

JAN 29 2003

JUDICIARY

HOUSE FILE 78  
BY EICHHORN

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to failure-to-warn claims in product liability  
2 actions.

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

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HC-78

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 AND FAILURE TO WARN.

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. An assembler, designer, supplier of specifications,  
16 distributor, manufacturer, or seller shall not be subject to  
17 liability for failure to warn regarding risks and risk-  
18 avoidance measures that should be obvious to, or generally  
19 known by, foreseeable product users. When reasonable minds  
20 may differ as to whether the risk or risk-avoidance measure  
21 was obvious or generally known, the issues shall be decided by  
22 the trier of fact.

23 3. Nothing contained in this section shall diminish the  
24 duty of an assembler, designer, supplier of specifications,  
25 distributor, manufacturer, or seller to warn concerning  
26 subsequently acquired knowledge of a defect or dangerous  
27 condition that would render the product unreasonably dangerous  
28 for its foreseeable use or diminish the liability for failure  
29 to so warn.

30 EXPLANATION

31 This bill provides that an assembler, designer, supplier of  
32 specifications, distributor, manufacturer, or seller shall not  
33 be subject to liability for failure-to-warn claims in product  
34 liability actions for obvious or generally known product risks  
35 and risk-avoidance measures. The bill further provides that

1 when there is a question as to whether the risk or risk-  
2 avoidance measure was obvious or generally known, the issue  
3 shall be decided by the trier of fact.

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