

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE BILL NO. 3015

By: Sullivan (Leonard)

AS INTRODUCED

An Act relating to torts; enacting the Oklahoma Products Liability Act; defining terms; providing certain modifications to common law; providing certain elements for product liability action; providing certain defenses to manufacturers; prohibiting certain defenses; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 41 of Title 76, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Products Liability Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 42 of Title 76, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Claimant" means a person or entity initiating a product liability action;

2. "Manufacturer" means any product seller, including processors, assemblers, and all other persons who are similarly

situated in processing and distribution, who design, produce, make, fabricate, construct or remanufacture the relevant product or component part or parts of a product before the sale of the product to a user or consumer;

3. "Product" means any object possessing intrinsic value, capable of delivery either as an assembled whole or as a component part or parts, and produced for introduction into trade or commerce; provided however, human tissues and organs, including human blood and its components, are excluded from this term;

4. "Product liability action" means any action brought against a manufacturer of a product for damages for bodily harm, death or property damage caused by or resulting from the manufacture, construction, design, formula, installation, preparation, assembly, testing, packaging, labeling, sale, use or consumption of any product, the failure to warn or protect against a danger or hazard in the use or misuse of the product or the failure to provide proper instructions for the use or consumption of any product;

5. "Relevant product" means that product or its component part or parts, which gave rise to the product liability claim; and

6. "State of the art" means the technical, mechanical and scientific knowledge of manufacturing, designing, testing and labeling the same or similar products which were in existence and reasonably feasible for use at the time of manufacture.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 43 of Title 76, unless there is created a duplication in numbering, reads as follows:

The previously existing common law of products liability is modified only to the extent specifically stated in this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 44 of Title 76, unless there is created a duplication in numbering, reads as follows:

In any product liability action, the claimant must prove that:

1. The relevant product was the cause of the injury;
2. The defect existed in the relevant product at the time it left the possession and control of the manufacturer; and
3. The defect made the relevant product unreasonably dangerous to the user or consumer or his property.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 45 of Title 76, unless there is created a duplication in numbering, reads as follows:

A. In any product liability action, a manufacturer shall not be liable if the manufacturer proves that any of the following apply:

1. The defect in the relevant product is alleged to result from inadequate design or fabrication, and if the plans or designs for such product or the methods and techniques of manufacturing, inspecting, testing and labeling such product conformed with the state of the art at the time such product was first sold by the manufacturer;

2. Injury to the claimant resulted from abnormal use of the relevant product by the claimant;

3. The proximate cause of the incident giving rise to the action was an alteration or modification of the relevant product which was not reasonably foreseeable, made by a person other than the manufacturer and subsequent to the time such product was first sold by the manufacturer; or

4. The claimant knew of the defect, unreasonably dangerous in nature, in the relevant product and voluntarily used such product.

B. Common-law defenses relating to negligence and implied warranty recovery, including lack of privity, assumption of risk and contributory negligence, used in their traditional common-law sense, shall not be applicable in a product liability action.

SECTION 6. This act shall become effective November 1, 1996.

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