
Consumer Protection & Business Committee

HB 1606

Brief Description: Increasing accountability for products sold on electronic commerce platforms.

Sponsors: Representatives Ryu, Ramel, Gregerson, Kloba and Reed.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Makes electronic commerce platforms subject to the same product liability as product sellers.

Hearing Date: 2/3/23

Staff: Megan Mulvihill (786-7304).

Background:

Product sellers, including manufacturers, wholesalers, distributors, or retailers, who are engaged in the business of selling, leasing, or bailing products are subject to liability if a claimant's harm was proximately caused by:

- the negligence of a product seller;
- breach of an express warranty made by such product seller; or
- the intentional misrepresentation of facts about the product by such product seller or the intentional concealment of information about the product by such product seller.

In certain circumstances, a product seller has the liability of the manufacturer if:

- no solvent manufacturer who would be liable is subject to service of process under laws of the claimant's domicile or Washington;
- the court determines that it is highly probable that the claimant would be unable to enforce

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- a judgement against any manufacturer;
- the product seller is a controlled subsidiary of a manufacturer or the manufacturer is a controlled subsidiary of the product seller;
- the product seller provided the plans or specifications for the manufacture or preparation of the product which were a proximate cause of the product's defect; or
- the product was marketed under a trade or brand name of the product seller.

A product seller is not subject to liability if the product seller proves by a preponderance of the evidence that the claimant's harm was caused after the product's useful safe life had expired, unless the product seller:

- warranted that the product may be used safely for a longer period;
- intentionally misrepresents facts about or intentionally conceals information about the product, and that conduct was a proximate cause of the harm; or
- the harm was caused by exposure to a defective product, which first occurred within the product's useful safe life, but the harm did not manifest itself until after the useful safe life expired.

A product's presumed useful safe life is 12 years after the time of delivery.

Summary of Bill:

Electronic commerce platform is defined as an entity that operates an internet website, online catalog, or software application in which the entity contracts or enters into any agreement with one or more third parties to offer products for sale.

Electronic commerce platforms are subject to the same product liability as product sellers, including potential manufacturer liability, and are not liable to a claimant for harm caused after a product's useful safe life has expired.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.