

109TH CONGRESS
2^D SESSION

H. R. 5500

To prevent undue disruption of interstate commerce by limiting civil actions brought against persons whose only role with regard to a product in the stream of commerce is as a lawful seller of the product.

IN THE HOUSE OF REPRESENTATIVES

MAY 25, 2006

Mr. KELLER (for himself, Mr. BOREN, Mrs. MUSGRAVE, Mr. HENSARLING, Mr. HERGER, Mr. KUHL of New York, Mrs. JOHNSON of Connecticut, Mr. MCCAUL of Texas, Mr. NEY, and Mr. DAVIS of Tennessee) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prevent undue disruption of interstate commerce by limiting civil actions brought against persons whose only role with regard to a product in the stream of commerce is as a lawful seller of the product.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Innocent Sellers Fair-
5 ness Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) it is unfair for a seller to be held respon-
4 sible under the doctrine of product liability for dam-
5 ages that the seller did not cause;

6 (2) as a result of product liability, sellers are
7 often brought into litigation despite the fact that
8 their conduct had nothing to do with the accident or
9 transaction giving rise to the lawsuit, and may
10 therefore face increased and unjust costs due to the
11 possibility or result of unfair and disproportionate
12 damage awards;

13 (3) due to high liability costs and unwarranted
14 litigation costs, sellers face higher costs in pur-
15 chasing insurance through interstate insurance mar-
16 kets to cover their activities;

17 (4) liability reform for sellers will promote the
18 free flow of goods and services, lessen burdens on
19 interstate commerce, and decrease litigiousness; and

20 (5) legislation to address these concerns is an
21 appropriate exercise of the powers of Congress under
22 clauses 3, 9, and 18 of section 8 of article I of the
23 Constitution of the United States, and the 14th
24 amendment to the Constitution of the United States.

1 **SEC. 3. LIMITATION ON LIABILITY OF PRODUCT SELLERS.**

2 (a) IN GENERAL.—No seller of any product shall be
3 liable for personal injury, monetary loss, or damage to
4 property arising out of an accident or transaction involv-
5 ing such product, unless the claimant proves one or more
6 of the following non-sale activities by the seller:

7 (1) The seller was the manufacturer of the
8 product.

9 (2) The seller participated in the design of the
10 product.

11 (3) The seller participated in the installation of
12 the product.

13 (4) The seller altered, modified, or expressly
14 warranted the product in a manner not authorized
15 by the manufacturer.

16 (b) LIABILITY FOR NON-SALE ACTIVITIES.—If the
17 claimant proves one or more of the non-sale activities de-
18 scribed in subsection (a) and such non-sale activity was
19 negligent, the seller’s liability shall be limited to the per-
20 sonal injury, monetary loss, or damage to property directly
21 caused by such non-sale activity.

22 (c) DEFINITIONS.—In this Act:

23 (1) MANUFACTURER.—The term “manufac-
24 turer” means a person who is lawfully engaged in
25 the business of manufacturing a product in inter-

1 state or foreign commerce during such person's reg-
2 ular course of trade or business.

3 (2) PERSON.—The term “person” means any
4 individual, corporation, company, association, firm,
5 partnership, society, joint stock company, or any
6 other entity, including any governmental entity.

7 (3) SELLER.—The term “seller” means a per-
8 son who is lawfully engaged in the business of mar-
9 keting, distributing, advertising, or selling a product
10 in interstate or foreign commerce during such per-
11 son's regular course of trade or business.

12 (d) EFFECTIVE DATE.—This Act shall apply to any
13 civil action involving a product that was sold to the claim-
14 ant on or after the date of the enactment of this Act.

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