
SENATE BILL 5960

State of Washington

57th Legislature

2001 Regular Session

By Senators Parlette, Thibaudeau, Kohl-Welles and Honeyford

Read first time 02/09/2001. Referred to Committee on Health & Long-Term Care.

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10 intent, are no longer valid.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) The manufacturer of a prescription product that is advertised
14 directly to consumers in this state, who would otherwise be subject to
15 liability under this chapter, is not relieved of that liability solely
16 because the manufacturer warned the practitioner who prescribed the
17 product of its proper use and attendant dangers.

1 (2) For purposes of this section, "advertised directly to
2 consumers" means that advertisements for the product are placed by the
3 manufacturer or the manufacturer's agent in journals, magazines, or
4 newspapers, or on radio, television, the internet or telephone
5 communication systems, where it is generally intended that they will be
6 read, watched, or listened to by persons other than medical
7 professionals.

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