

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1292

H.P. 926

House of Representatives, April 24, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative LAWRENCE of Kittery.

Cosponsored by Representative ANTHONY of South Portland and Senator GAUVREAU of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

**An Act Regarding Tort Liability for Defective or Unreasonably
Dangerous Goods.**



1 Be it enacted by the People of the State of Maine as follows:

3 14 MRSA §221, as enacted by PL 1973, c. 466, §1, is amended
5 to read:

7 §221. Defective or unreasonably dangerous goods

9 One who sells any goods or products in a defective condition
11 unreasonably dangerous to the user or consumer or to his the
13 user's or consumer's property is subject to liability for
15 physical harm thereby caused to a person whom the manufacturer,
17 seller or supplier might reasonably have expected to use, consume
19 or be affected by the goods, or to his that person's property, if
21 the seller is engaged in the business of selling such--a that
23 product and it is expected to and does reach the user or consumer
25 without significant change in the condition in which it is sold.
This section applies although the seller has exercised all
possible care in the preparation and sale of his the seller's
product and the user or consumer has not bought the product from
or entered into any contractual relation with the seller. For
purposes of this section, the phrase "goods or products in a
defective condition unreasonably dangerous to the user or
consumer" shall include goods or products that are dangerous to
an extent beyond the contemplation of the ordinary consumer,
without regard to their utility.

27

29 STATEMENT OF FACT

31 In St. Germain v. Husqvarna Corp., 544 A.2d 1283 (Me. 1988),
33 the Law Court interpreted the Maine strict liability law, the
35 Maine Revised Statutes, Title 14, section 221, to impose
37 liability on a manufacturer, seller or supplier of goods or
39 products only after the utility of the product was weighed
41 against the danger it presents, the so-called "danger utility"
43 test. This bill will alter that approach by expanding strict
45 liability to persons manufacturing, selling or supplying goods
and services that, regardless of their utility, are dangerous to
an extent beyond the contemplation of the ordinary consumer, the
so-called "consumer contemplation test." Under this approach, in
order to recover damages for injuries resulting from the use of a
good or product, a plaintiff will not have to prove negligence of
the defendant in the conception of the design of the good or
product, or in the reduction of that design to the concrete form
of a salable product.