

Senate Bill 444

Sponsored by COMMITTEE ON RULES

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 **as introduced**.

Provides that product liability civil actions are not subject to statutes of ultimate repose.

A BILL FOR AN ACT

1
2 Relating to statutes of limitation; creating new provisions; amending ORS 12.160, 30.020 and 30.905;
3 and repealing ORS 12.276, 12.278, 12.282, 30.907 and 30.908.

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)] (1) [Except as provided in ORS 30.907 and 30.908 (1) to (4),] A product liability civil action*
11 *for 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 dis-*
13 *covered, the personal injury or property damage and the causal relationship between the injury or*
14 *damage and the product, or the causal relationship between the injury or damage and the conduct*
15 *of the defendant[; or]*

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

17 *[(3)] (2) [Except as provided in ORS 30.907 and 30.908 (1) to (4),] A product liability civil action*
18 *for death must be commenced [not later than the earlier of:]*

19 *[(a) the limitation] within the time* 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 **(3) A product liability civil action, including any product liability civil action based on**
22 **negligence, is not subject to ORS 12.115 or 12.140 or any other statute of ultimate repose in**
23 **the Oregon Revised Statutes.**

24 **SECTION 2.** ORS 12.160 is amended to read:

25 12.160. If, at the time the cause of action accrues, any person entitled to bring an action men-
26 tioned in ORS 12.010 to 12.050[,] **and** 12.070 to 12.250 *[and 12.276]* is *[within]* **under** the age of 18
27 years or insane, the time of such disability *[shall]* **may** not be a part of the time limited for the
28 commencement of the action[; *but*]. **However**, the period within which the action shall be brought
29 *[shall]* **may** not be extended more than five years by any such disability, nor *[shall]* **may** it be ex-
30 tended in any case longer than one year after such disability ceases.

31 **SECTION 3.** ORS 30.020 is amended to read:

32 30.020. (1) When the death of a person is caused by the wrongful act or omission of another, the

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 personal representative of the decedent, for the benefit of the decedent's surviving spouse, surviving
 2 children, surviving parents and other individuals, if any, who under the law of intestate succession
 3 of the state of the decedent's domicile would be entitled to inherit the personal property of the
 4 decedent, and for the benefit of any stepchild or stepparent whether that stepchild or stepparent
 5 would be entitled to inherit the personal property of the decedent or not, may maintain an action
 6 against the wrongdoer, if the decedent might have maintained an action, had the decedent lived,
 7 against the wrongdoer for an injury done by the same act or omission. The action shall be com-
 8 menced within three years after the injury causing the death of the decedent is discovered or rea-
 9 sonably should have been discovered by the decedent, by the personal representative or by a person
 10 for whose benefit the action may be brought under this section if that person is not the wrongdoer.
 11 In no case may an action be commenced later than the earliest of:

12 (a) Three years after the death of the decedent; or

13 (b) The longest of any other period for commencing an action under a statute of ultimate repose
 14 that applies to the act or omission causing the injury, including but not limited to the statutes of
 15 ultimate repose provided for in ORS 12.110 (4), 12.115, 12.135[,] **and** 12.137 [*and 30.905*].

16 (2) In an action under this section damages may be awarded in an amount which:

17 (a) Includes reasonable charges necessarily incurred for doctors' services, hospital services,
 18 nursing services, other medical services, burial services and memorial services rendered for the
 19 decedent;

20 (b) Would justly, fairly and reasonably have compensated the decedent for disability, pain, suf-
 21 fering and loss of income during the period between injury to the decedent and the decedent's death;

22 (c) Justly, fairly and reasonably compensates for pecuniary loss to the decedent's estate;

23 (d) Justly, fairly and reasonably compensates the decedent's spouse, children, stepchildren,
 24 stepparents and parents for pecuniary loss and for loss of the society, companionship and services
 25 of the decedent; and

26 (e) Separately stated in finding or verdict, the punitive damages, if any, which the decedent
 27 would have been entitled to recover from the wrongdoer if the decedent had lived.

28 (3) For the purposes of this section:

29 (a) Two persons shall be considered to have a stepchild-stepparent relationship if one of the bi-
 30 ological parents of the stepchild, while the stepchild is a minor and in the custody of this first bi-
 31 ological parent, marries the stepparent who is not the second biological parent or the adoptive
 32 parent of the stepchild;

33 (b) The stepchild-stepparent relationship shall remain in effect even though the stepchild is older
 34 than the age of majority or has been emancipated;

35 (c) The stepchild-stepparent relationship shall remain in effect even though one or both of the
 36 biological parents of the stepchild die; and

37 (d) The stepchild-stepparent relationship shall end upon the divorce of the biological parent and
 38 the stepparent.

39 **SECTION 4. ORS 12.276, 12.278, 12.282, 30.907 and 30.908 are repealed.**

40 **SECTION 5. (1) Except as provided in this section, the amendments to ORS 12.160, 30.020**
 41 **and 30.905 by sections 1, 2 and 3 of this 2007 Act and the repeal of statutes by section 4 of**
 42 **this 2007 Act apply to all causes of action, whether arising before, on or after the effective**
 43 **date of this 2007 Act.**

44 **(2) The amendments to ORS 30.905 by section 1 of this 2007 Act do not apply to any**
 45 **causes of action for which a judgment has been entered before the effective date of this 2007**

1 **Act.**

2 **(3) Any cause of action that arose before the effective date of this 2007 Act, and that was**
3 **subject to the statute of limitations provided by a statute repealed by section 4 of this 2007**
4 **Act, must be brought within the time provided by ORS 30.905, as amended by section 1 of this**
5 **2007 Act, or within the time provided by the statute repealed by section 4 of this 2007 Act,**
6 **whichever is later.**

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