damages for delay or economic loss, re-  
16 gardless of legal theory, arising from the construction, alteration or repair of any improvement to  
17 real property shall be commenced within two years from the date the injury or damage is first dis-  
18 covered or in the exercise of reasonable care should have been discovered; but in any event the  
19 action shall be commenced within 10 years from substantial completion or abandonment of the con-  
20 struction, alteration or repair.

21 (3) For purposes of this section, "substantial completion" means the date when the contractee  
22 accepts in writing the construction, alteration or repair of the improvement to real property or any  
23 designated portion thereof as having reached that state of completion when it may be used or oc-  
24 cupied for its intended purpose or, if there is no such written acceptance, the date of acceptance  
25 of the completed construction, alteration or repair of such improvement by the contractee.

26 (4) For the purposes of this section, an improvement to real property shall be considered aban-  
27 doned on the same date that the improvement is considered abandoned under ORS 87.045.

28 (5) This section:

29 (a) Applies, in addition to other actions, to actions brought in the name of the state or any  
30 county or other public corporation therein, or for its benefit; and

31 (b) Does not apply to actions against any person in actual possession and control of the im-  
32 provement, as owner, tenant or otherwise, at the time such cause of action accrues.

33 **(6) This section applies to manufactured dwellings, as defined in ORS 446.003, and pre-**  
34 **fabricated structures, as defined in ORS 455.010. Manufactured dwellings, as defined in ORS**  
35 **446.003, and prefabricated structures, as defined in ORS 455.010, are not subject to ORS**  
36 **30.905.**

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