

SENATE BILL NO. 161—SENATOR ROBERSON

FEBRUARY 16, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing product liability. (BDR 3-949)

FISCAL NOTE: Effect on Local Government: No. Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to product liability; prohibiting civil actions against certain sellers for product liability under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 This bill prohibits, under certain circumstances, the commencement or
2 maintenance of civil actions against certain sellers of products.

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

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

3 *1. Except as otherwise provided in this section, no product*
4 *liability action may be brought or maintained against a seller*
5 *other than a manufacturer of the product.*

6 *2. The provisions of subsection 1 do not apply if:*

7 *(a) The seller exercised substantial control over the aspect of*
8 *the manufacture, construction, design, formula, installation,*
9 *preparation, assembly, testing, packaging, labeling, warnings or*
10 *instructions of the product that was a proximate cause of the harm*
11 *for which recovery is sought;*

12 *(b) The seller altered, modified or installed the product after*
13 *the product left the possession of the manufacturer and the*
14 *alteration, modification or installation was:*



1 (1) Not authorized or requested by the manufacturer or not
2 performed in compliance with the directions or specifications of
3 the manufacturer; and

4 (2) A proximate cause of the harm for which recovery is
5 sought;

6 (c) The seller resold the product after the product's first sale
7 for use or consumption and the product was not in substantially
8 the same condition as it was at the time the product left the
9 possession of the manufacturer;

10 (d) The seller failed to exercise reasonable care in assembling,
11 maintaining or repairing the product or in conveying to the user
12 or consumer of the product the manufacturer's labels, warnings
13 or instructions and such failure was a proximate cause of the
14 harm for which recovery is sought;

15 (e) The seller had actual knowledge of the defect;

16 (f) The seller made an express warranty regarding the product
17 that was independent of any express warranty made by the
18 manufacturer regarding the product, the product failed to
19 conform to that express warranty by the seller and that failure was
20 a proximate cause of the harm for which recovery is sought;

21 (g) The manufacturer cannot be identified;

22 (h) Jurisdiction over the manufacturer cannot be obtained in
23 this State; or

24 (i) The manufacturer has been adjudicated bankrupt and a
25 judgment may not otherwise be recovered from the assets of the
26 bankruptcy estate of the manufacturer.

27 3. The manufacturer of the product shall indemnify the seller
28 for reasonable attorney's fees and costs incurred by the seller in
29 responding to or defending an action described in subsection 1.

30 4. As used in this section:

31 (a) "Manufacturer" means a person who designs, assembles,
32 fabricates, produces, constructs or otherwise prepares a product or
33 a component part of a product before the sale of the product to a
34 user or consumer. The term includes a seller who is owned in
35 whole or significant part by the manufacturer or who owns in
36 whole or significant part the manufacturer. The term does not
37 include a seller who is not otherwise a manufacturer merely
38 because the seller places or has placed his or her own brand or
39 label on the product if the seller:

40 (1) Did not exercise substantial control as described in
41 paragraph (a) of subsection 2; and

42 (2) Discloses the identity of the actual manufacturer of the
43 product.

44 (b) "Product liability action" means any civil action brought
45 against a manufacturer or seller of a product, regardless of the



1 *substantive legal theory or theories upon which the action is*
2 *brought, for or on account of personal injury, death or property*
3 *damage caused by or resulting from:*

4 (1) *The manufacture, construction, design, formula,*
5 *installation, preparation, assembly, testing, packaging, labeling or*
6 *sale of a product;*

7 (2) *The failure to warn or protect against a danger or*
8 *hazard in the use, misuse or unintended use of a product; or*

9 (3) *The failure to provide proper instructions for the use of*
10 *a product.*

11 (c) *“Seller” means a person, including, without limitation, a*
12 *manufacturer, wholesaler, distributor or retailer, who is engaged*
13 *in the business of selling or leasing any product for resale, use or*
14 *consumption.*

15 **Sec. 2.** This act becomes effective upon passage and approval.

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