
SUBSTITUTE SENATE BILL 5960

State of Washington 57th Legislature

2002 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Parlette, Thibaudeau, Kohl-Welles and Honeyford)

Read first time 02/08/2002. Referred to Committee on .

1 AN ACT Relating to the learned intermediary doctrine for
2 prescription products; adding a new section to chapter 7.72 RCW; and
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature through
6 this act to create an exception to the "learned intermediary doctrine"
7 for prescription products advertised directly to consumers, and that
8 the state supreme court holding in *Terhune v. A.H. Robins Co.*, and
9 subsequent cases, to the extent that they are inconsistent with this
10 intent, are no longer valid.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 7.72 RCW
12 to read as follows:

13 (1) Where a consumer has sought a prescription product in response
14 to an advertisement for that product, the manufacturer of that product,
15 who would otherwise be subject to liability under this chapter, is not
16 relieved of that liability solely because the manufacturer warned the
17 practitioner who prescribed the product of its proper use and attendant
18 dangers.

1 (2) For purposes of this section, "advertisement" means an
2 advertisement for the product placed by the manufacturer or the
3 manufacturer's agent in a journal, magazine, or newspaper, or on radio,
4 television, the internet, or telephone communication systems, where it
5 is generally intended that it will be read, watched, or listened to by
6 persons other than medical professionals.

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