



SPONSOR: Rep. Oberle
& Reps. Van Sant, Stone & Sens.
Vaughn, Connor

HOUSE OF REPRESENTATIVES

140th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO.

FOR

HOUSE BILL NO. 33

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO SALES OF GOODS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Section 2-725, Title 6 of the Delaware Code by adding a new paragraph
2 thereto as follows:

3 “(5) When the cause of action arising under this article relates to a personal injury, then
4 the action shall accrue pursuant to Title 10 § 8119 notwithstanding any other provision contained
5 in this section.”

SYNOPSIS

Under present law, an action for personal injury accrues after the individual has been harmed by the product or actor who inflicted the injury, whether intentionally or negligently. The Uniform Commercial Code did not specifically address personal injury, but the Delaware Supreme court has interpreted the Uniform Commercial Code to preempt the area of tort law relating to products; and the Supreme Court imposed a four-year statute from the date of sale which may reduce the time to bring suit for implied breach-of-warranty to much less than two-years against the manufacturer. Furthermore, it eliminated the rights of many consumers to bring suits as the injury from items that were made to last for a decade might occur well after the statute would have expired based on the date of sale by the manufacturer. This is especially true as Delaware law places no liability against a retailer or wholesaler which sells an item in its original packaging. The change of the Statute of Limitations to 10 Del. C. § 8119 is necessary. Thus, a person who suffers an injury which occurs because of a defect or dangerous product is left with no remedy. In order to bring this in line with Delaware law, this Amendment makes the cause of action for personal injury accrue at the date of the injury, as with other personal injuries in this state, under 10 Del. C. § 8119.