

gentleman

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SENATE FILE 175

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Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the time for bringing an action arising out of
2 the performance or nonperformance of a professional service or
3 from an alleged defect in a product.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 175

1 Section 1. Section 614.1, Code 1989, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 12. AGAINST REGULATED PROFESSIONAL
4 PRACTITIONERS. In addition to limitations contained elsewhere
5 in this section, an action arising out of the performance or
6 nonperformance of a professional service which is subject to
7 regulation by certification or licensure of an agency, board,
8 or court of this state against a person holding a license or
9 certificate entitling the person to engage in the regulated
10 activity or an agent or employee of the person and founded on
11 injury to property, real or personal, or injury to the person
12 or wrongful death, shall not be brought more than ten years
13 after the date on which occurred the act or omission of the
14 defendant alleged in the action to have been the cause of the
15 injury or death.

16 This subsection does not apply if any of the following are
17 true:

18 a. The person engaged in the regulated activity expressly
19 warrants the activity for a period longer than ten years, in
20 which case the period of limitation is deemed to be that
21 period expressly warranted.

22 b. The person engaged in the regulated activity
23 intentionally misrepresents or fraudulently conceals facts or
24 information concerning the service, and that conduct is a
25 proximate cause of the injury or death upon which the
26 claimant's action is based.

27 c. The nature of the injury or cause of death by its
28 nature does not naturally manifest itself within ten years.

29 NEW SUBSECTION. 13. PRODUCTS. Those founded on injuries
30 to the person or wrongful death against an assembler,
31 designer, supplier of specifications, distributor,
32 manufacturer, or seller for damages arising from an alleged
33 defect in the design, testing, manufacturing, formulation,
34 packaging, warning, or labeling of a product, within two years
35 after the date on which the claimant knew, or through the use

1 of reasonable diligence should have known, of the injury or
2 death for which damages are sought in the action, whichever
3 date occurs first, but in no event shall an action be brought
4 more than ten years after the date that the product that is
5 alleged to have caused the injury or death was first purchased
6 for use or consumption unless one of the following is true:

7 a. The assembler, designer, supplier of specifications,
8 distributor, manufacturer, or seller expressly warranted that
9 the product could be used safely for a period longer than ten
10 years, in which case the period of limitation is deemed to be
11 that period expressly warranted.

12 b. The assembler, designer, supplier of specifications,
13 distributor, manufacturer, or seller intentionally
14 misrepresents or fraudulently conceals facts or information
15 about the product, and that conduct is a proximate cause of
16 the injury or death upon which the claimant's action is based.

17 c. The injury or death was caused by prolonged exposure to
18 a defective product for a period exceeding ten years.

19 d. The nature of the injury or cause of death was such
20 that it would not naturally manifest itself within ten years.

21 EXPLANATION

22 This bill establishes a ten-year statute of limitations
23 beyond which a lawsuit cannot be brought against a person who
24 renders a professional service which is subject to regulation
25 by certification or licensure of a state agency, board, or
26 court. A two to ten-year statute of limitations is
27 established for injuries caused by products. In both cases,
28 the ten-year limitation does not apply if the service or
29 product is expressly warranted for a longer period, facts
30 concerning the service or product are intentionally
31 misrepresented or fraudulently concealed, the nature of the
32 injury does not naturally manifest itself within ten years, or
33 (for products only) the injury or death was caused by
34 prolonged exposure to a defective product for a period
35 exceeding ten years.