

# CRS Issue Brief for Congress

Received through the CRS Web

## **Products Liability: A Legal Overview**

**Updated June 12, 2003**

Henry Cohen  
American Law Division

# **CONTENTS**

SUMMARY

MOST RECENT DEVELOPMENTS

BACKGROUND AND ANALYSIS

Glossary

Federal Statutes Enacted, 97th-107th Congresses

LEGISLATION

CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS

FOR ADDITIONAL READING

CRS Reports

## Products Liability: A Legal Overview

### SUMMARY

Products liability refers to the liability of a manufacturer or seller for injury caused by his product to the person or property of a buyer or third party. Legal developments starting in the 1960s, particularly the adoption of strict tort liability, have made it substantially easier for persons injured by defective products to recover damages. Starting in the 1980s, however, many states enacted tort reform legislation that limited the rights of injured parties. Advocates for consumers and

plaintiffs view strong products liability law as necessary to ensure adequate compensation for injured workers and consumers and to furnish an incentive for the manufacture of safe products. Manufacturers and their insurers, by contrast, contend that many products liability judgments are unwarranted or excessive and that national uniformity in products liability law is needed. Therefore, they favor replacing the 50 state products liability laws with one federal law.



## **MOST RECENT DEVELOPMENTS**

On November 25, 2002, H.R. 5005, the Homeland Security Act of 2002 was signed by the President and became P.L. 107-296. It contains three sections that limit products liability of various defendants: section 304 immunizes manufacturers and administrators of smallpox vaccine from liability, section 863 limits the liability of sellers of anti-terrorism technology, and sections 1714-1717 limit the liability of manufacturers and administrators of the components and ingredients of vaccines. These provisions are discussed in CRS Report RL31649.

On February 20, 2003, the President signed H.J.Res. 2, 108<sup>th</sup> Congress (P.L. 108-7). Division L, § 102, of the statute repealed sections 1714-1717 of P.L. 107-296 (2002). These are the sections of the Homeland Security Act of 2002 that amended the National Vaccine Injury Compensation Program to make the program applicable to components and ingredients of vaccines, and which was apparently intended to prevent lawsuits alleging injuries caused by Thimerosal. See CRS Report RL31649.

On April 9, 2003, the House passed H.R. 1036, 108<sup>th</sup> Congress, the Protection of Lawful Commerce in Arms Act. H.R. 1036 would prohibit lawsuits, except in specified circumstances, against a manufacturer or seller of a firearm or ammunition, or a trade association, for damages resulting from the criminal or unlawful misuse of a firearm or ammunition. For additional information, see H.Rept. 108-59, 108<sup>th</sup> Cong., 1<sup>st</sup> Sess. (2003), and CRS Report RS21486.

On April 30, 2003, the President signed into law H.R. 1770, 108<sup>th</sup> Congress, the Smallpox Emergency Personnel Protection Act of 2003, P.L. 108-20, to provide benefits for certain individuals with injuries resulting from administration of a smallpox vaccine.

## **BACKGROUND AND ANALYSIS**

Products liability, which is primarily a matter of state law, is generally based on strict tort liability rather than on negligence. This means that a plaintiff need prove only that the defendant sold a defective product and that the defect was the proximate cause of the plaintiff's injuries. Due care on the part of the defendant is ordinarily immaterial. The purpose of strict tort liability is "to insure that the costs of injuries resulting from defective products are borne by the manufacturers that put such products on the market rather than by the injured persons who are powerless to protect themselves" (*Greenman v. Yuba Power Products, Inc.*, 377 P.2d 897 (1963)).

The Federal Interagency Task Force on Product Liability, under the direction of the Department of Commerce, in its Final Report issued November 1, 1977, found that the cost of product liability insurance had risen dramatically, making it more difficult for some small firms to obtain adequate insurance coverage. The major causes of the dramatic rise in rates, the Task Force found, were irrational premium setting procedures by insurance companies, the manufacture of products that are not as safe as current technologies would allow, and uncertainties as to how personal injury litigation is conducted.

On April 6, 1978, the Department of Commerce released an *Options Paper on Product Liability and Accident Compensation Issues*, 43 Federal Register 14612. It included a model bill entitled, "Product Liability Self-Insurance Act of 1978." On September 11, 1978, the Department published a summary of over 300 comments submitted to it on its Options Paper (43 Federal Register 40438).

On July 20, 1978, the Carter Administration unveiled its program to deal with product liability problems. The proposals generally followed those suggested by the Department of Commerce in its Options Paper. The Administration also directed that a model uniform product liability law be prepared to add stability to products liability law, which varies from state to state.

The Department of Commerce subsequently published a Model Uniform Product Liability Act. See 44 Federal Register 2996 (January 12, 1979) for the draft version and 44 Federal Register 62714 (October 31, 1979) for the final version. Although intended for enactment by the states, the draft version was introduced in the 96th Congress as H.R. 1676, and the final version was introduced as H.R. 5976 (both by Representative LaFalce). Hearings on the two versions were held, but neither was enacted.

In October 1985, Attorney General Meese established the Tort Policy Working Group, which consisted of representatives of ten Federal agencies and the White House. In February, 1986, the group issued its report: "Report of the Tort Policy Working Group on the Causes, Extent and Policy Implications of the Current Crisis of Insurance Availability and Affordability." The report made eight recommendations, including the elimination of joint and several liability and of the collateral source rule, a \$100,000 cap on non-economic damages, and a 25% cap on the first \$100,000 in lawyer's contingent fees. In March 1987, the Tort Policy Working Group issued another report, "An Update on the Liability Crisis."

During the 1980s, in response to the liability insurance "crisis," many states enacted tort reforms intended to limit the rights of injured parties. Some states limited the right of plaintiff to sue product sellers other than the manufacturer; some states permitted awards of punitive damages only upon proof by "clear and convincing" evidence, or required that a portion of punitive damages be paid to a state fund; some states enacted caps on punitive damages or on non-economic damages, such as pain and suffering; some states limited or eliminated joint and several liability or the collateral source rule; and some enacted a statute of repose. (See "Glossary" for an explanation of these terms.) State reforms continued to be enacted through 1990s and to the present day.

Consumer representatives and plaintiffs' attorneys generally oppose limiting injured parties' rights in products liability suits; they consider the present system necessary to provide incentives for the manufacture of safe products and to ensure adequate compensation for injured workers and consumers. Insurance companies and product manufacturers, by contrast, hoping to reduce the amount currently paid as the result of products liability suits, and seeking national uniformity in products liability law, have supported federal products liability reform.

A federal products liability statute could bring about national uniformity with respect to some issues; some proposed legislation, for example, has included a national statute of limitations and statute of repose for products liability suits. However, some legislative

provisions, such as one that establishes a standard of conduct for the award of punitive damages, are necessarily subject to varying interpretations by every federal and state court, unless the Supreme Court establishes a national interpretation of it. Even if the Supreme Court does so, such a provision's application to the facts of particular cases may vary among juries. Therefore, the possibility of uniformity should not be overestimated.

## Glossary

The extent to which each of the following concepts is applicable in particular products liability lawsuits depends upon the relevant state law.

**Alteration of product.** A possible contributing cause to an injury that may be performed by a plaintiff or a third party, such as a plaintiff's employer; it may reduce or eliminate a defendant's liability.

**Assumption of risk.** A form of contributory fault by a plaintiff; it may reduce or eliminate a defendant's liability.

**Breach of warranty.** A basis for liability that does not require the plaintiff to prove that the defendant was negligent, but does permit the defendant to raise certain contract law defenses to avoid liability.

**Collateral source rule.** The rule that a plaintiff's damages will not be reduced by amounts he recovered from sources other than the defendant, such as health insurance benefits.

**Comparative negligence.** The rule that plaintiff's recovery will be reduced in proportion to the degree that his own negligence (or other fault) was responsible for his injury. In its modified form, recovery is barred if the plaintiff's responsibility exceeds a specific degree, such as 50%.

**Contributory negligence.** Negligence (or other fault) on the part of the plaintiff that is wholly or partially responsible for his injury. In a few states, any degree of contributory negligence will totally bar recovery.

**Design defect.** A defect resulting from a product that, although manufactured as it had been designed, was not designed as safely as it should have been.

**Economic damages.** Out-of-pocket expenses incurred by the plaintiff, such as medical bills or loss of income.

**Failure to warn.** A defect consisting of the defendant's failure to provide adequate warnings or instructions regarding the use of its product.

**Government contractor defense.** A rule established by the Supreme Court enabling a defendant whose product complied with federal government contract specifications to avoid liability in some cases. *Boyle v. United Technologies Corp.*, 487 U.S. 500 (1988).

**Government standards defense.** A rule in a few states enabling a defendant whose product complied with government safety standards to avoid liability or to establish a presumption that its product was not defective.

**Joint and several liability.** The rule that each defendant who contributes to causing a plaintiff's injury may be held individually liable for the total damages.

**Lawyers' contingent fees.** Fees payable only upon recovery of damages, based upon a percentage of the recovery.

**Manufacturing defect.** A defect resulting from a product's not having been manufactured as it had been designed. Compare with "Design defect," supra.

**Market share liability.** Liability for the percentage of a plaintiff's damages equal to the defendant's market share of the injury-causing product; a few cases have held market share liability applicable where a plaintiff cannot prove that a particular defendant manufactured the injury-causing product.

**Misuse of product.** A form of contributory fault by a plaintiff; it may reduce or eliminate a defendant's liability.

**Negligence.** Breach of a duty to exercise due care; it is the traditional non-intentional tort standard in cases not based upon strict liability.

**No-fault recovery.** Recovery permitted in the absence of fault; it is not the law in any state with respect to products liability. If adopted in the product liability context it would permit recovery in the absence not only of negligence (as strict tort liability does), but in the absence of a product defect.

**Non-economic damages.** Damages payable for items other than out-of-pocket expenses, such as pain and suffering or punitive damages. Statutory caps on non-economic damages, however, are generally distinct from statutory caps on punitive damages.

**Patent danger rule.** The rule that a manufacturer is not liable for an injury caused by a design defect if the danger should have been obvious to the product user.

**Periodic payments of future damages.** Payments by a defendant for a plaintiff's future expenses on a periodic basis rather than in a lump sum.

**Post-manufacturing improvements.** Improvements in a product's design that occur after an injury and which plaintiffs seek to introduce in court as evidence that an injury-causing product was defective.

**Punitive damages.** Damages awarded, in addition to economic damages and other non-economic damages, to punish a defendant for willful or wanton conduct.

**Restatement (Second) of Torts.** A statement of tort law written by legal scholars; section 402A, which provides for strict tort liability for injuries caused by defective products, has been adopted by most states. On May 20, 1997, the American Law Institute adopted

Restatement of the Law (3d), Torts: Product Liability, which is intended to replace section 402A.

**State of the art defense.** The defense that permits a defendant to avoid liability in a design defect case if at the time of manufacture there was no safer design available, or in a failure to warn case if at the time of manufacture there was no way the defendant could have known of the danger he failed to warn against.

**Statute of limitations.** A statute specifying the number of years after injury occurs, or is discovered, or its cause is discovered, within which suit must be filed.

**Statute of repose.** A statute specifying the number of years after a product is first sold or distributed within which suit must be filed; it supplements the statute of limitations. Manufacturers favor statutes of repose because they preclude recovery where products are old; consumers oppose them because they result in suits being barred before injuries even occur.

**Strict tort liability.** Liability established if a plaintiff proves that a product defect caused an injury; the plaintiff need not prove that the defendant was negligent.

**Useful life limitation.** A period of time set forth by statute after which a product's useful life is deemed over and suit is barred or a presumption that the product was not defective is created; this is similar to a statute of repose.

**Workers' compensation.** Statutes in every state providing for limited no-fault compensation against employers by workers injured on the job. Receipt of such compensation ordinarily precludes a worker from suing his employer; it does not preclude him from suing a product manufacturer.

## Federal Statutes Enacted, 97th-107th Congresses

The 97<sup>th</sup> Congress enacted P.L. 97-45, the Product Liability Risk Retention Act of 1981. The 98<sup>th</sup> Congress enacted P.L. 98-193, a clarification of the Product Liability Risk Retention Act of 1981. This statute was intended to permit "product manufacturers, sellers, and distributors to purchase . . . insurance on a group basis or to self-insure through insurance cooperatives called 'risk retention groups.'" S.Rept. 97-192, 97<sup>th</sup> Congress, 1st session. Federal legislation was necessary to accomplish this because many states have laws that would make the formation of such groups impractical on an interstate basis. The statute therefore exempts purchasing groups and risk retention groups from most regulation by states other than the ones in which they are chartered.

The 99<sup>th</sup> Congress enacted the Risk Retention Amendments of 1986, P.L. 99-563, which expanded the scope of the Product Liability Risk Retention Act of 1981 to enable risk retention groups and purchasing groups to provide all types of liability insurance, not only products liability insurance.

The 99<sup>th</sup> Congress also enacted the National Childhood Vaccine Injury Act of 1986, P.L. 99-660, which has been amended by every subsequent Congress. As amended, the Act requires most persons suffering vaccine-related injuries, prior to filing a tort action, to file



a claim in the U.S. Court of Federal Claims for no-fault compensation through the National Vaccine Injury Compensation Program established by the Act. Under the Program, compensation for pain and suffering is limited to \$250,000. A party not satisfied with the compensation awarded under the Program may file a tort action under state law, but subject to some limitations. Although recovery under the Program is limited, it was hoped that “the relative certainty and generosity of the system’s awards will divert a significant number of potential plaintiffs from litigation.” H.Rept. 99-908, Part 1, 99<sup>th</sup> Cong., 2d Sess. 13 (1986).

On August 17, 1994, the President signed into law the General Aviation Revitalization Act, P.L. 103-298, which established an 18-year statute of repose (see glossary) for planes with fewer than 20 seats that are not used in scheduled service. 49 U.S.C. § 40101 note.

The 104<sup>th</sup> Congress passed a products liability bill, H.R. 956, but failed to override President Clinton’s veto of it.

The 105<sup>th</sup> Congress enacted H.R. 872, the Biomaterials Access Assurance Act of 1998 (P.L. 105-230), which limits the products liability under state law of biomaterials suppliers, which it defines as an entity that supplies a component part or raw materials for use in the manufacture of an implant.

The 106<sup>th</sup> Congress enacted H.R. 775, the Y2K Act (P.L. 106-37), which limits contractual and tort liability under state law in suits, other than those for personal injury or wrongful death, “in which the plaintiff’s alleged harm or injury arises from or is related to an actual or potential Y2K failure . . . .”

The 107<sup>th</sup> Congress enacted the Homeland Security Act of 2002 (P.L. 107-296), three sections of which limit the products liability of various defendants: section 304 immunizes manufacturers and administrators of smallpox vaccine from liability, section 863 limits the liability of sellers of anti-terrorism technology, and sections 1714-1717 limit the liability of manufacturers and administrators of the components and ingredients of vaccines. These provisions are discussed in CRS Report RL31649. Sections 1714-1717 were repealed by P.L. 108-7 (2003).

## **LEGISLATION**

### **P.L. 108-7, H.J.Res. 2**

Signed by the President on February 20, 2003. Division L, § 102, of the statute repealed 1714-1717 of P.L. 107-296 (2002). These are the sections of the Homeland Security Act of 2002 that amended the National Vaccine Injury Compensation Program to make the program applicable to components and ingredients of vaccines, and which was apparently intended to prevent lawsuits alleging injuries caused by Thimerosal. See CRS Report RL31649.

Other bills that would have repealed sections 1714-1717 include **H.R. 237**, **H.R. 248**, **H.R. 484**, **S. 41**, and **S. 105**.

**H.R. 339 (Keller)**

Personal Responsibility in Food Consumption Act. Introduced January 27, 2003; referred to the Committee on the Judiciary. Would prohibit products liability suits against a manufacturer, distributor, or seller of a food or non-alcoholic beverage product intended for human consumption unless the plaintiff proves that, at the time of sale, the product was not in compliance with applicable statutory and regulatory requirements.

**H.R. 357 (Everett)**

Introduced January 27, 2003; referred to the Committee on the Judiciary. Would “prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.”

**H.R. 405 (Andrews)**

Introduced February 3, 2003; referred to the Committees on the Judiciary, and Energy and Commerce. Would “provide that a person who brings a product liability action in a Federal or State court for injuries sustained from a product that is not in compliance with a voluntary or mandatory standard issued by the Consumer Product Safety Commission may recover treble damages.”

**H.R. 865 (Waxman)**

Smallpox Vaccine Compensation and Safety Act of 2003. Introduced February 13, 2003; referred to the Committees on Energy and Commerce, and Energy and the Workforce. Would establish a Smallpox Vaccine Injury Compensation Program under which persons suffering injury or death from a smallpox vaccine may petition for compensation under procedures and standards that follow those applicable under the National Vaccine Injury Compensation Program.

**H.R. 1036 (Stearns)**

Protection of Lawful Commerce in Arms Act. Reported by the Committee on the Judiciary on April 7, 2003 (H.Rept. 108-59, 108<sup>th</sup> Cong., 1<sup>st</sup> Sess.), and passed by the House on April 9, 2003. Would prohibit lawsuits, except in specified circumstances, against a manufacturer or seller of a firearm or ammunition, or a trade association, for damages resulting from the criminal or unlawful misuse of a firearm or ammunition. See CRS Report RS21486 for a legal analysis of the bill.

**H.R. 1114 (Kirk)**

Asbestos Compensation Act of 2003. Introduced March 6, 2003; referred to the Committee on the Judiciary. Would establish, in the Department of Justice, the Office of Asbestos Compensation (AOC), and would establish in the OAC an Asbestos Compensation Fund for the purpose of providing payments to claimants who have asbestos-related illnesses. Except for those filing claims under a workers' compensation law or veterans' benefits program, all asbestos claimants would have to found of medically eligible in order to receive compensation. Claimants would name as defendants persons who may be responsible for their asbestos-related illness, except for the federal or a state government. Defendants would be required to make settlement offers, and the Trustee of the Fund would make an offer of compensation to the claimant. If the claimant rejects any defendant's offer and the Trustee's offer, the claimant may elect an administrative adjudication under the bill or may opt out and sue in state or federal court. In an administrative adjudication, a claimant would be entitled

to compensatory damages to the extent provided by applicable law, but no damages for enhanced risk of a future condition, and punitive damages would be limited to 3 times compensatory damages. The Fund would be financed by defendants, after a one-time loan of federal funds.

**H.R. 1349 (Burton)**

National Vaccine Injury Compensation Program Improvement Act of 2003. Introduced March 24, 2003; referred to the Committee on Energy and Commerce. Would amend the National Childhood Vaccine Injury Act of 1986.

**H.R. 1586 (Cannon)**

Asbestos Compensation Fairness Act of 2003. Introduced April 3, 2003; referred to the Committee on the Judiciary. Designed “[t]o provide for the fair and efficient judicial consideration of personal injury and wrongful death claims arising out of asbestos exposure, to ensure that individuals who suffer impairment, now or in the future, from illnesses caused by exposure to asbestos receive compensation for their injuries, and for other purposes.”

**H.R. 1737 (Dooley)**

Asbestos Victims’ Compensation Act of 2003. Introduced April 10, 2003; referred to the Committee on the Judiciary. Designed “[t]o provide for the fair and efficient judicial consideration of personal injury and wrongful death claims arising out of asbestos exposure, to ensure that individuals who suffer harm, now or in the future, from illnesses caused by exposure to asbestos receive compensation for their injuries, and for other purposes.”

**P.L. 108-20, H.R. 1770 (Burr)**

Smallpox Emergency Personnel Protection Act of 2003. Signed by the President on April 30, 2003. To provide benefits for certain individuals with injuries resulting from administration of a smallpox vaccine. Other versions of this bill included **H.R. 1413**, **H.R. 1463**, **S. 15 (Title I)**, and **S. 719**.

**S. 413 (Nickles)**

Asbestos Claims Criteria and Compensation Act of 2003. Introduced February 13, 2003; referred to the Committee on the Judiciary. Would prohibit lawsuits “alleging a nonmalignant asbestos claim in the absence of a prima facie showing of physical impairment as a result of a medical condition to which exposure to asbestos was a substantial contributing factor.”

**S. 659 (Craig)**

Protection of Lawful Commerce in Arms Act. Introduced March 19, 2003; referred to the Committee on the Judiciary. Would prohibit lawsuits, except in specified circumstances, against a manufacturer or seller of a firearm or ammunition, or a trade association, for damages resulting from the criminal or unlawful misuse of a firearm or ammunition.

**S. 754 (Frist)**

Improved Vaccine Affordability and Availability Act. Introduced April 1, 2003; referred to the Committee on Health, Education, Labor, and Pensions. Would amend the National Childhood Vaccine Injury Act of 1986.

**S. 1125 (Hatch)**

Fairness in Asbestos Injury Resolution (FAIR) Act of 2003. Introduced May 22, 2003; referred to the Committee on the Judiciary, which held hearing on it on June 4, 2003. Would create a federal compensation program for asbestos victims, funded by asbestos defendants and their insurers. See CRS Report RS21540 for a more detailed summary of the bill.

**CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS**

U.S. Congress. House. Common Sense Product Liability Legal Reform Act of 1996; conference report to accompany H.R. 956. Washington, U.S. Govt. Print. Off., 1996. 35 p. (104th Congress, 2d session. H.Rept. 104-481)

U.S. Congress. House. Veto of H.R. 956 — Message from the President of the United States. May 6, 1996. Washington, U.S. Govt. Print. Off., 1996. 27 p. (104th Congress, 2d session. House. Document 104-207)

U.S. Congress. House. Committee on Commerce. Common Sense Product Liability Reform Act; report to accompany H.R. 917. Washington, U.S. Govt. Print. Off., 1995. 34 p. (104th Congress, 1st session. H.Rept. 104-63, part 1)

U.S. Congress. House. Committee on Commerce. Subcommittee on Commerce, Trade, and Hazardous Materials. Common Sense Product Liability Reform Act. Hearing, 104th Congress, 1st session. February 21, 1995. Washington, U.S. Govt. Print. Off., 1995. 77 p.

“Serial no. 104-7”

U.S. Congress. House. Committee on Commerce. Subcommittee on Telecommunications and Finance. Hearings, 104th Congress, 1st session. January 19 and February 10, 1995. Washington, U.S. Govt. Print. Off., 1995. 338 p.

“Serial no. 104-2”

U.S. Congress. House. Committee on Commerce. Subcommittee on Telecommunications, Trade, and Consumer Protection. Product liability reform. Hearings, 105<sup>th</sup> Congress, 1<sup>st</sup> session. April 8, 30, 1997. Washington, U.S. Govt. Print. Off., 1997. 160 p.

“Serial no. 105-31”

U.S. Congress. House. Committee on Education and Labor. Subcommittee on Labor Standards. Workmen’s compensation. Hearings, 100th Congress, 2d session, on H.R. 1115. September 27, 1988. Washington, U.S. Govt. Print. Off., 1988. 45 p.

“Serial no. 100-96”

U.S. Congress. House. Committee on Energy and Commerce. National Vaccine Childhood Injury Act of 1986; report to accompany H.R. 5546. Washington, U.S. Govt. Print. Off., 1986, 78 p. (99th Congress, 2d session. H.Rept. 99-908, part 1)

— Risk Retention Amendments of 1986; report to accompany H.R. 5225. Washington, U.S. Govt. Print. Off., 1986. 30 p. (99th Congress, 2d session. H.Rept. 99-865)

- Uniform Product Safety Act of 1988; report to accompany H.R. 1115. Washington, U.S. Govt. Print Off., 1988. 110 p. (100th Congress, 2d session. H.Rept. 100-748, part 1)
- U.S. Congress. House. Committee on Energy and Commerce. Subcommittee on Commerce, Consumer Protection, and Competitiveness. Hearings, 103d Congress, 2d session, on H.R. 1910. February 2, April 21, and May 3, 1994. Washington, U.S. Govt. Print. Off., 1994. 505 p.  
“Serial no. 103-105”
- Hearings, 100th Congress, 1st session, on H.R. 2238. May 5, 20, June 18, and July 9, 1987. Washington, U.S. Govt. Print. Off., 1988. 666 p.  
“Serial no. 100-61”
- Product liability, part 2. Hearings, 100th Congress. July 21, 23, August 6, October 7, 1987. 537 p.  
“Serial no. 100-102”
- U.S. Congress. House. Committee on Energy and Commerce. Subcommittee on Health and the Environment. Childhood immunization program. Hearing, 100th Congress, 1st session. March 11, 1987. Washington, U.S. Govt. Print. Off., 1987. 46 p.  
“Serial no. 100-31”
- Childhood immunizations. 99th Congress, 2d session. Washington, U.S. Govt. Print. Off., 1986. 106 p. (CP 99-LL)
- Federal childhood immunization program. Hearing, 99th Congress, 2d session. March 10, 1986. Washington, U.S. Govt. Print. Off., 1986. 81 p.  
“Serial no. 99-98”
- Vaccine injury compensation. Hearings, 99th Congress, 2d session, on H.R. 1780, H.R. 4777, and H.R. 5184. July 25, 1986. Washington, U.S. Govt. Print. Off., 1987. 266 p.  
“Serial no. 99-158”
- U.S. Congress. House. Committee on Energy and Commerce. Subcommittee on Oversight and Investigations. Proceedings of a workshop on vaccine innovation and supply. Report prepared by Institute of Medicine, National Academy of Sciences. Washington, U.S. Govt. Print. Off., 1986. (99th Congress, 2d session. House. Committee print 99-II)
- U.S. Congress. House. Committee on Interstate and Foreign Commerce. Product Liability Risk Retention Act of 1980; report together with minority views to accompany H.R. 6152. Washington, U.S. Govt. Print. Off., 1980. 49 p. (96th Congress, 2d session. H.Rept. 96-791)
- U.S. Congress. House. Committee on Interstate and Foreign Commerce. Subcommittee on Consumer Protection and Finance. Product liability. Hearings, 96th Congress, 2d

session, on H.R. 5626 and H.R. 7000. April 23, 29, and 30, 1980. Washington, U.S. Govt. Print. Off., 1980. 420 p.

U.S. Congress. House. Committee on the Judiciary. Protection of Lawful Commerce in Arms Act; report to accompany H.R. 1036. Washington, U.S. Govt. Print. Off., 2003. 109 p. (108<sup>th</sup> Congress, 1<sup>st</sup> session. H.Rept. 108-59)

—Multidistrict, Multiparty, Multiform Trial Jurisdiction Act of 2001; report to accompany H.R. 860. Washington, U.S. Govt. Print. Off., 2000. 42 p. (107<sup>th</sup> Congress, 1<sup>st</sup> session. H.Rept. 107-14)

—Small Business Liability Reform Act of 2000; report to accompany H.R. 2366. Washington, U.S. Govt. Print. Off., 2000. 50 p. (106<sup>th</sup> Congress, 2<sup>nd</sup> session. H.Rept. 106-494, Part I)

—Common Sense Legal Standards Reform Act of 1995; report to accompany H.R. 956. Washington, U.S. Govt. Print. Off., 1995. 44 p. (104<sup>th</sup> Congress, 1<sup>st</sup> session. H.Rept. 104-64, Part I)

—Product liability and legal reform. Hearing, 104<sup>th</sup> Congress, 1<sup>st</sup> session, on H.R. 10. February 13, 1995. Washington, U.S. Govt. Print. Off., 1995. 251 p.  
“Serial no. 4”

—Product Liability Fairness Act. Hearing, 103<sup>rd</sup> Congress, 2<sup>d</sup> session, on S. 687. March 15, 1994. Washington, U.S. Govt. Print. Off., 1995. 169 p.  
“Serial no. J-103-45”

—Product liability reform. Hearing, 105<sup>th</sup> Congress, 1<sup>st</sup> session. April 10, 1997. Washington, U.S. Govt. Print. Off., 1997. 255 p.

U.S. Congress. House. Committee on the Judiciary. Subcommittee on Administrative Law and Governmental Relations. Government Contractors’ Product Liability and Indemnification Acts. Hearings, 98<sup>th</sup> Congress, 2<sup>d</sup> session, on H.R. 4083 and H.R. 4199. March 14 and 15, 1984. Washington, U.S. Govt. Print. Off., 1984. 170 p.

U.S. Congress. House. Committee on the Judiciary. Subcommittee on Economic and Commercial Law. Aviation Revitalization Act of 1993; report to accompany S. 1458. Washington, U.S. Govt. Print. Off., 1994. 12 p. (103<sup>rd</sup> Congress, 2<sup>d</sup> session. H.Rept. 103-525, Part II)

U.S. Congress. House. Committee on the Judiciary. Subcommittee on Monopolies and Commercial Law. Aviation tort reform. Hearings, 99<sup>th</sup> Congress, 2<sup>d</sup> session, on H.R. 4142. August 14, 1986. Washington, U.S. Govt. Print. Off., 1988. 83 p.  
“Serial no. 99-129”

U.S. Congress. House. Committee on Public Works and Transportation. Aviation Revitalization Act of 1993; report to accompany S. 1458. Washington, U.S. Govt. Print. Off., 1994. 8 p. (103<sup>rd</sup> Congress, 2<sup>d</sup> session. H.Rept. 103-525, Part I)

- U.S. Congress. House. Committee on Rules. Providing for the Consideration of H.R. 956, the Common Sense Legal Standards Reform Act of 1995; report to accompany H.Res. 109. Washington, U.S. Govt. Print. Off., 1995. 20 p. (104th Congress, 1st session. H.Rept. 104-72)
- U.S. Congress. House. Committee on Science and Technology. Subcommittee on Transportation, Aviation, and Materials. Aviation product liability: the effect on technology application. Hearings, 99th Congress, 1st session. October 22, 1985. Washington, U.S. Govt. Print. Off., 1985. 128 p.
- U.S. Congress. House. Committee on Science, Space, and Technology. Subcommittee on Technology and Competitiveness. Product liability. Hearings, 102d Congress, 2d session. August 4, 1992. Washington, U.S. Govt. Print. Off., 1992. 459 p.
- Product liability. Washington, U.S. Govt. Print. Off., December 1992. (102d Congress, 2d session. House. Committee print Serial W)
- U.S. Congress. House. Committee on Small Business. Subcommittee on General Oversight and Minority Enterprise. Product liability insurance ratemaking. Hearings, 96th Congress, 2d session. October 1, 1980. Washington, U.S. Govt. Print. Off., 1980. 45 p.
- U.S. Congress. House. Committee on Ways and Means. Subcommittee on Select Revenue Measures. Funding of the childhood vaccine program. Hearing, 100th Congress, 1st session. March 5, 1987. Washington, U.S. Govt. Print. Off., 1988. 134 p.  
“Serial no. 100-18”
- U.S. Congress. Senate. Committee on Commerce, Science, and Transportation. Clarification of the Risk Retention Act; report to accompany S. 1046. Washington, U.S. Govt. Print. Off., 1983. 5 p. (98th Congress, 1st session. S.Rept. 98-172)
- Year 2000 (Y2K) Act; report to accompany S. 96. Washington, U.S. Govt. Print. Off., 1999. 14 p. (106<sup>th</sup> Congress, 1<sup>st</sup> session. S.Rept. 106-10)
- General Aviation Accident Liability Standards Act of 1986; report to accompany S. 2794. Washington, U.S. Govt. Print. Off., 1986. 18 p. (99th Congress, 2d session. S.Rept. 99-428)
- General Aviation Accident Liability Standards Act; report to accompany S. 473. Washington, U.S. Govt. Print. Off., 1988. 23 p. (100th Congress, 2d session. S.Rept. 100-378)
- General Aviation Accident Liability Standards Act of 1989; report together with minority views, on S. 640. November 12, 1989. Washington, U.S. Govt. Print. Off., 1989. 22 p. (101st Congress, 1st session. S.Rept. 101-223)
- Product Liability Act of 1982; report to accompany S. 2631. Washington, U.S. Govt. Print. Off., 1982. 58 p. (97th Congress, 2d session. S.Rept. 97-670)

- Product Liability Act; report to accompany S. 44. May 23, 1984. Washington, U.S. Govt. Print. Off., 1984. 110 p. (98th Congress, 2d session. S.Rept. 98-476)
- Product Liability Fairness Act; report together with additional and minority views, on S. 640. November 14, 1991. Washington, U.S. Govt. Print. Off., 1991. 91 p. (102d Congress, 1st session. S.Rept. 102-215)
- Product Liability Fairness Act; report together with minority views, on S. 565. April 18, 1995. Washington, U.S. Govt. Print. Off., 1995. 80 p. (104th Congress, 1st session. S.Rept. 104-69)
- Product Liability Reform Act; report together with additional and minority views, on S. 687. Washington, U.S. Govt. Print. Off., 1993. 85 p. (103rd Congress, 1st session. S.Rept. 103-203)
- Product Liability Reform Act; report to accompany S. 2760. Washington, U.S. Govt. Print. Off., 1986. 124 p. (99th Congress, 2d session. S.Rept. 99-422)
- Product Liability Reform Act of 1997; report to accompany S. 648. June 19, 1997. Washington, 1997. 95 p. (105th Congress, 1st session. S.Rept. 105-32)
- Product Liability Reform Act; report together with additional and minority views, on S. 1400. June 29, 1990. Washington, U.S. Govt. Print. Off., 1990. 76 p. (101st Congress, 2d session. S.Rept. 101-356)
- Product Liability Risk Retention Act of 1979. Hearings, 96th Congress, 2d session, on S. 1789 and H.R. 6152. April 22 and July 30, 1980. Washington, U.S. Govt. Print. Off., 1980. 280 p.
- Product Liability Risk Retention Act of 1980; report to accompany H.R. 6152. Washington, U.S. Govt. Print. Off., 1980. 19 p. (96th Congress, 2d session. S.Rept. 96-984)
- Product Liability Risk Retention Act of 1981; report to accompany S. 1096. Washington, U.S. Govt. Print. Off., 1981. (97th Congress, 1st session. S.Rept. 97-172)
- Risk Retention Amendments of 1986; report to accompany S. 2129. Washington, U.S. Govt. Print. Off., 1986. 28 p. (99th Congress, 2d session. S.Rept. 99-294)
- U.S. Congress. Senate. Committee on Commerce, Science, and Transportation. Subcommittee on Aviation. General Aviation Accident Liability Standards Act of 1987. Hearing, 100th Congress, 1st session, on S. 473. December 3, 1987. Washington, U.S. Govt. Print. Off., 1987. 133 p. (S.Hrg. 100-480)
- General Aviation Accident Liability Standards. Hearing, 99th Congress, 2d session. June 18, 1986. Washington, U.S. Govt. Print. Off., 1986. 62 p. (S.Hrg. 99-837)
- U.S. Congress. Senate. Committee on Commerce, Science, and Transportation. Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism. Hearing, 104<sup>th</sup>



Congress, 1st session, on S. 565, the Product Liability Fairness Act of 1995. April 3-4, 1995. Washington, U.S. Govt. Print. Off., 1995. 710 p. (S.Hrg. 104-435)

— Product Liability Reform: Success of the General Aviation Revitalization Act. Hearing, 105<sup>th</sup> Congress, 1<sup>st</sup> session. March 6, 1997. Washington, U.S. Govt. Print. Off., 1999. 61 p. (S. Hrg. 105-833)

U.S. Congress. Senate. Committee on Commerce, Science and Transportation. Subcommittee on the Consumer. Dodd and Gorton no-fault alternatives to S. 100. Hearings, 99th Congress, 1st session. June 18 and 25, 1985. Washington, U.S. Govt. Print. Off., 1985. 190 p. (S.Hrg. 99-177)

— Hearing, 103rd Congress, 1st session, on S. 687, the Product Liability Fairness Act. September 23, 1993. Washington, U.S. Govt. Print. Off., 1994. 151 p.

— Hearings, 99th Congress, 1st session, on S. 100. March 21, 1985. Washington, U.S. Govt. Print. Off., 1985. 237 p. (S.Hrg. 99-84)

— Product liability. Hearings, 102d Congress, 1st session. September 12 and 19, 1991. Washington, U.S. Govt. Print. Off., 1991. 234 p. (S.Hrg. 102-727).

— Product Liability Act. Hearings, 98th Congress, 1st session, on S. 44. April 6 and 27, 1983. Washington, U.S. Govt. Print. Off., 1983. 374 p.  
“Serial no. 98-33”

— Product Liability Act. Hearing, 98th Congress, 2d session, on S. 44. Part 2. March 5, 1984. Washington, U.S. Govt. Print. Off., 1984. 495 p. (S.Hrg. 98-302, pt. 2)

— Product liability reform. Hearings, 97th Congress, 2d session, on S. 2631. March 9, 12, June 30, July 1, 1982. Washington, U.S. Govt. Print. Off., 1982. 408 p.  
“Serial no. 97-109”

— Product liability reform. Hearing, 100th Congress, 1st session. Sept. 18, 1987. Washington, U.S. Govt. Print. Off., 1987. 79 p. (S.Hrg. 100-342)

— Product Liability Reform Act. Hearings, 101st Congress, 2d session, on S. 1400. February 22, April 5, and May 10, 1990. Washington, U.S. Govt. Print. Off., 1990. 650 p. (S.Hrg. 101-743)

— Product liability reform proposals. Hearings, 99th Congress, 2d session. May 19-20, 1986. Washington, U.S. Govt. Print. Off., 1986. 199 p. (S.Hrg. 99-1004)

— Product Liability Voluntary Claims and Uniform Standards Act. Hearings, 99th Congress, 2d session, on S. 1999. February 27 and March 11, 1986. Washington, U.S. Govt. Print. Off., 1986. 303 p. (S.Hrg. 99-733)

— Risk Retention Amendments of 1986. Hearings, 99th Congress, 2d session, on S. 2129. March 20, 1986. Washington, U.S. Govt. Print. Off., 1986. 75 p. “S.Hrg. 99-722”

U.S. Congress. Senate. Committee on the Judiciary. Product Liability Reform Act. Hearings, 99th Congress, 2d session, on S. 2760. September 9-10, 1986. Washington, U.S. Govt. Print. Off., 1987. 684 p. (S.Hrg. 99-1005)  
“Serial no. J-99-127”

— Punitive Damages: Tort Reform and FDA Defenses. Hearings, 104th Congress, 1st session, on S. 671 and S. 672. April 4 and July 26, 1995. Washington, U.S. Govt. Print. Off., 1996. 191 p. (S.Hrg. 104-718)  
“Serial no. J-104-16”

— Uniform Federal Product Liability Law. Hearings, 102d Congress, 2d session, on S. 640. August 5, 1992. Washington, U.S. Govt. Print. Off., 1992. 302 p. (S.Hrg. 102-1047)  
“Serial no. J-102-80”

— General Aviation Accident Liability Standards Act of 1989; report together with additional and minority views, on S. 640. May 23, 1990. Washington, U.S. Govt. Print. Off., 1990. 33 p. (101st Congress, 2d session. S.Rept. 101-303)

U.S. Congress. Senate. Committee on the Judiciary. Subcommittee on Courts and Administrative Practice. Hearings, 100th Congress, 2d session, on S. 473. June 21, 1988. Washington, U.S. Govt. Print. Off., 1989. 156 p.  
“Serial no. J-100-78”

U.S. Congress. Senate. Committee on Labor and Human Resources. National Childhood Vaccine Injury Compensation Act of 1985. Hearings, 99th Congress, 1st session, on S. 827. July 18, 1985. Washington, U.S. Govt. Print. Off., 1985. 393 p. (S.Hrg. 99-222)

## **FOR ADDITIONAL READING**

Rand Corporation Institute for Civil Justice. Product liability and the business sector. Santa Monica, CA, January 1989.

— What we know and don't know about product liability. Santa Monica, CA, 1993.

Tillinghast-Towers Perrin, U.S. Tort Costs: 2000, Trends and Findings on the Costs of the U.S. Tort System (February 2002).

U.S. Council of Economic Advisors. Who Pays for Tort Liability Claims?: An Economic Analysis of the U.S. Tort Liability System (April 2002).  
[[http://www.whitehouse.gov/cea/tortliabilitysystem\\_apr02.pdf](http://www.whitehouse.gov/cea/tortliabilitysystem_apr02.pdf)]

U.S. Department of Commerce. Bureau of Domestic Commerce. Product liability insurance: Assessment of related problems and issues; staff study. Washington, March 1976.

U.S. Department of Commerce. Interagency Task Force on Product Liability. Briefing report, Washington, January 1977; final report, Washington, November 1977.

— Draft uniform product liability law (with analysis). Federal register, v. 44, Jan. 12, 1979: 2996.

— Final report of the insurance study. 1 v. Washington, 1977.

— Final report of the legal study. 7 v. Washington, 1977.

— Final report of the industry study. 2 v. Washington, 1977.

— Model Uniform Product Liability Act (with analysis). Federal register, v. 44, Oct. 31, 1979: 62714.

— Options paper on product liability and accident compensation issues. Federal register, v. 43, Apr. 6, 1978: 14612.

U.S. General Accounting Office. Product liability: Extent of “litigation explosion” in Federal courts questioned. Jan. 28, 1988. [Washington] 1988. (GAO/HRD-88 36BR)

— Product liability: Verdicts and case resolutions in five states. [Washington] September 1989. (GAO/HRD-89-99)

## **CRS Reports**

CRS Report RS21398. *Asbestos Litigation: Prospects for Legislative Resolution*, by Edward Rappaport.

CRS Report RS21540. *Fairness in Asbestos Injury Resolution Act of 2003 (S. 1125, 108<sup>th</sup> Congress)*, by Henry Cohen.

CRS Report 95-797. *Federal Tort Reform Legislation: Constitutionality and Summaries of Selected Statutes*, by Henry Cohen.

CRS Report RL31649. *Homeland Security Act of 2002: Tort Liability Provisions*, by Henry Cohen.

CRS Report RS20126. *Gun Industry Liability: Lawsuits and Legislation*, by Henry Cohen.

CRS Report RS21486. *Protection of Lawful Commerce in Arms Act, H.R. 1036, 108<sup>th</sup> Congress: Legal Analysis*, by Henry Cohen.