

FIRST REGULAR SESSION

# SENATE BILL NO. 4

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RICHARD.

Pre-filed December 1, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0145S.01I

## AN ACT

To repeal section 537.762, RSMo, and to enact in lieu thereof one new section relating to products liability civil actions.

*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Section A. Section 537.762, RSMo, is repealed and one new section  
2 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  
2 a seller in the stream of commerce may be dismissed from a products liability  
3 claim as provided in this section.

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

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

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

19 5. Any party may move for a hearing on a motion to dismiss under

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

20 this section. If the requirements of subsections 2 and 3 of this section are  
21 met, and no party comes forward at such a hearing with evidence of facts  
22 which would render the defendant seeking dismissal under this section  
23 liable on some basis other than his status as a seller in the stream of  
24 commerce, the court shall dismiss without prejudice the claim as to that  
25 defendant.

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

30           7.] An order of dismissal under this section shall be interlocutory  
31 until final disposition of plaintiff's claim by settlement or judgment and  
32 may be set aside for good cause shown at anytime prior to such disposition.

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