

SB1671



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB1671

Introduced 2/5/2025, by Sen. Christopher Belt

SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-621

from Ch. 110, par. 2-621

Amends the Code of Civil Procedure. Provides that in any product liability action based on any theory or doctrine commenced or maintained against a defendant or defendants other than the manufacturer, if the product was manufactured outside the United States and is offered for sale by a seller through an online marketplace, then the seller, the online marketplace, and the high-volume third-party seller are jointly and severally liable with the manufacturer for any harm caused by the product. Defines "seller", "online marketplace", and "high-volume third-party seller" to have the same meaning as used in the Illinois Integrity, Notification, and Fairness in Online Retail Marketplaces for Consumers Act. Applies to causes of action accruing on or after the effective date of the Act.

LRB104 06324 JRC 16359 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 2-621 as follows:

6 (735 ILCS 5/2-621) (from Ch. 110, par. 2-621)

7 (Text of Section WITH the changes made by P.A. 89-7, which
8 has been held unconstitutional)

9 Sec. 2-621. Product liability actions.

10 (a) In any product liability action based on any theory or
11 doctrine commenced or maintained against a defendant or
12 defendants other than the manufacturer, that party shall upon
13 answering or otherwise pleading file an affidavit certifying
14 the correct identity of the manufacturer of the product
15 allegedly causing injury, death or damage. The commencement of
16 a product liability action based on any theory or doctrine
17 against such defendant or defendants shall toll the applicable
18 statute of limitation and statute of repose relative to the
19 defendant or defendants for purposes of asserting a strict
20 liability in tort cause of action.

21 (b) Once the plaintiff has filed a complaint against the
22 manufacturer or manufacturers, and the manufacturer or
23 manufacturers have or are required to have answered or

1 otherwise pleaded, the court shall order the dismissal of a
2 product liability action based on any theory or doctrine
3 against the certifying defendant or defendants, provided the
4 certifying defendant or defendants are not within the
5 categories set forth in subsection (c) of this Section. Due
6 diligence shall be exercised by the certifying defendant or
7 defendants in providing the plaintiff with the correct
8 identity of the manufacturer or manufacturers, and due
9 diligence shall be exercised by the plaintiff in filing an
10 action and obtaining jurisdiction over the manufacturer or
11 manufacturers.

12 The plaintiff may at any time subsequent to the dismissal
13 move to vacate the order of dismissal and reinstate the
14 certifying defendant or defendants, provided plaintiff can
15 show one or more of the following:

16 (1) That the applicable period of statute of
17 limitation or statute of repose bars the assertion of a
18 cause of action against the manufacturer or manufacturers
19 of the product allegedly causing the injury, death or
20 damage; or

21 (2) That the identity of the manufacturer given to the
22 plaintiff by the certifying defendant or defendants was
23 incorrect. Once the correct identity of the manufacturer
24 has been given by the certifying defendant or defendants
25 the court shall again dismiss the certifying defendant or
26 defendants; or

1 (3) That the manufacturer no longer exists, cannot be
2 subject to the jurisdiction of the courts of this State,
3 or, despite due diligence, the manufacturer is not
4 amenable to service of process; or

5 (4) That the manufacturer is unable to satisfy any
6 judgment as determined by the court; or

7 (5) That the court determines that the manufacturer
8 would be unable to satisfy a reasonable settlement or
9 other agreement with plaintiff.

10 (c) A court shall not enter a dismissal order relative to
11 any certifying defendant or defendants other than the
12 manufacturer even though full compliance with subsection (a)
13 of this Section has been made where the plaintiff can show one
14 or more of the following:

15 (1) That the defendant has exercised some significant
16 control over the design or manufacture of the product, or
17 has provided instructions or warnings to the manufacturer
18 relative to the alleged defect in the product which caused
19 the injury, death or damage; or

20 (2) That the defendant had actual knowledge of the
21 defect in the product which caused the injury, death or
22 damage; or

23 (3) That the defendant created the defect in the
24 product which caused the injury, death or damage.

25 (d) Nothing contained in this Section shall be construed
26 to grant a cause of action on any legal theory or doctrine, or

1 to affect the right of any person to seek and obtain indemnity
2 or contribution.

3 (e) This Section applies to all causes of action accruing
4 on or after September 24, 1979.

5 (Source: P.A. 89-7, eff. 3-9-95.)

6 (Text of Section WITHOUT the changes made by P.A. 89-7,
7 which has been held unconstitutional)

8 Sec. 2-621. Product liability actions.

9 (a) In any product liability action based in whole or in
10 part on the doctrine of strict liability in tort commenced or
11 maintained against a defendant or defendants other than the
12 manufacturer, that party shall upon answering or otherwise
13 pleading file an affidavit certifying the correct identity of
14 the manufacturer of the product allegedly causing injury,
15 death or damage. The commencement of a product liability
16 action based in whole or in part on the doctrine of strict
17 liability in tort against such defendant or defendants shall
18 toll the applicable statute of limitation and statute of
19 repose relative to the defendant or defendants for purposes of
20 asserting a strict liability in tort cause of action.

21 (b) Once the plaintiff has filed a complaint against the
22 manufacturer or manufacturers, and the manufacturer or
23 manufacturers have or are required to have answered or
24 otherwise pleaded, the court shall order the dismissal of a
25 strict liability in tort claim against the certifying

1 defendant or defendants, provided the certifying defendant or
2 defendants are not within the categories set forth in
3 subsection (c) of this Section. Due diligence shall be
4 exercised by the certifying defendant or defendants in
5 providing the plaintiff with the correct identity of the
6 manufacturer or manufacturers, and due diligence shall be
7 exercised by the plaintiff in filing an action and obtaining
8 jurisdiction over the manufacturer or manufacturers.

9 The plaintiff may at any time subsequent to the dismissal
10 move to vacate the order of dismissal and reinstate the
11 certifying defendant or defendants, provided plaintiff can
12 show one or more of the following:

13 (1) That the applicable period of statute of limitation or
14 statute of repose bars the assertion of a strict liability in
15 tort cause of action against the manufacturer or manufacturers
16 of the product allegedly causing the injury, death or damage;
17 or

18 (2) That the identity of the manufacturer given to the
19 plaintiff by the certifying defendant or defendants was
20 incorrect. Once the correct identity of the manufacturer has
21 been given by the certifying defendant or defendants the court
22 shall again dismiss the certifying defendant or defendants; or

23 (3) That the manufacturer no longer exists, cannot be
24 subject to the jurisdiction of the courts of this State, or,
25 despite due diligence, the manufacturer is not amenable to
26 service of process; or

1 (4) That the manufacturer is unable to satisfy any
2 judgment as determined by the court; or

3 (5) That the court determines that the manufacturer would
4 be unable to satisfy a reasonable settlement or other
5 agreement with plaintiff.

6 (b-5) In any product liability action based on any theory
7 or doctrine commenced or maintained against a defendant or
8 defendants other than the manufacturer, if the product was
9 manufactured outside the United States and is offered for sale
10 by a seller through an online marketplace, then the seller,
11 the online marketplace, and the high-volume third-party seller
12 are jointly and severally liable with the manufacturer for any
13 harm caused by the product. "Seller", "online marketplace",
14 and "high-volume third-party seller" have the same meaning as
15 used in the Illinois Integrity, Notification, and Fairness in
16 Online Retail Marketplaces for Consumers Act.

17 (c) A court shall not enter a dismissal order relative to
18 any certifying defendant or defendants other than the
19 manufacturer even though full compliance with subsection (a)
20 of this Section has been made where the plaintiff can show one
21 or more of the following:

22 (1) That the defendant has exercised some significant
23 control over the design or manufacture of the product, or has
24 provided instructions or warnings to the manufacturer relative
25 to the alleged defect in the product which caused the injury,
26 death or damage; or

1 (2) That the defendant had actual knowledge of the defect
2 in the product which caused the injury, death or damage; or

3 (3) That the defendant created the defect in the product
4 which caused the injury, death or damage.

5 (d) Nothing contained in this Section shall be construed
6 to grant a cause of action in strict liability in tort or any
7 other legal theory, or to affect the right of any person to
8 seek and obtain indemnity or contribution.

9 (e) This Section applies to all causes of action accruing
10 on or after September 24, 1979.

11 (f) This amendatory Act of the 104th General Assembly
12 applies to causes of action accruing on or after its effective
13 date.

14 (Source: P.A. 84-1043.)