

PRODUCT LIABILITY AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derek E. Brown

Senate Sponsor: _____

LONG TITLE

General Description:

This bill provides that only the manufacturer of a product may be liable for that product.

Highlighted Provisions:

This bill:

▶ provides that a manufacturer may not be liable for a product ~~H→~~ **[unless the claimant proves] if the claimant fails to prove ←H** by a preponderance of the evidence that the defendant was the actual manufacturer of the actual product that caused the harm.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-6-708, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78B-6-708** is enacted to read:

78B-6-708. Manufacturer -- Proven by preponderance of evidence.

(1) Notwithstanding any other provision of law, in any civil action ~~H→~~ [against a manufacturer for] arising from ←H harm caused by a product, irrespective of the substantive theory or theories



H.B. 413

28 underlying the claim, a ~~§~~ [manufacturer] defendant ~~§~~ may ~~§~~ [not] ~~§~~ be liable
 28a1 ~~§~~ only ~~§~~ [unless the claimant proves] if the
 28a claimant [fails to prove] ~~§~~ proves ~~§~~ by a
 29 preponderance of the evidence that the defendant ~~§~~ [was the manufacturer of] manufactured,
 29a had manufactured on its behalf, distributed, or sold ~~§~~ the actual product
 30 that was the cause ~~§~~ of harm ~~§~~ for which the claimant seeks to recover compensatory
 30a damages.
 31 ~~§~~ [—(2) Proof that a product seller designed, formulated, produced, constructed, created,
 32 assembled, or rebuilt the type of product in question is not proof that the product seller
 33 ~~§~~ designed, ~~§~~ formulated, produced, constructed, created, assembled, or rebuilt the actual
 33a defective product
 34 in the product liability action ~~§~~ , so long as the product seller [proves it] has no financial
 34a interest in the sale of the product in question ~~§~~ . A product seller may not be held liable in a
 34b product liability
 35 action based on market share, enterprise, or industry-wide liability.
 35a ~~§~~ (3) An entity that sells or distributes a product that is manufactured by another entity is
 35b subject to the same liability as the product's manufacturer. ~~§~~ ~~§~~

Legislative Review Note
 as of 2-3-12 10:21 AM

Office of Legislative Research and General Counsel