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HOUSE BILL NO. 1372

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 13, 2004)

(Patron Prior to Substitute—Delegate Janis)

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; products containing open and obvious dangers.

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. Product liability; products containing open and obvious dangers.

A. In a product liability action, a manufacturer or seller shall not be liable for a design defect where the claim arises from an injury to a voluntary user of the product that is directly caused by an open and obvious danger of the product.

B. For purposes of this section:

1. Products with an open and obvious danger shall be limited to: (i) a food product made with sugar, butter, or a hydrogenated oil or trans-fat, (ii) tobacco, or (iii) a firearm; and

2. The term "product liability action" means any action for injury or death caused by a product except that the term does not include an action based on a manufacturing defect or breach of an express warranty.

HOUSE SUBSTITUTE

HB1372H1