

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997  
4  
5 By: Senator Smith

# A Bill

SENATE BILL 191

## For An Act To Be Entitled

9 "AN ACT RELATING TO PRODUCT LIABILITY ACTIONS AGAINST  
10 MANUFACTURERS OF GENERAL AVIATION LIGHT AIRCRAFT OR MAKERS  
11 OF COMPONENTS FOR ANY AIRCRAFT; AND FOR OTHER PURPOSES."

### Subtitle

14 "AN ACT RELATING TO PRODUCT LIABILITY  
15 ACTIONS AGAINST MANUFACTURERS OF GENERAL  
16 AVIATION LIGHT AIRCRAFT OR MAKERS OF  
17 COMPONENTS FOR ANY AIRCRAFT."

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21 SECTION 1. Definitions. As used in this act:

22 (1) "Aircraft" means all other aircraft other than general aviation  
23 aircraft.

24 (2) "Aircraft component" means a manufactured part of assembly intended  
25 for use in the construction, replacement or repair of any aircraft whether a  
26 general aviation aircraft or otherwise. The term includes any complete  
27 aircraft subsystem, including the aircraft engine, that carries its own  
28 manufacturer's warranty or services provided separately from the warranty of  
29 the manufacturer of the aircraft.

30 (3) "Aviation manufacturer" means a manufacturer of aircraft or  
31 aircraft components who has its place of manufacture and place of production  
32 of aircraft or aircraft components located within this state. The term  
33 includes a manufacturer located in this state who imports raw materials,  
34 components, and aircraft subassemblies from outside the state for  
35 manufacturing purposes. The term also includes a person who modifies,  
36 maintains, alters, repairs or installs aircraft components in aircraft in

1 accordance with federal aviation administration regulations and holds a repair  
2 station certificate issued by the Federal Aviation Administration.

3 (4) "General aviation aircraft" means general aviation light craft  
4 that is powered and intended to fly above the ground, is designed to carry one  
5 (1) person or more, but with a maximum seating capacity of fewer than twenty  
6 (20) passengers, and weighs less than forty-one thousand (41,000) pounds  
7 (18,636.36 kilograms).

8 (5) "State-of-the-art product" means an aircraft or aircraft component  
9 manufactured by utilizing the most recent scientific, mechanical and  
10 technological developments at the time of manufacture.

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12 SECTION 2. Compliance with federal standards - Presumptions and  
13 defenses.

14 (a) There is a rebuttable presumption that a product is free from any  
15 defect or defective condition if the product was in compliance with:

16 (1) Government standards in existence at the time of manufacture  
17 of a product established for that product; or

18 (2) If no government standards exist, applicable industry  
19 standards that were in existence at the time of manufacture.

20 (b) A general aviation aircraft manufacturer, seller of general  
21 aviation aircraft, an aircraft component manufacturer, or seller of an  
22 aircraft component may utilize the presumption provided in subsection (a) of  
23 this section if the manufacture, design, and formulation, inspection, testing,  
24 packaging, labeling or warning complied with:

25 (1) Federal Aviation Administration or Department of  
26 Transportation regulations that relate to the safety or established safety  
27 standards for the general aviation aircraft, aircraft, or aircraft component,  
28 and which existed at the time the general aviation aircraft, aircraft, or  
29 aircraft component was produced;

30 (2) Any pre-market approval or certification by the Federal  
31 Aviation Administration or any other federal agency; and

32 (3) Applicable industry standards that were in existence at the  
33 time the plans, designs, warnings, or instructions for the general aviation  
34 aircraft, aircraft, or aircraft component if the methods and techniques for  
35 manufacturing, inspecting and testing the product were adopted.

36 (c) The presumption under subsection (a) of this section is not

1 available if the plaintiff proves by clear and convincing evidence that the  
2 aviation manufacturer or product seller knowingly and in violation of  
3 applicable agency regulations made misrepresentations, made illegal payments  
4 to an official for the purpose of securing approval, committed fraud, or  
5 concealed evidence.

6 (d) There is an absolute defense to any product liability action  
7 brought against a manufacturer of a general aviation aircraft or aircraft  
8 component when a claimant, in violation of Federal Aviation Administration  
9 regulations, has used alcohol or illicit drugs while operating or using a  
10 general aviation aircraft or aircraft component.

11 (e) The act does not effect the authority of the Federal Aviation  
12 Administration or any other federal agency with regard to the regulation of  
13 general aviation aircraft or aircraft components.

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15 SECTION 3. Useful safe life - Statute of repose - Statute of  
16 limitation.

17 (a) An aviation manufacturer of a general aviation aircraft or aircraft  
18 component may not be held liable in a product liability action if the  
19 defendant establishes that the harm was caused after the period of useful safe  
20 life of the general aviation aircraft or aircraft component had expired. The  
21 useful safe life of a general aviation aircraft or aircraft component may be  
22 measured in units of time or in other units that accurately gauge the useful  
23 safe life of a product.

24 (b) In a claim for relief that involves injury more than twelve (12)  
25 years after the date of first delivery of the general aviation aircraft or  
26 aircraft component to the first user, purchaser or lessee, a rebuttable  
27 presumption shall arise that the harm was caused after the useful safe life  
28 had expired. The presumption may only be rebutted by clear and convincing  
29 evidence that the general aviation aircraft or aircraft component had a useful  
30 safe life in excess of twelve (12) years. If the manufacturer or seller of  
31 any general aviation aircraft or component expressly warrants that its product  
32 can be utilized safely for a period longer than twelve (12) years, the period  
33 of repose is extended according to the warranty or promise.

34 (c) With respect to any aircraft component that replaced another  
35 product originally in, or which was added to, the general aviation aircraft or  
36 aircraft, and which is alleged to have caused the claimant\_s damages, no claim

1 for damages may be made after the useful safe life of the component, the  
 2 period stated in the warranty, or twelve (12) years after manufacture of the  
 3 component, whichever is later.

4 (d) A product liability action may not be brought more than two (2)  
 5 years after the time the claimant discovered, or in the exercise of due  
 6 diligence should have discovered, the harm and cause of action.

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8 SECTION 4. All provisions of this act of a general and permanent nature  
 9 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
 10 Revision Commission shall incorporate the same in the Code.

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12 SECTION 5. If any provision of this act or the application thereof to  
 13 any person or circumstance is held invalid, such invalidity shall not affect  
 14 other provisions or applications of the act which can be given effect without  
 15 the invalid provision or application, and to this end the provisions of this  
 16 act are declared to be severable.

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18 SECTION 6. All laws and parts of laws in conflict with this act are  
 19 hereby repealed.

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