

1 A bill to be entitled
2 An act relating to product liability; amending
3 s. 95.031, F.S.; providing a time period for
4 bringing an action for product liability or
5 fraud; providing an exception; creating s.
6 768.1256, F.S.; providing a government rules
7 defense with respect to certain product
8 liability actions; providing for a rebuttable
9 presumption; providing requirements with
10 respect to products which are drugs; providing
11 an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Subsection (2) of section 95.031, Florida
16 Statutes, is amended to read:

17 95.031 Computation of time.--Except as provided in
18 subsection (2) and in s. 95.051 and elsewhere in these
19 statutes, the time within which an action shall be begun under
20 any statute of limitations runs from the time the cause of
21 action accrues.

22 (2) Actions for products liability and fraud under s.
23 95.11(3) must be begun within the period prescribed in this
24 chapter, with the period running from the time the facts
25 giving rise to the cause of action were discovered or should
26 have been discovered with the exercise of due diligence,
27 instead of running from any date prescribed elsewhere in s.
28 95.11(3), but in no event may an action for product liability
29 or fraud under s. 95.11(3) be commenced unless the complaint
30 is served and filed within 12 years after the date of delivery
31 of the product to its first purchaser or lessee who was not

1 engaged in the business of selling or leasing the product or
2 of using the product as a component in the manufacture of
3 another product or ~~any event an action for fraud under s.~~
4 ~~95.11(3) must be begun within~~ 12 years after the date of the
5 commission of the alleged fraud, regardless of the date the
6 defect in the product or the fraud was or should have been
7 discovered. However, the 12-year limitation on filing an
8 action for products liability does not apply if the
9 manufacturer knew of a defect in the product and concealed or
10 attempted to conceal this defect. In addition, the 12-year
11 limitation does not apply if the claimant was exposed to or
12 used the product within the 12-year period, but an injury
13 caused by such exposure or use did not manifest itself until
14 after the 12-year period. Furthermore, the 12-year statute of
15 repose specified herein shall not apply to any aircraft other
16 than general aviation aircraft as defined in Title 49, Section
17 40101, United States Code, and, in the case of such aircraft
18 to which the federal law does not apply, the period of repose
19 under this section will be 18 years.

20 Section 2. Section 768.1256, Florida Statutes, is
21 created to read:

22 768.1256 Government rules defense.--

23 (1) In a product liability action brought against a
24 manufacturer or seller for harm allegedly caused by a product,
25 the jury shall be instructed that there is a rebuttable
26 presumption that the manufacturer or seller is not liable if,
27 at the time the specific unit of the product was sold or
28 delivered to the initial purchaser or user, the aspect of the
29 product that allegedly caused the harm was in compliance with
30 standards relevant to the event causing the death or injury
31 set forth in a federal or state statute or was approved by, or

1 was in compliance with regulations or standards relevant to
 2 the event causing the death or injury promulgated by, a
 3 federal or state agency responsible for reviewing the safety
 4 of the product. Noncompliance with a standard relevant to the
 5 event causing the death or injury set forth in a federal or
 6 state statute or lack of approval by, or noncompliance with
 7 regulations or standards relevant to the event causing the
 8 death or injury promulgated by, a federal or state agency does
 9 not raise a presumption of negligence on the part of a
 10 manufacturer or seller. Evidence of compliance or
 11 noncompliance with a regulation or standard not relevant to
 12 the event causing the death or injury is not admissible.

13 (2) In a product liability action against a
 14 manufacturer or seller, a defendant may raise an affirmative
 15 defense that a product that is a drug is not defective or
 16 unreasonably dangerous, if the drug was approved for safety
 17 and efficacy by the United States Food and Drug Administration
 18 and the drug and its labeling were in compliance with the
 19 United States Food and Drug Administration's approval at the
 20 time the drug left the control of the manufacturer or seller.
 21 However, this subsection does not apply to a drug that is sold
 22 in the United States after the effective date of an order of
 23 the United States Food and Drug Administration to remove the
 24 drug from the market or to withdraw its approval. This
 25 subsection does not apply if the defendant at any time before
 26 the event that allegedly caused the injury does any of the
 27 following:

28 (a) Intentionally withholds from or misrepresents to
 29 the United States Food and Drug Administration information
 30 concerning the drug that is required to be submitted under the
 31 Federal Food, Drug and Cosmetic Act, chapter 675, 52 Stat.

1 1040, 21 U.S.C. ss. 301 to 321, 331 to 343-2, 344 to 346a,
2 347, 348 to 353, 355 to 360, 360b to 376, and 378 to 395, and
3 the drug would not have been approved, or the United States
4 Food and Drug Administration would have withdrawn approval
5 for, the drug if the information had been accurately
6 submitted; or

7 (b) Makes an illegal payment to an official or
8 employee of the United States Food and Drug Administration for
9 the purpose of securing or maintaining approval of the drug.

10 Section 3. Any action that would not have been barred
11 under s. 95.031(2), Florida Statutes, prior to the amendments
12 to that section by this act may be commenced before June 1,
13 1999, and, if it is not commenced by that date, and is barred
14 by the amendments to s. 95.031(2), Florida Statutes, by this
15 act, shall be barred.

16 Section 4. This act shall take effect October 1 of the
17 year in which enacted.