

2004 SESSION

INTRODUCED

043539404

HOUSE BILL NO. 1128

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 8.01 a section numbered 8.01-44.6, relating to product liability; presumption.

Patrons—McDonnell and O'Bannon

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 in Article 3 of Chapter 3 of Title 8.01 a section numbered 8.01-44.6 as follows:

§ 8.01-44.6. Actions for product liability; rebuttable presumption.

A. In a product liability action, there is a rebuttable presumption that the product alleged to have caused the physical harm was not defective, and that the manufacturer or seller of the product was not negligent if, before the sale by the manufacturer:

1. The product complied with the applicable codes, standards, regulations, or specifications established, adopted, promulgated or approved by the Commonwealth of Virginia or the United States, or by an agency of either; and

2. There was not available to the manufacturer a practical and technically feasible alternative production practice that would have prevented the harm without significantly impairing the usefulness or desirability of the product to users, and without creating equal or grater risk of harm to others.

B. An alternative production practice is practical and feasible only if the technical, medical, or scientific knowledge relating to production of the product, at the time the specific unit of the product left the control of the manufacturer or seller, was developed, available and capable of use in the production of the product and was economically feasible for use by the manufacturer. Technical, medical, or scientific knowledge is not economically feasible for use by the manufacturer if use of that knowledge in production of the product would significantly compromise the product's usefulness or desirability.

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