

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 12

Introduced by Krist, 10.

Read first time January 10, 2013

Committee:

A BILL

1 FOR AN ACT relating to civil procedure; to amend section 25-224,
2 Reissue Revised Statutes of Nebraska; to change
3 provisions relating to product liability actions; to
4 eliminate obsolete provisions; and to repeal the original
5 section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 25-224, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 25-224 ~~(1) All product liability actions, except one~~
4 ~~governed by subsection (5) of this section, shall be commenced within~~
5 ~~four years next after the date on which the death, injury, or damage~~
6 ~~complained of occurs.~~

7 (1) A product liability action shall be commenced within
8 the period of time commensurate with the product's written warranty
9 or eight years next after the date on which the death, injury, or
10 damage complained of occurs, whichever is longer, except:

11 (a) For a product liability action governed by subsection
12 (4) of this section; and

13 (b) The limitation period shall be tolled until the date
14 on which the death, injury, or damage complained of occurs in a
15 product liability action commenced after the recall of the product
16 complained of by an owner who was required to be notified of the
17 recall but was not notified.

18 ~~(2)(a)(2)~~ (2) Notwithstanding subsection (1) of this section
19 or any other statutory provision to the contrary, any product
20 liability action, except one governed by section 2-725, Uniform
21 Commercial Code or by subsection ~~(5)~~ (4) of this section, shall be
22 commenced as follows:

23 ~~(i)(a)~~ (a) For products manufactured in Nebraska, within ten
24 years after the date the product which allegedly caused the personal
25 injury, death, or damage was first sold or leased for use or

1 consumption; or

2 ~~(ii)~~ (b) For products manufactured outside Nebraska,
3 within the time allowed by the applicable statute of repose, if any,
4 of the state or country where the product was manufactured, but in no
5 event less than ten years. If the state or country where the product
6 was manufactured does not have an applicable statute of repose, then
7 the only limitation upon the commencement of an action for product
8 liability shall be as set forth in subsection (1) of this section.

9 ~~(b) If the changes made to this subsection by Laws 2001,~~
10 ~~LB 489, are declared invalid or unconstitutional, this subsection as~~
11 ~~it existed prior to September 1, 2001, shall be deemed in full force~~
12 ~~and effect and shall apply to all claims in which a final order has~~
13 ~~not been entered.~~

14 (3) The limitations contained in subsection (1), (2), or
15 ~~(5)~~ (4) of this section shall not be applicable to indemnity or
16 contribution actions brought by a manufacturer or seller of a product
17 against a person who is or may be liable to such manufacturer or
18 seller for all or any portion of any judgment rendered against a
19 manufacturer or seller.

20 ~~(4) Notwithstanding the provisions of subsections (1) and~~
21 ~~(2) of this section, any cause of action or claim which any person~~
22 ~~may have on July 22, 1978, may be brought not later than two years~~
23 ~~following such date.~~

24 ~~(5)~~ (4) Any action to recover damages based on injury
25 allegedly resulting from exposure to asbestos composed of chrysotile,

1 amosite, crocidolite, tremolite, anthrophyllite, actinolite, or any
2 combination thereof, shall be commenced within four years after the
3 injured person has been informed of discovery of the injury by
4 competent medical authority and that such injury was caused by
5 exposure to asbestos as described herein, or within four years after
6 the discovery of facts which would reasonably lead to such discovery,
7 whichever is earlier. No action commenced under this subsection based
8 on the doctrine of strict liability in tort shall be commenced or
9 maintained against any seller of a product which is alleged to
10 contain or possess a defective condition unreasonably dangerous to
11 the buyer, user, or consumer unless such seller is also the
12 manufacturer of such product or the manufacturer of the part thereof
13 claimed to be defective. Nothing in this subsection shall be
14 construed to permit an action to be brought based on an injury
15 described in this subsection discovered more than two years prior to
16 August 30, 1981.

17 Sec. 2. Original section 25-224, Reissue Revised Statutes
18 of Nebraska, is repealed.