

2000 SESSION

INTRODUCED

002377920

HOUSE BILL NO. 803

Offered January 21, 2000

A BILL to amend the Code of Virginia by adding a section numbered 8.01-44.6, relating to who may bring certain product liability lawsuits.

Patrons—Ruff, Abbitt, Bryant, Cantor, Davis, Drake, Dudley, Ingram, Jones, S.C., Landes, Sherwood and Weatherholtz

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-44.6 as follows:

§ 8.01-44.6. Who may bring certain product liability lawsuits.

A. For the purposes of this section, "product" means any lawfully produced item in lawful commerce in the Commonwealth of Virginia.

B. Unless expressly authorized by statute, no locality shall adopt any ordinance to govern the purchase, possession, transfer, ownership, storage, licensing, registration, carrying or transporting of any product or components, parts or combinations thereof, or dealers in components, parts or combinations thereof, nor shall any locality, by zoning or ordinance, regulate in any manner any type of product show using regulations more stringent than those applied to shows of any other products.

C. Because (i) the lawful design, marketing, manufacture, distribution, sale or transfer of a product to the public is not an unreasonably dangerous activity and does not constitute a nuisance per se and (ii) the unlawful use of a product, rather than its lawful design, marketing, manufacture, distribution, sale or transfer is the proximate cause of injuries when a product is used unlawfully, the authority to bring suit and the right to recover against any product marketer, manufacturer, distributor, dealer, seller, or trade association by or on behalf of any locality for damages, abatement, injunctive relief or any other remedy resulting from or relating to the lawful design, marketing, manufacture, distribution, sale, or transfer of any product to the public is limited and is hereby reserved exclusively to the Commonwealth. Any action brought by the Commonwealth pursuant to this section shall be brought by the Attorney General on behalf of the Commonwealth.

The provisions of this subsection applicable to a locality shall also apply equally to any state governmental entity, including a department, agency, or authority.

D. This section shall not prohibit a locality from bringing an action against a marketer, manufacturer, distributor, dealer, seller, or trade association for breach of contract or warranty for defect of materials or workmanship as to any product or products purchased by the locality. #

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