

Introduced: 4/12/79
Referred: Commerce and
Labor & Management

1 IN THE SENATE

BY COLLETTA

2 SENATE BILL NO. 264

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to product liability."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 09.10 is amended by adding a new section to read:

9 Sec. 09.10.075. PRODUCT LIABILITY LIMITATION. (a) No action may
10 be brought for the recovery of damages for personal injury, death or
11 damage to property more than six years after the date of initial sale
12 for use or consumption by a retailer, or ten years after the date of
13 manufacture, of a product where the action is based upon

14 (1) breach of an implied warranty of merchantability or fit-
15 ness for a particular purpose;

16 (2) a defect in the design, testing, manufacture or inspec-
17 tion of a product; or

18 (3) any other failure of whatever kind or nature in relation
19 to a product.

20 (b) In this section,

21 (1) "retailer" includes

22 (A) every seller engaged in the business of making sales
23 of tangible personal property for storage, use or consumption or in
24 the business of making sales at auction of tangible personal pro-
25 perty owned by the person or others for storage, use or other
26 consumption;

27 (B) every person making more than two retail sales of
28 tangible personal property during any 12-month period, including
29 sales made in the capacity of assignee for the benefit of

1 creditors, or receiver or trustee in bankruptcy;

2 (C) every person who leases or rents to another tangible
3 personal property for storage, use or other consumption;

4 (2) "sale" means any transfer of title or possession of
5 tangible personal property for a consideration.

6 * Sec. 2. AS 09.55 is amended by adding a new section to read:

7 ARTICLE 8. ACTIONS CONCERNING THE LIABILITY
8 OF MANUFACTURERS AND SELLERS OF PRODUCTS.

9 Sec. 09.55.595. PRODUCT LIABILITY. (a) A manufacturer or seller
10 of a product may not be held liable for any injury, death or damage to
11 property sustained as a result of an alleged defect, failure to warn or
12 protect, or failure to properly instruct in the use or misuse of a pro-
13 duct, where a substantial contributing cause of the injury, death or
14 damage to property was an alteration or modification of the product
15 which occurred after the sale by the manufacturer or seller to the ini-
16 tial user or consumer and which changed the purpose, use, function,
17 design or intended use or manner of use of the product from that for
18 which the product was originally designed, tested or intended.

19 (b) In an action for damages for personal injury, death or prop-
20 erty damage allegedly caused by a defect in a product,

21 (1) a product may not be considered to have a defect or to be
22 in a defective condition unless, at the time the product was sold by the
23 manufacturer or other initial seller, there was a defect or defective
24 condition in the product which made the product unreasonably dangerous
25 to the user or consumer; for purposes of this paragraph, a product is
26 "unreasonably dangerous" if it was dangerous to an extent beyond what
27 would be contemplated by the ordinary and prudent buyer, consumer or
28 user of that product in that community considering the product's char-
29 acteristics, propensities, risks, dangers and uses together with any

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actual knowledge, training or experience possessed by that particular buyer, user or consumer;

(2) there is a rebuttable presumption that a product is free from any defect or defective condition where the alleged defect in the plans or designs for the product or the methods and techniques of manufacturing, inspecting and testing the product conformed to standards established for that industry by the federal government or a state government and which were in existence at the time the plans or designs for the product or the methods and techniques of manufacturing, inspecting and testing the product were adopted.