

Withdrawn
319104

JAN 27 2004

COMMERCE, REGULATION & LABOR

HOUSE FILE 2088
BY HORBACH

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

A BILL FOR

1 An Act relating to product liability actions.

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

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HF 2088

1 Section 1. Section 668.12, Code 2003, is amended to read
2 as follows:

3 668.12 LIABILITY FOR PRODUCTS -- STATE-OF-THE-ART-DEFENSE
4 DEFENSES.

5 1. In any action brought pursuant to this chapter against
6 an assembler, designer, supplier of specifications,
7 distributor, manufacturer or seller for damages arising from
8 an alleged defect in the design, testing, manufacturing,
9 formulation, packaging, warning, or labeling of a product, a
10 percentage of fault shall not be assigned to such persons if
11 they plead and prove that the product conformed to the state
12 of the art in existence at the time the product was designed,
13 tested, manufactured, formulated, packaged, provided with a
14 warning, or labeled.

15 2. Nothing contained in ~~this-section~~ subsection 1 shall
16 diminish the duty of an assembler, designer, supplier of
17 specifications, distributor, manufacturer or seller to warn
18 concerning subsequently acquired knowledge of a defect or
19 dangerous condition that would render the product unreasonably
20 dangerous for its foreseeable use or diminish the liability
21 for failure to so warn.

22 3. An assembler, designer, supplier of specifications,
23 distributor, manufacturer, or seller shall not be subject to
24 liability for failure to warn regarding risks and risk-
25 avoidance measures that should be obvious to, or generally
26 known by, foreseeable product users. When reasonable minds
27 may differ as to whether the risk or risk-avoidance measure
28 was obvious or generally known, the issues shall be decided by
29 the trier of fact.

30 4. In any action brought pursuant to this chapter against
31 an assembler, designer, supplier of specifications,
32 distributor, manufacturer, or seller for damages arising from
33 an alleged defect in packaging, warning, or labeling of a
34 product, a product bearing or accompanied by a warning or
35 instruction that is reasonably safe for use if the warning or

1 instruction is followed shall not be deemed defective or
2 unreasonably dangerous on the basis of failure to warn or
3 instruct.

4 5. In any action brought pursuant to this chapter against
5 an assembler, designer, supplier of specifications,
6 distributor, manufacturer, or seller for damages arising from
7 an alleged defect in the design which allegedly enhanced
8 injuries, or any action alleging the crashworthiness of a
9 product, evidence of the user's or injured person's fault
10 shall be admissible and, subject to the provisions of section
11 668.2, shall be compared if such fault was a substantial
12 factor in causing the underlying accident or event producing
13 any injury to the claimant, including an enhanced injury.

14 6. An assembler, designer, supplier of specifications,
15 distributor, manufacturer, or seller shall not be subject to
16 liability under a theory of civil conspiracy unless such
17 persons knowingly entered into a conspiracy with an intent to
18 commit an unlawful act which causes harm.

19 EXPLANATION

20 This bill relates to product liability actions.

21 The bill provides that an assembler, designer, supplier of
22 specifications, distributor, manufacturer, or seller shall not
23 be subject to liability for failure-to-warn claims in product
24 liability actions for product risks and risk-avoidance
25 measures obvious to or generally known by foreseeable product
26 users. The bill further provides that when there is a
27 question as to whether the risk or risk-avoidance measure was
28 obvious or generally known, the issue shall be decided by the
29 trier of fact.

30 The bill provides that in any action against an assembler,
31 designer, supplier of specifications, distributor,
32 manufacturer, or seller for damages arising from an alleged
33 defect in packaging, warning, or labeling of a product, a
34 product bearing or accompanied by a warning or instruction
35 that is reasonably safe for use if the warning or instruction

1 is followed shall not be deemed defective or unreasonably
2 dangerous on the basis of failure to warn or instruct.

3 The bill provides that in any action against such persons
4 for damages arising from a defective design which allegedly
5 enhanced injuries or any action alleging the crashworthiness
6 of a product, evidence of the injured person's conduct is
7 admissible in court and the injured person's comparative fault
8 should be assessed if such fault was a substantial factor in
9 causing the underlying accident or event producing any injury
10 to the claimant.

11 The bill further provides that such persons shall not be
12 subject to liability for any alleged civil conspiracy claim
13 unless such persons knowingly entered into a conspiracy with
14 an intent to commit an unlawful act which causes harm.

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