

Introduced: 4/16/79  
Referred: Commerce and  
Judiciary

BY THE COMMERCE COMMITTEE  
BY REQUEST

1 IN THE SENATE

2 SENATE BILL NO. 265

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

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

3 (2) there is a rebuttable presumption that a product is free  
4 from any defect or defective condition where the alleged defect in the  
5 plans or designs for the product or the methods and techniques of manu-  
6 facturing, inspecting and testing the product conformed to standards  
7 established for that industry by the federal government or a state  
8 government and which were in existence at the time the plans or designs  
9 for the product or the methods and techniques of manufacturing, inspect-  
10 ing and testing the product were adopted.