

Product-Liability Reform

The nation's inconsistent and often contradictory product-liability regulations need reform

America's civil justice system is the most expensive in the world. In 2008, lawsuits cost small-businesses a staggering \$105.4 billion. The entrepreneurs who comprise NSBA warn that the costs and risks of frivolous lawsuits, outrageous punitive damages, and unfair product-liability regulations continue to threaten their small businesses. Common sense must be returned to our system of civil litigation, especially in regard to product liability.

The inconsistent and often contradictory product-liability regulations that exist across the country impose widely varying statutes of limitations, create uncertainty for businesses selling in a national marketplace, and too often allow for absurdly large awards.

The product-liability regulations in most states do not differentiate between the manufacturers and suppliers of defective goods and obligate both to compensate users for injuries resulting from the use of those goods. The result is that many small-retail businesses unfairly are included in lawsuits against the manufacturers of defective goods—despite the fact that as suppliers they were unaware of the defects and had no way of discovering them. The risk associated with these lawsuits is severe and disproportionate. In 2004, the median jury award in product-liability cases was \$1.8 million, and the plaintiff success rate was 61 percent.

NSBA supports the creation of a federal product-liability reform law. This would restore predictability and fairness to the marketplace.

NSBA supports product-liability reform that would create nationally-uniform statutes of limitations and “standards of repose,” which would disallow lawsuits over products over a certain age.

NSBA supports product-liability reform that explicitly defines the standards on what constitutes a defect and clearly stipulates that damages only are to be granted when a plaintiff demonstrates that a product was actually defective and that the defect resulted in harm.

NSBA believes that courts should be required to take the personal behavior of plaintiffs into account when determining liability—businesses should not be liable for injuries resulting from the misuse or alteration of their products.

Finally, NSBA supports a product liability standard that differentiates between manufacturers and suppliers and apportions damages based on the actual level of responsibility of each defendant.