

House Bill 663

By: Representatives Ralston of the 7th, Lane of the 167th, Knox of the 24th, and Rice of the 51st

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 41 and Chapter 1 of Title 51 of the Official Code of Georgia
2 Annotated, relating to general provisions relative to nuisances and torts, respectively, so as
3 to change provisions relating to nuisances and product liability causes of actions; to clarify
4 the nature of a public nuisance; to limit a manufacturer's liability under certain
5 circumstances; to provide for related matters; to provide for an effective date and
6 applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 1 of Title 41 of the Official Code of Georgia Annotated, relating to general
10 provisions relative to nuisances, is amended by revising Code Section 41-1-2, relating to
11 classes of nuisances and public and private nuisances defined, as follows:

12 "41-1-2.

13 Nuisances are either public or private. A public nuisance is one which damages all persons
14 who come within the sphere of its operation, though it may vary in its effects on
15 individuals. Nothing contained in this chapter shall be construed to create or include within
16 the definition of a public nuisance any cause of action in which it is alleged that a
17 manufactured product unreasonably interferes with a right common to the general public.

18 A private nuisance is one limited in its injurious effects to one or a few individuals."

19 **SECTION 2.**

20 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general
21 provisions relative to torts, is amended by revising Code Section 51-1-11, relating to when
22 privity is required to support an action and product liability actions and the time limitation
23 therefor, as follows:

24 "51-1-11.

25 (a) Except as otherwise provided in this Code section, no privity is necessary to support
 26 a tort action; but, if the tort results from the violation of a duty which is itself the
 27 consequence of a contract, the right of action is confined to the parties and those in privity
 28 to that contract, except in cases where the party would have a right of action for the injury
 29 done independently of the contract and except as provided in Code Section 11-2-318.

30 (b)(1) The manufacturer of any personal property sold as new property directly or
 31 through a dealer or any other person shall be liable in tort, irrespective of privity, to any
 32 natural person who may use, consume, or reasonably be affected by the property and who
 33 suffers injury to his person or property because the property when sold by the
 34 manufacturer was not merchantable and reasonably suited to the use intended, and its
 35 condition when sold is the proximate cause of the injury sustained.

36 (2) No action shall be commenced pursuant to this subsection with respect to an injury
 37 after ten years from the date of the first sale for use or consumption of the personal
 38 property causing or otherwise bringing about the injury.

39 (3) A manufacturer may not exclude or limit the operation of this subsection.

40 (c) The limitation of paragraph (2) of subsection (b) of this Code section regarding
 41 bringing an action within ten years from the date of the first sale for use or consumption
 42 of personal property shall also apply to the commencement of an action claiming
 43 negligence of a manufacturer as the basis of liability, except an action seeking to recover
 44 from a manufacturer for injuries or damages arising out of the negligence of such
 45 manufacturer in manufacturing products which cause a disease or birth defect, or arising
 46 out of conduct which manifests a willful, reckless, or wanton disregard for life or property.
 47 Nothing contained in this subsection shall relieve a manufacturer from the duty to warn of
 48 a danger arising from use of a product once that danger becomes known to the
 49 manufacturer.

50 (d) Irrespective of privity, a manufacturer shall not be held liable for the manufacture of
 51 a product alleged to be defective based on theories of market share, enterprise, or other
 52 theories of industry-wide liability.

53 (e) Irrespective of privity, a manufacturer of a product alleged to be defective shall not be
 54 held liable for a public nuisance based on theories of market share, enterprise, or other
 55 theories of industry-wide liability."

56 **SECTION 3.**

57 This Act shall become effective upon its approval by the Governor or upon its becoming law
 58 without such approval and shall apply to all causes of action arising on or after such date.

59 This Act shall not apply to or affect any cause of action arising prior to the effective date of
60 this Act, to which the provisions of former Code Sections 41-1-2 and 51-1-11 shall apply.

61 **SECTION 4.**

62 All laws and parts of laws in conflict with this Act are repealed.