

**SENATE MINORITY REPORT
AMENDMENTS TO
A-ENGROSSED SENATE BILL 284**

May 21

President Courtney:

A minority of your Committee on Rules, to whom was referred A-engrossed Senate Bill 284, having had the same under consideration, respectfully reports it back with the recommendation that it do pass with the following amendments:

1 On page 1 of the printed A-engrossed bill, line 2, after “12.135,” delete the rest of the line and
2 line 3 and insert “30.905 and 30.908.”

3 Delete lines 5 through 23 and delete pages 2 through 6 and insert:

4 “**SECTION 1.** ORS 30.905 is amended to read:

5 “30.905. (1) Except as provided in ORS 30.907 and 30.908 (1) to (4), a product liability civil action
6 may not be brought for any death, personal injury or property damage that is caused by a product
7 and that occurs more than eight years after the date on which the product was first purchased for
8 use or consumption.

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

11 “(a) Two years after the date on which the plaintiff discovers, or reasonably should have dis-
12 covered, the personal injury or property damage and the causal relationship between the injury or
13 damage and the product, or the causal relationship between the injury or damage and the conduct
14 of the defendant; or

15 “(b) Ten years after the date on which the product was first purchased for use or consumption.

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

18 “(a) The limitation provided by ORS 30.020; or

19 “(b) Ten years after the date on which the product was first purchased for use or consumption.

20 “(4) **This section does not apply to a civil action brought against a manufacturer, dis-
21 tributor, seller or lessor of a manufactured dwelling, as defined in ORS 446.003, or of a pre-
22 fabricated structure, as defined in ORS 455.010. Actions described in this subsection are
23 subject to the statute of limitations provided by ORS 12.135.**

24 “**SECTION 2.** ORS 12.135 is amended to read:

25 “12.135. (1) An action against a person, whether in contract, tort or otherwise, arising from such
26 person having performed the construction, alteration or repair of any improvement to real property
27 or the supervision or inspection thereof, or from such person having furnished the design, planning,
28 surveying, architectural or engineering services for such improvement, shall be commenced within
29 the applicable period of limitation otherwise established by law; but in any event such action shall
30 be commenced within 10 years from substantial completion or abandonment of such construction,
31 alteration or repair of the improvement to real property.

32 “(2) Notwithstanding subsection (1) of this section, an action against a person for the practice

1 of architecture, as defined in ORS 671.010, the practice of landscape architecture, as defined in ORS
2 671.310, or the practice of engineering, as defined in ORS 672.005, to recover damages for injury to
3 a person, property or to any interest in property, including damages for delay or economic loss, re-
4 gardless of legal theory, arising from the construction, alteration or repair of any improvement to
5 real property shall be commenced within two years from the date the injury or damage is first dis-
6 covered or in the exercise of reasonable care should have been discovered; but in any event the
7 action shall be commenced within 10 years from substantial completion or abandonment of the con-
8 struction, alteration or repair.

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

14 “(4) For the purposes of this section, an improvement to real property shall be considered
15 abandoned on the same date that the improvement is considered abandoned under ORS 87.045.

16 “(5) This section:

17 “(a) Applies, in addition to other actions, to actions brought in the name of the state or any
18 county or other public corporation therein, or for its benefit; *[and]*

19 “(b) **Applies to an action against a manufacturer, distributor, seller or lessor of a man-**
20 **ufactured dwelling, as defined in ORS 446.003, or of a prefabricated structure, as defined in**
21 **ORS 455.010; and**

22 “[*(b)*] (c) Does not apply to actions against any person in actual possession and control of the
23 improvement, as owner, tenant or otherwise, at the time such cause of action accrues.

24 “**SECTION 3. Section 4 of this 2009 Act is added to and made a part of ORS 30.900 to**
25 **30.920.**

26 “**SECTION 4. A physician licensed pursuant to ORS chapter 677 is not a manufacturer,**
27 **distributor, seller or lessor of a product for the purposes of ORS 30.900 to 30.920 if the**
28 **product is provided by the physician to a patient as part of a medical procedure and the**
29 **physician was not involved in the design or manufacture of the product.**

30 “**SECTION 5.** ORS 30.908 is amended to read:

31 “30.908. (1) Notwithstanding ORS 30.020, a product liability civil action for death, injury or
32 damage resulting from breast implants containing silicone, silica or silicon as a component must be
33 commenced not later than two years after the date on which the plaintiff first discovered, or in the
34 exercise of reasonable care should have discovered:

35 “(a) The death or specific injury, disease or damage for which the plaintiff seeks recovery;

36 “(b) The tortious nature of the act or omission of the defendant that gives rise to a claim for
37 relief against the defendant; and

38 “(c) All other elements required to establish plaintiff’s claim for relief.

39 “(2) A product liability civil action for death, injury or damage resulting from breast implants
40 containing silicone, silica or silicon as a component is not subject to ORS 30.905 or any other stat-
41 ute of repose in Oregon Revised Statutes.

42 “(3) For the purposes of subsection (1) of this section, an action for wrongful death must be
43 commenced not later than two years after the earliest date that the discoveries required by sub-
44 section (1) of this section are made by any of the following persons:

45 “(a) The decedent;

1 “(b) The personal representative for the decedent; or

2 “(c) Any person for whose benefit the action could be brought.

3 “(4) Subsections (1) to (3) of this section do not apply to a person that supplied component parts
4 or raw materials to manufacturers of breast implants containing silicone, silica or silicon as a
5 component, and the person shall remain subject to the limitations on actions imposed by ORS 30.020
6 and 30.905, if:

7 “(a) The person did not manufacture breast implants containing silicone, silica or silicon as a
8 component at any time; and

9 “(b) The person was not owned by and did not own a business that manufactured breast implants
10 containing silicone, silica or silicon as a component at any time.

11 “[*(5) A physician licensed pursuant to ORS chapter 677 is not a manufacturer, distributor, seller*
12 *or lessor of a breast implant for the purposes of ORS 30.900 to 30.920 if the implant is provided by the*
13 *physician to a patient as part of a medical implant procedure.*]

14 “[*(6)*] (5) A health care facility licensed under ORS chapter 442 is not a manufacturer, distribu-
15 tor, seller or lessor of a breast implant for the purposes of ORS 30.900 to 30.920 if the implant is
16 provided by the facility to a patient as part of a medical implant procedure.

17 “**SECTION 6. (1) As used in this section, ‘R type metal halide or mercury vapor light**
18 **bulb’ means a metal halide or mercury vapor light bulb that does not have an internal**
19 **mechanism that shuts off the light automatically within 15 minutes after the bulb is broken.**

20 “(2) A product liability civil action for damages caused by R type metal halide or mercury
21 vapor light bulbs may not be commenced more than two years after the date on which the
22 plaintiff first discovered, or in the exercise of reasonable care should have discovered, the
23 injury and the causal relationship between the injury and the conduct of the defendant.

24 “(3) A product liability civil action for damages caused by R type metal halide or mercury
25 vapor light bulbs is subject only to the limitation imposed by this section and is not subject
26 to ORS 30.905 or any other statute of limitation or statute of ultimate repose.

27 “**SECTION 7. (1) Except as provided in subsection (2) of this section, section 6 of this 2009**
28 **Act applies only to deaths, personal injuries or property damage that occur on or after the**
29 **effective date of this 2009 Act.**

30 “(2) Section 6 of this 2009 Act revives a cause of action for death, personal injury or
31 property damage that occurred before the effective date of this 2009 Act if:

32 “(a) A civil action for the death, personal injury or property damage was filed within the
33 time provided by section 6 of this 2009 Act; and

34 “(b) A final judgment was entered in the civil action on or after January 1, 2008, and
35 before the effective date of this 2009 Act.

36 “(3) A civil action based on a cause of action revived by subsection (2) of this section
37 must be refiled within one year after the effective date of this 2009 Act.”.

38 /s/ Jason Atkinson
39 Senator

40 /s/ Ted Ferrioli
41 Senator

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