

1 be unsafe by the ordinary consumer who consumes the product with the
2 ordinary knowledge common to the community.

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

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

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

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

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

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

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

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

23 When, after an injury or harm allegedly caused by an event,
24 measures are taken that, if taken previously, would have made the

1 injury or harm less likely to occur, evidence of the subsequent
2 measures is not admissible to prove negligence, culpable conduct, a
3 defect in a product, a defect in a product's design, or a need for a
4 warning or instruction. This rule does not require the exclusion of
5 evidence of subsequent measures when offered for another purpose,
6 such as proving ownership, control, or feasibility of precautionary
7 measures, if controverted, or impeachment.

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

12

13 DIRECT TO CALENDAR.

14

15

16

17

18

19

20

21

22

23

24