

FIRST REGULAR SESSION

HOUSE BILL NO. 903

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE STEVENSON.

Read 1st time February 19, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1958L.01I

AN ACT

To repeal section 537.762, RSMo, and to enact in lieu thereof one new section relating to product seller liability, with an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 537.762, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 537.762, to read as follows:

537.762. 1. [A defendant whose liability is based solely on his status as a seller in the stream of commerce may be dismissed from a products liability claim as provided in this section.

2. This section shall apply to any products liability claim in which another defendant, including the manufacturer, is properly before the court and from whom total recovery may be had for plaintiff's claim.

3. A defendant may move for dismissal under this section within the time for filing an answer or other responsive pleading unless permitted by the court at a later time for good cause shown. The motion shall be accompanied by an affidavit which shall be made under oath and shall state that the defendant is aware of no facts or circumstances upon which a verdict might be reached against him, other than his status as a seller in the stream of commerce.

4. The parties shall have sixty days in which to conduct discovery on the issues raised in the motion and affidavit. The court for good cause shown, may extend the time for discovery, and may enter a protective order pursuant to the rules of civil procedure regarding the scope of discovery on other issues.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 5. Any party may move for a hearing on a motion to dismiss under this section. If the
16 requirements of subsections 2 and 3 of this section are met, and no party comes forward at such
17 a hearing with evidence of facts which would render the defendant seeking dismissal under this
18 section liable on some basis other than his status as a seller in the stream of commerce, the court
19 shall dismiss without prejudice the claim as to that defendant.

20 6. No order of dismissal under this section shall operate to divest a court of venue or
21 jurisdiction otherwise proper at the time the action was commenced. A defendant dismissed
22 pursuant to this section shall be considered to remain a party to such action only for such
23 purposes.

24 7. An order of dismissal under this section shall be interlocutory until final disposition
25 of plaintiff's claim by settlement or judgment and may be set aside for good cause shown at
26 anytime prior to such disposition.] **No claim of liability may be commenced or maintained**
27 **against a product seller under any legal theory, unless the product seller:**

28 (1) **Manufactured, produced, or designed the product; or**

29 (2) **Altered, modified, assembled, installed, or failed to maintain the product, in a**
30 **manner that caused the claimant's harm.**

31 **2. Notwithstanding the provisions of subsection 1 of this section, a product seller**
32 **otherwise immune from liability under such subsection may be sued for harm caused by**
33 **a product if the product manufacturer is not subject to personal jurisdiction in Missouri.**

Section B. Because of the need to protect innocent product sellers from liability, section
2 A of this act is deemed necessary for the immediate preservation of the public health, welfare,
3 peace and safety, and is hereby declared to be an emergency act within the meaning of the
4 constitution, and section A of this act shall be in full force and effect upon its passage and
5 approval.

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