

110TH CONGRESS  
1ST SESSION

# H. R. 989

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.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2007

Mr. BOREN (for himself and Mr. CHABOT) 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

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## 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”.

6        **SEC. 2. FINDINGS.**

7        Congress finds that—

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

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

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

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

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

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

24          (a) IN GENERAL.—No seller of any product shall be  
25          liable for personal injury, monetary loss, or damage to

1 property arising out of an accident or transaction involv-  
2 ing such product, unless the claimant proves one or more  
3 of the following non-sale activities by the seller:

4 (1) The seller was the manufacturer of the  
5 product.

6 (2) The seller participated in the design of the  
7 product.

8 (3) The seller participated in the installation of  
9 the product.

10 (4) The seller altered, modified, or expressly  
11 warranted the product in a manner not authorized  
12 by the manufacturer.

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

19 (c) DEFINITIONS.—In this Act:

20 (1) MANUFACTURER.—The term “manufac-  
21 turer” means a person who is lawfully engaged in  
22 the business of manufacturing a product in inter-  
23 state or foreign commerce during such person’s reg-  
24 ular course of trade or business.

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

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

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

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