

HB 3104 -- PRODUCTS LIABILITY CLAIMS

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Currently, a products liability claimant may successfully show that a defendant is liable for damages after the product is reasonably used under certain conditions. This bill states that a product may be in a defective condition if it:

(1) Contains a manufacturing defect because the product departs from its intended design; or

(2) Is defective by design because the foreseeable risks of harm posed by the product could have been reduced or avoided by reasonable alternative designs.

Currently, a defendant in a products liability claim may plead and prove certain facts to show that the plaintiff has comparative fault, and that such fault, if proven, may diminish any resultant award for compensatory damages. The bill states that the defendant may plead and prove the comparative fault of not only the plaintiff, but also any other person or entity as an affirmative defense in any products liability or strict liability claim.

This bill also redefines the term "fault", as specified in the bill.

The bill further states that in a products liability claim, the liability of each defendant for damages is several only, and not joint. Each defendant is liable only for the amount of damages allocated to that defendant. In assessing percentages of fault, the trier of fact must consider the fault of all persons or entities that contributed to the accident or harm, as specified in the bill.