

# Table of Contents

## CHAPTER 1. DEVELOPMENT OF GEORGIA PRODUCTS LIABILITY LAW

- § 1:1 Historical development of products liability law
- § 1:2 Pre-statutory development of Georgia law
- § 1:3 Post-enactment developments in Georgia law

## CHAPTER 2. STATUTORY LIABILITY

- § 2:1 Statutory liability generally
- § 2:2 “The manufacturer”
- § 2:3 “of any personal property”
- § 2:4 “sold”
- § 2:5 “as new property directly or through a dealer or any other person”
- § 2:6 “shall be liable in tort irrespective of privity”
- § 2:7 “to any natural person”
- § 2:8 “who may use, consume, or reasonably be affected by the property”
- § 2:9 “and who suffers injury to his person or property”
- § 2:10 “because the property when sold by the manufacturer was not merchantable and reasonably suited to the use intended”
- § 2:11 “and its condition when sold is the proximate cause of the injury sustained”

## CHAPTER 3. NEGLIGENCE

- § 3:1 Negligence generally
- § 3:2 Negligence per se
- § 3:3 Negligent testing or inspection
- § 3:4 Negligent distribution, sale, or marketing

## CHAPTER 4. WARRANTY: EXPRESS AND IMPLIED

- § 4:1 Express warranties
- § 4:2 Privity of contract
- § 4:3 Implied warranties in general
- § 4:4 Implied warranty of merchantability
- § 4:5 Implied warranty of fitness for a particular purpose
- § 4:6 Exclusion/modification of warranties and notice of breach

## **CHAPTER 5. MISREPRESENTATION: INTENTIONAL AND NEGLIGENT**

- § 5:1 Intentional misrepresentation
- § 5:2 Negligent misrepresentation
- § 5:3 Fair Business Practices Act

## **CHAPTER 6. MANUFACTURING DEFECTS**

- § 6:1 Manufacturing defects in general
- § 6:2 Strict liability for manufacturing defects
- § 6:3 Negligent manufacturing
- § 6:4 Liability for injuries caused by unwholesome or adulterated food and beverage

## **CHAPTER 7. DESIGN DEFECTS**

- § 7:1 Design defect generally
- § 7:2 Alternative product design
- § 7:3 Enhanced injuries—“Crashworthiness”
- § 7:4 Product alteration and misuse
- § 7:5 Compliance with federal regulations and industry standards
- § 7:6 Design defects: prescription drugs and devices

## **CHAPTER 8. WARNING OF DEFECTS**

- § 8:1 Duty to warn generally
- § 8:2 Anticipated use and product misuse
- § 8:3 Knowledge of risk
- § 8:4 Obvious, generally known, and actually known dangers
- § 8:5 Persons to be warned
- § 8:6 Adequacy of efforts to communicate a warning
- § 8:7 Post-sale duty to warn
- § 8:8 Duty to recall and/or remedy

## **CHAPTER 9. CAUSATION**

- § 9:1 Causation generally
- § 9:2 Factual causation
- § 9:3 Medical causation
- § 9:4 Proximate cause

## **CHAPTER 10. WHO CAN SUE AND WHO CAN BE SUED**

### **A. PROPER AND IMPROPER PLAINTIFFS**

- § 10:1 Consumers or users of the product

## TABLE OF CONTENTS

- § 10:2 Spouses
- § 10:3 Family, household members, and guests
- § 10:4 Bystanders and third parties
- § 10:5 Wrongful death plaintiffs

### **B. PROPER AND IMPROPER DEFENDANTS**

- § 10:6 Manufacturers
- § 10:7 Ostensible manufacturers
- § 10:8 Assemblers
- § 10:9 Component part manufacturers
- § 10:10 Raw materials suppliers
- § 10:11 Product sellers
- § 10:12 Trade associations
- § 10:13 Sellers of used goods
- § 10:14 Bailors and lessors
- § 10:15 Builder-sellers of homes
- § 10:16 Service providers
- § 10:17 Successor corporations
- § 10:18 Others

### **C. PARTY AND CASE MANAGEMENT**

- § 10:19 Consolidation
- § 10:20 Severance
- § 10:21 Class actions

## **CHAPTER 11. DEFENSES AND LIMITATIONS**

- § 11:1 Statute of limitations
- § 11:2 Statute of repose
- § 11:3 Contributory negligence
- § 11:4 Plaintiff's negligence as sole proximate cause
- § 11:5 Avoidance of consequences of defendant's negligence
- § 11:6 Comparative fault
- § 11:7 Assumption of the risk
- § 11:8 Obvious, generally known, and actually known dangers
- § 11:9 Product alteration or misuse
- § 11:10 Learned intermediary rule
- § 11:11 Bulk sales/sophisticated purchaser rule and the raw material supplier defense
- § 11:12 The economic loss rule
- § 11:13 Preemption
- § 11:14 Other defenses

## **CHAPTER 12. TRIAL ISSUES**

- § 12:1 Proving the defect
- § 12:2 Product identification
- § 12:3 Spoliation of evidence
- § 12:4 Standards of the industry and state of the art
- § 12:5 Substantial similarity of other occurrences or transactions
- § 12:6 Subsequent remedial measures
- § 12:7 Opening the door
- § 12:8 The need for expert testimony
- § 12:9 Admissibility of expert opinions
- § 12:10 Judicial scrutiny of scientific evidence
- § 12:11 —Federal standards
- § 12:12 —Georgia standards
- § 12:13 —Court-appointed experts and technical advisors

## **CHAPTER 13. DAMAGES**

- § 13:1 Personal injury damages
- § 13:2 Compensatory damages generally
- § 13:3 Physical pain and suffering
- § 13:4 Mental pain and suffering/emotional distress
- § 13:5 Property damage
- § 13:6 Economic loss
- § 13:7 Breach of warranty damages
- § 13:8 Punitive damages
- § 13:9 —Bifurcated proceedings: liability and amount
- § 13:10 —Liability
- § 13:11 —Amount
- § 13:12 Joint and several liability
- § 13:13 Contribution
- § 13:14 Indemnification
- § 13:15 —Uniform Commercial Code
- § 13:16 Apportionment of damages

## **APPENDICES**

Appendix A. Georgia Products Liability Cases By Industry  
1990-Present

Appendix B. Federal Products Liability Cases By Industry  
1990-Present

Appendix C. Jury Charges

**Table of Laws and Rules**

**Table of Cases**

TABLE OF CONTENTS

**Index**