

1 HB251
2 126826-1
3 By Representatives Long, Brown, Baughn, Roberts, Henry,
4 Johnson (K) and Moore (B)
5 RFD: Judiciary
6 First Read: 22-MAR-11

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8 SYNOPSIS: This bill would establish the Alabama Small
9 Business Protection Act to prohibit a product
10 liability action for relief against sellers that
11 are not manufacturers.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT

16
17 Relating to products liability; to establish the
18 Alabama Small Business Protection Act; to prohibit a product
19 liability action for relief against sellers that are not
20 manufacturers.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. This act may be cited and known as "The
23 Alabama Small Business Protection Act."

24 Section 2. (a) No product liability action may be
25 asserted or may be provided a claim for relief against any
26 distributor, wholesaler, dealer, retailer, or seller of a
27 product, or against an individual or business entity using a

1 product in the production or delivery of its products or
2 services, unless the distributor, wholesaler, dealer,
3 retailer, or seller of the product, or the individual or
4 business entity using a product in the production or delivery
5 of its products or services unless any of the following apply:

6 (1) Is also the manufacturer or assembler of the
7 final product and such act is causally related to the
8 product's defective condition.

9 (2) Exercised substantial control over the design,
10 testing, manufacture, packaging, or labeling of the product
11 and such act is causally related to the product's condition.

12 (3) Altered or modified the product, and the
13 alteration or modification was a substantial factor in causing
14 the harm for which recovery of damages is sought.

15 (b) Notwithstanding subsection (a), if a claimant is
16 unable, despite a good faith exercise of due diligence, to
17 identify the manufacturer of an allegedly defective and
18 unreasonably dangerous product, a product liability action may
19 be brought against a distributor, wholesaler, dealer,
20 retailer, or seller of a product, or against the individual or
21 business entity using a product in the production or delivery
22 of its products or services. The claimant shall provide an
23 affidavit certifying that the claimant, or the attorney
24 therefor, has in good in faith exercised due diligence and has
25 been unable to identify the manufacturer of the product in
26 question.

1 (c) In a product liability action brought pursuant
2 to subsection (b), against a distributor, wholesaler, dealer,
3 retailer, or seller of a product, or against the individual or
4 business entity using a product in the production or delivery
5 of its products or services, the party, upon answering or
6 otherwise pleading, may file an affidavit certifying the
7 correct identity of the manufacturer of the product that
8 allegedly caused the claimant's injury. Once the claimant has
9 received an affidavit, the claimant shall exercise due
10 diligence to file an action and obtain jurisdiction over the
11 manufacturer. Once the claimant has commenced an action
12 against the manufacturer, and the manufacturer has or is
13 required to have answered or otherwise pleaded, the claimant
14 shall voluntarily dismiss all claims against any distributor,
15 wholesaler, dealer, retailer, or seller of the product in
16 question, or against the individual or business entity using a
17 product in the production or delivery of its products or
18 services, unless the claimant can identify prima facie
19 evidence that the requirements of subsection (a) for
20 maintaining a product liability action against such a party
21 are satisfied.

22 Section 3. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.