

product liability lawsuit you have to prove that one of three things is present and that is that either there is a manufacturing defect in the product, that there is something inherent about the way that that product is put together that renders it unsafe, that there is a flaw in the basic design of the product, that is that simply the way that it was mapped out that that product is to be made that there is something in that basic design that causes that product to be inherently dangerous or the third thing is that the manufacturer sold that product without sufficient warning or instruction to the person using the product. With or without the statute of repose, one of those three elements has to be present. The plaintiff has to prove that. So this simply the repeal of the statute of repose does not open the floodgates to anything. It simply says that simply because a product is over ten years old, it is not granted blanket immunity in the State of Nebraska. There has been a number of discussions about different amendments to LB 137. In fact, I have one filed and it probably would be appropriate at this point to take up the amendment that I filed along with Senator Avery.

SPEAKER BAACK: Mr. Clerk, an amendment.

CLERK: Mr. President, Senators Will and Avery would move to amend with AM1817. I might add, Mr. President, there are other amendments filed ahead, but because Senator Will is principal introducer he has the opportunity to go ahead. (Amendment appears on pages 1894-97 of the Legislative Journal.)

SPEAKER BAACK: Senator Will, would you like to open on your amendment?

SENATOR WILL: Thank you, Senator Baack. As a preface to this amendment I do want to indicate that I fully support the absolute concept of the original LB 137, that I think that the fairest thing to go is just simply have no statute of repose whatsoever, that to say that a product, no matter how old, should be held responsible for any injuries that it might cause. That, as I indicated, would put us in line with the majority of states around the country. There have been a number of discussions ongoing about different ways to accomplish a portion of what LB 137 is attempting to accomplish without moving us from an ultimate statute of repose and having absolutely none at all. And the amendment that you have on your desks, AM1817, sponsored by myself and Senator Avery, I think, reflects a very