

113TH CONGRESS  
1ST SESSION

# H. R. 2746

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

JULY 19, 2013

Mr. FARENTHOLD 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) an innocent seller should not be held re-  
2           sponsible under the doctrine of product liability for  
3           damages 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           they had no control or input in the design, produc-  
7           tion, or any other aspect of an allegedly defective  
8           product, and may therefore face increased costs due  
9           to the possibility or result of disproportionate dam-  
10          age 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, decrease litigiousness, and  
18          lower prices to consumers; and

19          (5) legislation to address these concerns is an  
20          appropriate exercise of the powers of Congress under  
21          clauses 3, 9, and 18 of section 8 of article I of the  
22          Constitution of the United States, and the 14th  
23          Amendment to the Constitution of the United  
24          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 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 (5) The seller had actual knowledge of the de-  
17 fect in the product as a result of a recall from the  
18 manufacturer or governmental entity authorized to  
19 make such recall or actual inspection at the time the  
20 seller sold the product to the claimant.

21 (6) The seller had actual knowledge of the de-  
22 fect in the product at the time the seller supplied the  
23 product.

24 (7) The seller intentionally altered or modified  
25 a product warranty, warning or instruction from the

1 manufacturer in a way not authorized by the manu-  
2 facturer.

3 (8) The seller knowingly made a false represen-  
4 tation about an aspect of the product not authorized  
5 by the manufacturer.

6 (b) LIABILITY OF SELLER IN CASES OF NEG-  
7 LIGENCE.—If the claimant proves one or more of the ac-  
8 tivities described in subsection (a) and such activity was  
9 negligent, the seller’s liability is limited to the personal  
10 injury, monetary loss, or damage to property, directly  
11 caused by such activity.

12 (c) DEFINITIONS.—In this Act:

13 (1) MANUFACTURER.—The term “manufac-  
14 turer” means a person who is lawfully engaged in  
15 the business of manufacturing a product in inter-  
16 state or foreign commerce during such person’s reg-  
17 ular course of trade or business.

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

22 (3) SELLER.—The term “seller” means a per-  
23 son who is lawfully engaged in the business of mar-  
24 keting, distributing, advertising, or selling a product

1 in interstate or foreign commerce during such per-  
2 son's regular course of trade or business.

3 (d) EFFECTIVE DATE.—This Act applies to any civil  
4 action involving a product that was sold to the claimant  
5 on or after the date of the enactment of this Act.

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