

CHAPTER 167

COURTS

SENATE BILL 03-231

BY SENATOR(S) Hillman, Andrews, Arnold, Cairns, Chlouber, Johnson S., Jones, Kester, May, Taylor, and Teck;
also REPRESENTATIVE(S) Mitchell, Cloer, Fairbank, Harvey, Hoppe, Lee, Spence, and Williams T.

AN ACT**CONCERNING PRODUCT LIABILITY ACTIONS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-21-402 (1), Colorado Revised Statutes, is amended to read:

13-21-402. Innocent seller. (1) No product liability action ~~based on the doctrine of strict liability in tort~~ shall be commenced or maintained against any seller of a product ~~which is alleged to contain or possess a defective condition unreasonably dangerous to the buyer, user, or consumer~~ unless said seller is also the manufacturer of said product or the manufacturer of the part thereof ~~claimed to be defective~~ GIVING RISE TO THE PRODUCT LIABILITY ACTION. Nothing in this part 4 shall be construed to limit any other action from being brought against any seller of a product.

SECTION 2. Part 4 of article 21 of title 13, Colorado Revised Statutes, is amended BY THE ADDITION OF NEW SECTION to read:

13-21-402.5. Product misuse. A PRODUCT LIABILITY ACTION MAY NOT BE COMMENCED OR MAINTAINED AGAINST A MANUFACTURER OR SELLER OF A PRODUCT THAT CAUSED INJURY, DEATH, OR PROPERTY DAMAGE IF, AT THE TIME THE INJURY, DEATH, OR PROPERTY DAMAGE OCCURRED, THE PRODUCT WAS USED IN A MANNER OR FOR A PURPOSE OTHER THAN THAT WHICH WAS INTENDED AND WHICH COULD NOT REASONABLY HAVE BEEN EXPECTED, AND SUCH MISUSE OF THE PRODUCT WAS A CAUSE OF THE INJURY, DEATH, OR PROPERTY DAMAGE.

SECTION 3. 13-21-403, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

13-21-403. Presumptions. (4) IN A PRODUCT LIABILITY ACTION IN WHICH THE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

COURT DETERMINES BY A PREPONDERANCE OF THE EVIDENCE THAT THE NECESSARY FACTS GIVING RISE TO A PRESUMPTION HAVE BEEN ESTABLISHED, THE COURT SHALL INSTRUCT THE JURY CONCERNING THE PRESUMPTION.

SECTION 4. Effective date - applicability. (1) This act shall take effect September 1, 2003.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

(3) The provisions of this act shall apply to causes of action arising on or after the applicable effective date of this act.

Approved: April 22, 2003