An Act

(1ST EXTRAORDINARY SESSION)
ENROLLED SENATE
BILL NO. 13X

By: Bingman, Sykes, Jolley and Shortey of the Senate

and

Shannon, Stiles, Wright and Ritze of the House

An Act relating to products liability; repealing 76 O.S. 2011, Sections 57 and 58, which relate to product liability and subsequent measures; prohibiting certain liability for manufacturer or seller of certain products; establishing affirmative defense; establishing requirements for applicability of affirmative defense; defining term; prohibiting admissibility of certain evidence; stating exception; providing for codification; and declaring an emergency.

SUBJECT: Products liability

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

SECTION 1. REPEALER 76 O.S. 2011, Sections 57 and 58, is hereby repealed.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 57.1 of Title 76, unless there is created a duplication in numbering, reads as follows:

A. In a product liability action, a manufacturer or seller shall not be liable if the product is inherently unsafe and known to be unsafe by the ordinary consumer who consumes the product with the ordinary knowledge common to the community.

B. The claim that a product is inherently unsafe shall be an affirmative defense and shall be pled in accordance with the requirements of the Oklahoma Pleading Code. In order for the defense to apply, all of the following shall be shown:

1. The product was a common consumer product intended for personal consumption;

2. The product's utility outweighs the risk created by its use;

3. The risk posed by the product was one known by the ordinary consumer who consumes the product with the ordinary knowledge common to the community;

4. The product was properly prepared and reached the consumer without substantial change in its condition; and

5. Adequate warning of the risk posed by the product was given by the manufacturer or seller.

C. For purposes of this section, the term "product liability action" does not include an action based on manufacturing defect or breach of warranty.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 58.1 of Title 76, unless there is created a duplication in numbering, reads as follows:

When, after an injury or harm allegedly caused by an event, measures are taken that, if taken previously, would have made the injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove negligence, culpable conduct, a defect in a product, a defect in a product's design, or a need for a warning or instruction. This rule does not require the exclusion of evidence of subsequent measures when offered for another purpose, such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 5th day of September, 2013.

_____
Presiding Officer of the Senate

Passed the House of Representatives the 9th day of September, 2013.

_____
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

_____
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20 _____, at _____ o'clock _____ M.

By: _____