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Commerce

HOUSE FILE 2337

By DANKER

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

### A BILL FOR

1 An Act relating to civil actions against manufacturers,  
2 sellers or lessors of products.

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

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1 Section 1. NEW SECTION. PRODUCT LIABILITY ACTION DEFINED.

2 As used in this Act, unless the context otherwise requires,  
3 product liability action shall mean any action brought against  
4 a manufacturer, seller or lessor of a product, regardless  
5 of the substantive legal theory or theories upon which the  
6 action is brought, for or on account of personal injury,  
7 death, or property damage caused by or resulting from the  
8 manufacture, construction, design, formulation, installation,  
9 preparation, assembly, testing, packaging, or labeling of  
10 any product, or the failure to warn or protect against a  
11 danger or hazard in the use, misuse, or intended use of any  
12 product, or the failure to provide proper instructions for  
13 the use of any product.

14 Sec. 2. NEW SECTION. LIMITATION OF ACTIONS.

15 1. All product liability actions shall be commenced with-  
16 in two years from the date on which the death, injury, or  
17 damage complained of occurs.

18 2. Notwithstanding subsection one (1) of this section  
19 or any other statutory provision to the contrary, any product  
20 liability action, except one governed by section five hundred  
21 fifty-four point two thousand seven hundred twenty-five  
22 (554.2725) of the Code, shall be commenced within eight years  
23 after the date when the product which allegedly caused the  
24 personal injury, death, or damage was first sold or leased  
25 for use or consumption.

26 3. The limitations contained in subsections one (1) and  
27 two (2) of this section shall not be applicable to indemnity  
28 or contribution actions brought by a manufacturer or seller  
29 of a product against a person who is or may be liable to such  
30 manufacturer or seller for all or any portion of any judgment  
31 rendered against the manufacturer or seller.

32 4. Notwithstanding the provisions of subsections one (1)  
33 and two (2) of this section, any cause of action or claim  
34 which any person may have on the effective date of this Act  
35 may be brought not later than one year following such date.

1     Sec. 3. NEW SECTION. LIMIT ON STRICT LIABILITY. No  
2 product liability action based on the doctrine of strict  
3 liability in tort shall be commenced or maintained against  
4 any seller or lessor of a product which is alleged to con-  
5 tain or possess a defective condition unreasonably dangerous  
6 to the buyer, user, or consumer unless the seller or lessor  
7 is also the manufacturer of the product or the part thereof  
8 claimed to be defective.

9     Sec. 4. NEW SECTION. DEFENSE TO ACTION. In any product  
10 liability action based upon negligent or defective design,  
11 testing, or labeling, proof establishing that such design,  
12 testing, or labeling was in conformity with the generally  
13 recognized and prevailing state of the art in the industry  
14 at the time the product was first sold to any person not en-  
15 gaged in the business of selling such product shall be a de-  
16 fense. State of the art as used in this section shall be  
17 defined as the best technology reasonably available at the  
18 time.

19     Sec. 5. NEW SECTION. COMPARATIVE NEGLIGENCE. In all  
20 product liability actions the fact that the plaintiff may  
21 have been guilty of contributory negligence shall not bar  
22 a recovery when the contributory negligence of the plaintiff  
23 was slight and the negligence of the defendant was gross in  
24 comparison, but the contributory negligence of the plaintiff  
25 shall be considered by the jury in the mitigation of damages  
26 in proportion to the amount of contributory negligence at-  
27 tributable to the plaintiff; and all questions of negligence  
28 and contributory negligence shall be for the jury. For the  
29 purposes of this section, the term "negligence" shall include  
30 but not be limited to any fault or culpable conduct causing  
31 the injury, death, or damage in issue.

32     Sec. 6. NEW SECTION. EVIDENCE RESTRICTED. When, after  
33 an event upon which a product liability action may be based,  
34 measures are taken by the manufacturer, seller or lessor  
35 which, if taken previously, would have made the event less

1 likely to occur, evidence of the subsequent measures is not  
2 admissible to prove negligence or culpable conduct in  
3 connection with the event. This section does not require  
4 the exclusion of evidence of subsequent measures when offered  
5 for another purpose, such as proving ownership, control, or  
6 feasibility of precautionary measures, if controverted, or  
7 impeachment. Negligence or culpable conduct, as used in this  
8 section, shall include, but not be limited to, the manufacture  
9 or sale or lease of a defective product.

EXPLANATION

10  
11 This bill relates to products liability actions against  
12 manufacturers, sellers, or lessors of products.

13 Section 1 defines product liability actions.

14 Section 2 establishes a statute of limitations of two years  
15 from the date of injury, but in no event shall the action  
16 be brought later than eight years after the date the product  
17 is first sold or leased for use. The limitation does not  
18 apply to actions for contribution or indemnity brought by  
19 the manufacturer or seller. The section also would provide  
20 for a period of one year after the effective date of the Act  
21 within which existing claims otherwise barred by the section  
22 can be brought.

23 Section 3 abolishes strict liability against a seller or  
24 lessor unless the seller or lessor also is the manufacturer.

25 Section 4 provides that evidence that a product was  
26 manufactured according to the best technology reasonably  
27 available at the time of manufacture shall constitute a defense  
28 against any claim alleging a defect in product design, testing  
29 or labeling.

30 Section 5 establishes the doctrine of comparative negligence  
31 in products liability actions. The contributory negligence  
32 of a plaintiff would not bar recovery but would be weighed  
33 by the jury in mitigation of damages.

34 Section 6 prohibits the introduction into evidence that  
35 a manufacturer, seller or lessor took remedial action after

1 an accident occurred if the purpose of submitting the evidence  
2 is to prove negligence or culpable conduct.

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