

Senate Study Bill 3013 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act relating to product liability actions, including
2 defenses.

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

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

3 **613.18 Limitation on products liability of nonmanufacturers.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 EXPLANATION

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

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

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

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

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

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