

SUMMARY—Revises provisions governing product liability. (BDR 3-856)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: No.

AN ACT relating to product liability; prohibiting certain actions against a seller of a product who is not the manufacturer of the product; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing case law in Nevada, courts have recognized the doctrine of strict liability for products found to be defective. (*Shoshone Coca-Cola Bottling Co. v. Dolinski*, 82 Nev. 439, 441-42 (1966); *Maduiké v. Agency Rent-A-Car*, 114 Nev. 1, 6 (1998)) Under this doctrine, any person who sells any product in defective condition that is unreasonably dangerous to the consumer is subject to liability for physical harm caused to the consumer or to his or her property if: (1) the seller is engaged in the business of selling the product at issue; and (2) the product reaches the consumer without substantial change from the condition in which it was sold. This rule applies even if: (1) the seller has exercised all possible care in the preparation and sale of the product; and (2) the consumer was not the actual buyer of the product. (*Restatement of Torts* (Second) Section 402A)



This bill prohibits certain actions for personal injury, death or property damage from being brought against the seller of the product if the seller is also not the manufacturer of the product. This bill also provides for exceptions to the prohibition against such actions if the seller: (1) knew or should have known of the defect in the product; (2) altered, modified or installed the product in certain ways; (3) provided the plans or specifications for the manufacture of the product; (4) is a wholly-owned subsidiary of the manufacturer of the product; or (5) the seller sold the product after the expiration date of the product provided by the manufacturer.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2 or 3, no product liability action may be brought against a seller of a product unless the seller is also the manufacturer of the product. Nothing in this subsection shall be construed to prevent any other action from being brought against a seller of a product.

2. The provisions of subsection 1 do not apply if the seller:

(a) Knew or had reason to know of the defect in the product;



(b) Altered, modified or installed the product, and such alteration, modification or installation was:

- (1) The proximate cause of the harm giving rise to the action;*
- (2) Not authorized or requested by the manufacturer; and*
- (3) Not performed in compliance with the directions or specifications of the manufacturer;*

(c) Provided the plans or specifications for the manufacture or preparation of the product, and such plans or specifications were the proximate cause of the harm giving rise to the action;

(d) Is a wholly owned subsidiary of the manufacturer of the product; or

(e) Sold the product after the expiration date placed on the product by the manufacturer.

3. If a person cannot establish jurisdiction over a manufacturer in an action described in subsection 1, the manufacturer's principal distributor or seller of the product shall be deemed the manufacturer of the product if jurisdiction can be established over the principal distributor or seller.

4. As used in this section, "product liability action" means any action for personal injury, death or property damage caused by the manufacture, construction, design, formula, preparation, assembly, installation, testing, warnings, instructions, marketing, packaging or labeling of a product.

