House Study Bill 508 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON JUDICIARY BILL BY CHAIRPERSON HOLT)

A BILL FOR

An Act relating to product liability actions, including defenses.

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

Section 1. Section 613.18, Code 2024, is amended to read as follows:

613.18 Limitation on products liability of nonmanufacturers.

1. A person who is not the assembler, designer, or actual manufacturer, and who wholesales, retails, distributes, or otherwise sells, leases, or rents a product is:

a. Immune from any ~~suit based upon strict liability in tort or breach of implied warranty of merchantability~~ product liability action which arises solely from an alleged defect in the original design or manufacture of the product.

b. Not liable for damages ~~based upon strict liability in tort or breach of implied warranty of merchantability for the product~~ in any product liability action upon proof that the actual manufacturer is subject to the jurisdiction of the courts of this state and has not been judicially declared insolvent.

c. Not liable for damages in any product liability action which arises from an alleged defect or negligent action or inaction in packaging, warning, or labeling of a product, unless the person exercised substantial control over the packaging, warning, or labeling of the product and took action with respect to the packaging, warning, or labeling of the product that was a proximate cause of the injury from which the claim arises.

2. A person who is a retailer of a product and who assembles a product, such assembly having no causal relationship to the injury from which the claim arises, is not liable for damages ~~based upon strict liability in tort or breach of implied warranty of merchantability which arises from an alleged defect in the original design or manufacture of the product~~ in any product liability action upon proof that the actual manufacturer is subject to the jurisdiction of the courts of this state and has not been judicially declared insolvent.

3. An action brought pursuant to this section, where the claimant certifies that the actual manufacturer of the product

is not yet identifiable, tolls the statute of limitations against such actual manufacturer until such time as discovery in the case has identified the actual manufacturer.

4. As used in this section, *"product liability action"* means any action brought against a manufacturer or seller of a product, regardless of the substantive legal theory or theories on which the action is brought, for or on account of personal injury, death, or property damage caused by or resulting from the manufacture, construction, design, formulation, installation, preparation, assembly, testing, packaging, warning, labeling, or sale of any product, the failure to warn or protect against a danger or hazard in the use, misuse, or unintended use of any product, or the failure to provide proper instructions for the use of any product.

Sec. 2. Section 668.12, subsections 1 and 4, Code 2024, are amended to read as follows:

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

4. In any product liability action brought ~~pursuant to this chapter~~ against an assembler, designer, supplier of specifications, distributor, manufacturer, or seller for damages arising from an alleged defect or negligent action or inaction in packaging, warning, or labeling of a product, a product bearing or accompanied by a reasonable and visible warning or instruction that is reasonably safe for use if the warning or instruction is followed shall not be deemed

defective or unreasonably dangerous on the basis of failure to warn or instruct. When reasonable minds may differ as to whether the warning or instruction is reasonable and visible, the issues shall be decided by the trier of fact.

Sec. 3. Section 668.12, Code 2024, is amended by adding the following new subsections:

NEW SUBSECTION. 5. In any product liability action brought against an assembler, designer, supplier of specifications, distributor, manufacturer, or seller for damages arising from an alleged unreasonable condition or defect in the design, testing, manufacturing, formulation, packaging, warning, or labeling of a product, it shall be rebuttably presumed that the product which caused the injury, death, or property damage was not in a defective condition that is unreasonably dangerous and that the manufacturer or seller of the product was not negligent, and the jury shall be informed of this presumption, if at the time the product was first sold or leased to any person or otherwise placed into the stream of commerce any of the following is true:

a. The product's formula, manufacture, design, labeling, warning, or instructions complied with mandatory safety statutes, standards, or regulations adopted by the federal or state government or an agency of the federal or state government that were applicable to the product at the time of its manufacture and that addressed the product risk that allegedly caused harm.

b. The product was subject to premarket licensing or approval by the federal or state government or an agency of the federal or state government, the seller complied with all of the government's or agency's procedures and requirements pertaining to premarketing licensing or approval, and the product was approved or licensed for sale by the government or agency.

c. The product was a drug or medical device approved for safety and efficacy by the United States food and drug

administration, and that the product was in compliance, in addition to its labeling, with the United States food and drug administration's approval at the time the product left the control of the seller and was not sold in the United States after the effective date of any order of the United States food and drug administration to remove the product at issue from the market or to withdraw its approval.

NEW SUBSECTION. 6. As used in this section, *"product liability action"* means the same as defined in section 613.18, subsection 4.

EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

This bill relates to civil liability in product liability actions. The bill defines the term "product liability action" to mean any action brought against a manufacturer or seller of a product, regardless of the substantive legal theory or theories on which the action is brought, for or on account of personal injury, death, or property damage caused by or resulting from the manufacture, construction, design, formulation, installation, preparation, assembly, testing, packaging, warning, labeling, or sale of any product, the failure to warn or protect against a danger or hazard in the use, misuse, or unintended use of any product, or the failure to provide proper instructions for the use of any product.

The bill expands the protections of product liability for nonmanufacturers to include a person who leases or rents a product, removes the strict liability in tort or breach of implied warranty of merchantability standard, and provides protection for damages from an alleged defect or negligent action or inaction in packaging, warning, or labeling of a product.

The bill enlarges the scope for defenses to product liability available to an assembler, designer, supplier of specifications, distributor, manufacturer, or seller to

include negligent action or inaction in the design testing, manufacturing, formulation, packaging, warning, or labeling of a product. The bill also includes additional defenses for an assembler, designer, supplier of specifications, distributor, manufacturer, or seller for damages arising from an alleged defect or negligent action or inaction in packaging, warning, or labeling of a product, if the product bears or is accompanied by visible warning or instruction that is safe for use if the warning or instruction is followed.

The bill provides a rebuttable presumption for a product that causes harm that the product was not in a defective condition that is unreasonably dangerous and that the manufacturer or seller thereof was not negligent, if at the time the product was first sold or leased any of the following are true: (1) the product's formula, manufacture, design, labeling, warning, or instructions complied with mandatory safety statutes, standards, or regulations adopted by the federal or state government or an agency of the federal or state government that were applicable to the product, (2) the product was subject to premarket licensing or approval by the federal or state government or an agency of the federal or state government, the seller complied, and the product was approved or licensed for sale, or (3) the product was a drug or medical device approved for safety and efficacy by the United States food and drug administration, and that the product was in compliance with such approval when the product left control of the seller.