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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

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MEMO

DATE: December 20, 2010
TO: All House Members
SUBJECT: Re-Introduction of Legislation -- Providing for Liability Rules
Applicable to Product Sellers (HB 616 of 2009-10 Legislative Session)
FROM: Rep. Scott W. Boyd 
783-6422

I am planning to re-introduce House Bill 616 of the 2009-2010 Legislative Session. This legislation would amend Title 42 (Judiciary and Judicial Procedure) by adding Section 7104 regarding liability rules applicable to product sellers.

Under this legislation, a product seller, other than a manufacturer, would not be liable for any damages resulting in death, injury, or economic loss unless the plaintiff establishes that the product seller:

- Failed to exercise reasonable care and this failure was a proximate cause of the harm to the plaintiff.
- Made an express warranty.
- Exercised significant control over the design, manufacture, packaging or labeling of the product related to the defect that caused the harm.
- Knew or reasonably should have known of the defect.
- Engaged in intentional wrongdoing.
- Held itself out as the manufacturer to the user of the product.

The Commonwealth lacks a specific statute outlining the liability rules applicable to product sellers. Currently, Pennsylvania case law adopts Section 402(a) Restatement (Second) of Torts. According to Section 402(a), a product seller who sells a product in a defective condition unreasonably dangerous is subject to liability for the physical harm to the user or his property if the seller is engaged in the business of selling a product and the product is expected to reach the user without a substantial change. This rule applies even though the seller exercises all possible care and the consumer did not enter into a contractual relationship with the seller.

If you are interested in cosponsoring this legislation please contact Debbie, in my office, at 783-6422 or via email at dacor@pahousegop.com.

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