
**Introduced by Senator Kopp
(Principal coauthor: Senator Thompson)**

December 11, 1996

An act to amend Section 1714.45 of the Civil Code, relating to product liability.

LEGISLATIVE COUNSEL'S DIGEST

SB 67, as introduced, Kopp. Product liability actions: tobacco.

Existing law exempts a manufacturer or seller from liability in a product liability action if (1) the product is inherently unsafe and is known to be unsafe by the ordinary consumer, as specified, and (2) the product is a common consumer product intended for personal consumption, such as sugar, castor oil, alcohol, tobacco, and butter, as specified.

This bill would delete tobacco from that illustrative list of common consumer products.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1714.45 of the Civil Code is
2 amended to read:

3 1714.45. (a) In a product liability action, a
4 manufacturer or seller shall not be liable if *both of the*
5 *following apply*:

6 (1) The product is inherently unsafe and the product
7 is known to be unsafe by the ordinary consumer who

1 consumes the product with the ordinary knowledge
2 common to the community;~~and.~~

3 (2) The product is a common consumer product
4 intended for personal consumption, such as sugar, castor
5 oil, alcohol, ~~tobacco~~, and butter, as identified in comment
6 i to Section 402A of the Restatement (Second) of Torts.

7 (b) For purposes of this section, the term “product
8 liability action” means any action for injury or death
9 caused by a product, except that the term does not
10 include an action based on a manufacturing defect or
11 breach of an express warranty.

12 (c) This section is intended to be declarative of and
13 does not alter or amend existing California law, including
14 Cronin v. J.B.E. Olson Corp., (1972) 8 Cal. 3d 121, and
15 shall apply to all product liability actions pending on, or
16 commenced after, January 1, 1988.

