



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3186

Introduced 2/17/2023, by Rep. Tom Weber

SYNOPSIS AS INTRODUCED:

735 ILCS 5/13-213

from Ch. 110, par. 13-213

Amends the Limitations Article of the Code of Civil Procedure. Provides that no product liability action based on the doctrine of strict liability in tort shall be commenced except within the applicable limitations period and within 15 years from the date of first installation of any medical joint replacement product that is claimed to have injured or damaged the plaintiff, unless the defendant expressly has warranted or promised the product for a longer period and the action is brought within that period. If personal injury, death, or property damage occurs in relation to a medical joint replacement within 12 years from the date of first sale, lease, or delivery of possession by a seller, within 10 years from the date of first sale, lease, or delivery of possession to its initial user, consumer, or other non-seller, or within 10 years from the date of alteration, modification, or change, allows a plaintiff to bring an action within 4 years after the date on which the claimant knew, or through the use of reasonable diligence should have known, of the existence of the personal injury, death, or property damages, but in no event more than 8 years after the date on which such personal injury, death, or property damage occurred.

LRB103 29544 LNS 55939 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 13-213 as follows:

6 (735 ILCS 5/13-213) (from Ch. 110, par. 13-213)

7 (Text of Section WITHOUT the changes made by P.A. 89-7,
8 which has been held unconstitutional)

9 Sec. 13-213. Product liability.

10 (a) As used in this Section, the term:

11 (1) "Alteration, modification or change" or "altered,
12 modified, or changed" means an alteration, modification or
13 change that was made in the original makeup
14 characteristics, function or design of a product or in the
15 original recommendations, instructions and warnings given
16 with respect to a product including the failure properly
17 to maintain and care for a product.

18 (2) "Product" means any tangible object or goods
19 distributed in commerce, including any service provided in
20 connection with the product. Where the term "product unit"
21 is used, it refers to a single item or unit of a product.

22 (3) "Product liability action" means any action based
23 on the doctrine of strict liability in tort brought

1 against the seller of a product on account of personal
2 injury, (including illness, disease, disability and death)
3 or property, economic or other damage allegedly caused by
4 or resulting from the manufacture, construction,
5 preparation, assembly, installation, testing, makeup,
6 characteristics, functions, design, formula, plan,
7 recommendation, specification, prescription, advertising,
8 sale, marketing, packaging, labeling, repair, maintenance
9 or disposal of, or warning or instruction regarding any
10 product. This definition excludes actions brought by State
11 or federal regulatory agencies pursuant to statute.

12 (4) "Seller" means one who, in the course of a
13 business conducted for the purpose, sells, distributes,
14 leases, assembles, installs, produces, manufactures,
15 fabricates, prepares, constructs, packages, labels,
16 markets, repairs, maintains, or otherwise is involved in
17 placing a product in the stream of commerce.

18 (b) Subject to the provisions of subsections (c) and (d)
19 no product liability action based on the doctrine of strict
20 liability in tort shall be commenced except within the
21 applicable limitations period and, in any event, within 12
22 years from the date of first sale, lease or delivery of
23 possession by a seller or 10 years from the date of first sale,
24 lease or delivery of possession to its initial user, consumer,
25 or other non-seller, whichever period expires earlier, of any
26 product unit that is claimed to have injured or damaged the

1 plaintiff, unless the defendant expressly has warranted or
2 promised the product for a longer period and the action is
3 brought within that period.

4 (b-5) Subject to the provisions of subsections (c) and
5 (d), no product liability action based on the doctrine of
6 strict liability in tort shall be commenced except within the
7 applicable limitations period and within 15 years from the
8 date of first installation of any medical joint replacement
9 product that is claimed to have injured or damaged the
10 plaintiff, unless the defendant expressly has warranted or
11 promised the product for a longer period and the action is
12 brought within that period.

13 (c) No product liability action based on the doctrine of
14 strict liability in tort to recover for injury or damage
15 claimed to have resulted from an alteration, modification or
16 change of the product unit subsequent to the date of first
17 sale, lease or delivery of possession of the product unit to
18 its initial user, consumer or other non-seller shall be
19 limited or barred by subsection (b) hereof if:

20 (1) the action is brought against a seller making,
21 authorizing, or furnishing materials for the
22 accomplishment of such alteration, modification or change
23 (or against a seller furnishing specifications or
24 instructions for the accomplishment of such alteration,
25 modification or change when the injury is claimed to have
26 resulted from failure to provide adequate specifications

1 or instructions), and

2 (2) the action commenced within the applicable
3 limitation period and, in any event, within 10 years from
4 the date such alteration, modification or change was made,
5 unless defendant expressly has warranted or promised the
6 product for a longer period and the action is brought
7 within that period, and

8 (3) when the injury or damage is claimed to have
9 resulted from an alteration, modification or change of a
10 product unit, there is proof that such alteration,
11 modification or change had the effect of introducing into
12 the use of the product unit, by reason of defective
13 materials or workmanship, a hazard not existing prior to
14 such alteration, modification or change.

15 (d) Notwithstanding the provisions of subsection (b) and
16 paragraph (2) of subsection (c) if the injury complained of
17 occurs within any of the periods provided by subsection (b)
18 and paragraph (2) of subsection (c), the plaintiff may bring
19 an action within 2 years, or within 4 years for a medical joint
20 replacement product, after the date on which the claimant
21 knew, or through the use of reasonable diligence should have
22 known, of the existence of the personal injury, death or
23 property damage, but in no event shall such action be brought
24 more than 8 years after the date on which such personal injury,
25 death or property damage occurred. In any such case, if the
26 person entitled to bring the action was, at the time the

1 personal injury, death or property damage occurred, under the
2 age of 18 years, or under a legal disability, then the period
3 of limitations does not begin to run until the person attains
4 the age of 18 years, or the disability is removed.

5 (e) Replacement of a component part of a product unit with
6 a substitute part having the same formula or design as the
7 original part shall not be deemed a sale, lease or delivery of
8 possession or an alteration, modification or change for the
9 purpose of permitting commencement of a product liability
10 action based on the doctrine of strict liability in tort to
11 recover for injury or damage claimed to have resulted from the
12 formula or design of such product unit or of the substitute
13 part when such action would otherwise be barred according to
14 the provisions of subsection (b) of this Section.

15 (f) Nothing in this Section shall be construed to create a
16 cause of action or to affect the right of any person to seek
17 and obtain indemnity or contribution.

18 (g) The provisions of this Section 13-213 of this Act
19 apply to any cause of action accruing on or after January 1,
20 1979, involving any product which was in or entered the stream
21 of commerce prior to, on, or after January 1, 1979.

22 (Source: P.A. 85-907; 86-1329.)