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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 516 Session of  
2019

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INTRODUCED BY BAKER, PHILLIPS-HILL, FOLMER, HUTCHINSON, MENSCH,  
K. WARD AND STEFANO, APRIL 4, 2019

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REFERRED TO JUDICIARY, APRIL 4, 2019

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AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, in particular rights and  
3 immunities, providing for liability rules applicable to  
4 product sellers.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Title 42 of the Pennsylvania Consolidated  
8 Statutes is amended by adding a section to read:

9 § 8320.1. Liability rules applicable to product sellers.

10 (a) General rule.--In a product liability action, a product  
11 seller other than a manufacturer may not be liable for damages  
12 resulting in death, injury to person or property or economic  
13 loss unless the plaintiff establishes at least one of the  
14 following:

15 (1) (i) The product that allegedly caused the harm  
16 complained of by the plaintiff was sold by the product  
17 seller, the product seller failed to exercise reasonable  
18 care with respect to the product before placing the  
19 product in the stream of commerce and the failure to

1 exercise reasonable care was a proximate cause of the  
2 harm complained of by the plaintiff.

3 (ii) For purposes of this paragraph, a product  
4 seller may not be considered to have failed to exercise  
5 reasonable care with respect to the product based upon an  
6 alleged failure to inspect a product where there was no  
7 reasonable opportunity to inspect the product in a manner  
8 that, in the exercise of reasonable care, would have  
9 revealed the aspect of the product that allegedly caused  
10 the harm complained of by the plaintiff.

11 (2) The product seller made an express warranty  
12 applicable to the product that allegedly caused the harm  
13 complained of by the plaintiff independent of an express  
14 warranty made by a manufacturer as to the same product, the  
15 product failed to conform to the product seller's express  
16 warranty and the failure of the product to conform to the  
17 product seller's express warranty caused the harm complained  
18 of by the plaintiff.

19 (3) The product seller, before placing the product in  
20 the stream of commerce, exercised significant control over  
21 the design, manufacture, packaging or labeling of the product  
22 related to the alleged defect in the product that caused the  
23 harm complained of by the plaintiff.

24 (4) The product seller, before placing the product in  
25 the stream of commerce, knew or reasonably should have known  
26 of the defect in the product that caused the harm complained  
27 of by the plaintiff or the product seller was in possession  
28 of facts from which a reasonable person would conclude that  
29 the product seller had or should have had knowledge of the  
30 alleged defect in the product that caused the harm complained

1 of by the plaintiff.

2 (5) The product seller engaged in intentional wrongdoing  
3 that was a proximate cause of the harm complained of by the  
4 plaintiff.

5 (6) The product seller, before placing the product in  
6 the stream of commerce, held itself out as the manufacturer  
7 to the user of the product, in which case the product seller  
8 shall be liable as though the product seller were the  
9 manufacturer of the product.

10 (b) Rental and leases.--Notwithstanding any other provision  
11 of law, a product seller who is engaged in the business of  
12 renting or leasing a product shall be subject to liability under  
13 subsection (a) but may not be liable to a plaintiff for the  
14 tortious act of another solely by reason of ownership of the  
15 product.

16 (c) Certification of manufacturer identity.--

17 (1) In a product liability action against a product  
18 seller, the product seller may file an affidavit certifying  
19 the correct identity of the manufacturer of the product that  
20 allegedly caused the injury, death or damage.

21 (2) The product seller shall exercise due diligence in  
22 providing the plaintiff with the correct identity of the  
23 manufacturer.

24 (d) Definitions.--As used in this section, the following  
25 words and phrases shall have the meanings given to them in this  
26 subsection:

27 "Manufacturer." A person who:

28 (1) Produced, created, made or constructed the product  
29 or component part of the product.

30 (2) Designed or formulated the product or component part

1 of the product or engaged another person to design or  
2 formulate the product or component part of the product.

3 "Product seller." A person who, in the course of a business  
4 conducted for that purpose, sells, distributes, rents, leases,  
5 prepares, packages, labels or otherwise is involved in placing a  
6 product in the stream of commerce.

7 Section 2. This act shall apply to all actions instituted on  
8 or after the effective date of this section.

9 Section 3. This act shall take effect in 60 days.