

MAINE STATE LEGISLATURE

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STATE OF MAINE
117TH LEGISLATURE

FIRST REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY

AUGUST 1995

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**ONE HUNDRED AND SEVENTEENTH LEGISLATURE
FIRST REGULAR SESSION**

**SUMMARY OF LEGISLATION BEFORE
THE JOINT STANDING COMMITTEES**

AUGUST 1995

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees of the Maine Legislature. The volume is organized alphabetically by committee; within each committee, the summaries are arranged by LD number. A subject index is provided at the beginning of each committee's summaries. The publication, History and Final Disposition of Legislative Documents, is helpful in determining to which committee any particular bill was referred.

In this document, the committee report or reports, the prime sponsor for each bill and the lead co-sponsor in each house if one has been designated are listed below each bill title. All adopted amendments are listed, by paper number, together with the sponsor for floor amendments. Final action on each bill is listed to the right of the title. Various categories of final action are abbreviated as follows:

| | |
|-----------------------------------|---|
| <i>CARRIED OVER</i> | <i>Bill carried over to Second Session</i> |
| <i>CON RES XXX</i> | <i>Chapter # of Constitutional Resolution passed by both Houses</i> |
| <i>CONF CMTE UNABLE TO AGREE</i> | <i>Committee of Conference unable to agree; bill died</i> |
| <i>DIED BETWEEN BODIES</i> | <i>House & Senate disagree; bill died</i> |
| <i>DIED ON ADJOURNMENT</i> | <i>Action incomplete when session ended; bill died</i> |
| <i>EMERGENCY</i> | <i>Enacted law takes effect sooner than 90 days</i> |
| <i>FAILED EMERGENCY ENACTMENT</i> | <i>Emergency bill failed to get 2/3 vote</i> |
| <i>FAILED ENACTMENT</i> | <i>Bill failed to get majority vote</i> |
| <i>FAILED MANDATE ENACTMENT</i> | <i>Bill imposing local mandate failed to get 2/3 vote</i> |
| <i>INDEF PP</i> | <i>Bill Indefinitely Postponed</i> |
| <i>ONTP</i> | <i>Ought Not to Pass report accepted</i> |
| <i>P&S XXX</i> | <i>Chapter # of enacted Private & Special Law</i> |
| <i>PUBLIC XXX</i> | <i>Chapter # of enacted Public Law</i> |
| <i>RESOLVE XXX</i> | <i>Chapter # of enacted Resolve</i> |
| <i>UNSIGNED</i> | <i>Not signed by Governor within 10 days</i> |
| <i>VETO SUSTAINED</i> | <i>Legislature failed to override Governor's Veto</i> |

These summaries were prepared by the analyst or analysts assigned to the committee. If more detailed information is needed on a bill, contact the committee analyst.

5581LHS

COMMITTEE AMENDMENT "A" (S-316) updates the name of the crime of gross sexual assault.

LD 1371 An Act Relating to Civil Actions, Providing for the Defense of Assumption of Risk, Providing for Standards of Liability in Product Liability Actions and Providing for Standards and Procedures in Awarding Punitive Damages

CARRIED OVER

SPONSOR(S) CIANCHETTE
COMMITTEE REPORT
AMENDMENTS ADOPTED

SUMMARY

This bill proposes to alter several related aspects of the State's liability law to limit the liability exposure of manufacturing companies, which will reduce the cost of doing business in Maine and therefore the price of Maine-made products. First, the bill proposes to establish assumption of risk as an independent defense. Under current law, assumption of risk is relevant only as a factor to be considered in the comparative negligence determination.

Second, the bill proposes to provide that a product manufacturer or seller may not be held liable for damage caused by an aspect of the product that is an inherent characteristic of that type of product and that is known to the ordinary consumer.

Third, the bill proposes to provide that a plaintiff claiming that a product was defectively designed must establish that a safer alternative design existed that would have avoided the harm. This provision is a modification of Maine's existing "danger-utility" test for product defects, under which the existence of a feasible alternative design is one of three relevant factors.

Fourth, the bill proposes to establish certain procedural and substantive rules relating to the award of punitive damages in civil cases.

LD 1391 An Act to Establish a Statute of Limitations for Claims against the Dalkon Shield Claimants Trust

ONTP

SPONSOR(S) DAGGETT
COMMITTEE REPORT OTP-AM MAJ
ONTP MIN
AMENDMENTS ADOPTED

SUMMARY

The bill would have established a special statute of limitations for the claims of Maine women injured by the Dalkon Shield as has been done in several other states. Under this bill, a Dalkon Shield victim's claim would be extended for a period of 15 years from the date of injury, except in cases of fraud or fraudulent concealment, to August 21, 1985, the date the A.H. Robins Company, Inc., filed for protection under the provisions of Chapter 11 of the United States Bankruptcy Code, and would be deemed tolled from that date until one year following certification to proceed with litigation under the procedures established by the Dalkon Shield Claimants Trust.

COMMITTEE AMENDMENT "A" (H-616) would have clarified that the statute of limitations is extended for only those Dalkon Shield victims who began to pursue remedies for their injuries before March 1, 1995. It also included a fiscal note.