

House Bill 349

In The House

January 19, 1981

Introduced and referred
to Committee on Business
and Industry.

April 23, 1981

Died in Committee.

1 HOUSE BILL NO. 349

2 INTRODUCED BY *Richard William Sand*

3 *Kelvin Swann Robin Jackson Julie Courcy*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE THE MONTANA
5 PRODUCT LIABILITY ACT; ESTABLISHING A STATUTE OF
6 LIMITATIONS; GRANTING LIMITED IMMUNITY TO MANUFACTURERS OR
7 SELLERS OF PRODUCTS RESULTING FROM MISUSE OF PRODUCTS; AND
8 ESTABLISHING A REBUTTABLE PRESUMPTION OF FREEDOM FROM
9 DEFECT."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Short title. This act shall be known and
13 may be cited as the "Montana Product Liability Act".

14 Section 2. Legislative findings and declarations --
15 purpose of act. (1) The legislature finds and declares that
16 the number of suits and claims for damages and the amount of
17 judgments and settlements arising from defective products
18 has increased greatly in recent years. Because of these
19 increases, the insurance industry has substantially
20 increased the cost of product liability insurance. The
21 effect of increased insurance premiums and increased claims
22 has increased product cost through manufacturers,
23 wholesalers, and retailers passing the cost of premiums to
24 the consumer. Further, certain product manufacturers are
25 discouraged from continuing to provide and manufacture such

1 products because of the high cost and possible
2 unavailability of product liability insurance.

3 (2) In view of these recent trends and for the purpose
4 of alleviating the adverse effects which these trends are
5 producing in the manufacturing industry, it is necessary to
6 protect the public interest by enacting measures designed to
7 encourage private insurance companies to continue to provide
8 product liability insurance.

9 (3) In enacting this act, it is the purpose of the
10 legislature to provide a reasonable time within which
11 actions may be commenced against manufacturers, while
12 limiting the time to a specific period for which product
13 liability insurance premiums can be reasonably and
14 accurately calculated, and to provide other procedural
15 changes to expedite early evaluation and settlement of
16 claims.

17 Section 3. Statute of limitations -- application. (1)
18 No action may be brought for the recovery of damages for
19 personal injury, death, or damage to property more than 2
20 years after the date of initial purchase for use or
21 consumption or 12 years after the date of manufacture of a
22 product, if that action is based upon or arises out of any
23 of the following:

- 24 (a) breach of any implied warranties;
- 25 (b) defects in design, inspection, testing, or

1 manufacture;

2 (c) failure to warn;

3 (d) failure to properly instruct in the use of a
4 product; or

5 (e) any other alleged defect or failure of any kind in
6 relation to a product.

7 (2) The provisions of this section apply to all
8 persons, regardless of minority or other legal disability
9 but do not apply to any cause of action where the personal
10 injury, death, or damage to property occurs within 2 years
11 after [the effective date of this act].

12 Section 4. Claim for damages. No dollar amount shall
13 be specified in a complaint filed in a product liability
14 action against a product manufacturer, wholesaler, or
15 retailer. The complaint shall merely seek such damages as
16 are reasonable.

17 Section 5. Alteration or modification of product after
18 sale as substantial contributing cause -- manufacturer or
19 seller not liable. No manufacturer or seller of a product
20 may be held liable for any injury, death, or damage to
21 property sustained as a result of an alleged defect, failure
22 to warn or protect, or failure to properly instruct in the
23 use or misuse of that product if a substantial contributing
24 cause of the injury, death, or damage to property was an
25 alteration or modification of the product that occurred

1 subsequent to the sale by the manufacturer or seller to the
2 initial user or consumer and that changed the purpose, use,
3 function, design, or intended use or manner of use of the
4 product from that for which the product was originally
5 designed, tested, or intended.

6 Section 6. Defect or defective condition making
7 product unreasonably dangerous -- rebuttable presumption.
8 (1) In any action for damages for personal injury, death, or
9 property damage allegedly caused by a defect in a product,
10 no product shall be considered to have a defect or to be in
11 a defective condition unless at the time the product was
12 sold by the manufacturer or other initial seller, there was
13 a defect or defective condition in the product which made
14 the product unreasonably dangerous to the user or consumer.

15 (2) As used in this section, "unreasonably dangerous"
16 means that the product was dangerous to an extent beyond
17 that which would be contemplated by the ordinary and prudent
18 buyer, consumer, or user of that product in that community
19 considering the product's characteristics, propensities,
20 risks, dangers, and uses together with any actual knowledge,
21 training, or experience possessed by that particular buyer,
22 user, or consumer.

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