



**PRODUCT LIABILITY IN ALL 50 STATES**

Product liability law in the United States of America is determined almost exclusively by each of the individual 50 states. As such, what is law in New York might not be the law in California. While some common principles are seen across the many states, the differences in the states’ laws can have a tremendous effect on the viability of a claim or the availability of a defense. This chart summarizes the various product liability laws in all 50 states, allowing a user to quickly reference product liability topics by state and to compare states’ laws side by side. However, laws are continually changing and this chart should not be relied on in forming any legal arguments, responding to complaints, or be construed as constituting legal advice in any way. Product liability matters are fact dependent, making each case unique. If you have questions, comments, or require additional information on any of the topics in this chart, we appreciate your feedback and encourage you to contact Attorney Rich Schuster at [rschuster@mw-law.com](mailto:rschuster@mw-law.com).

STATE	Statute of Limitations/ Repose	Liability Standards	Fault Allocations	Non-Economic Caps/Limits On Actual Damages	Punitive Y/N And Limits	Heeding Presumption?	Innocent Seller Statute	Joint and Several Liability	Available Defenses	Restatement 2 <sup>nd</sup> or 3 <sup>rd</sup>
ALABAMA	2 Years Personal Injury Wrongful Death Ala. Code § 6-2-38(1)	Negligence Warranty Other (Alabama Extended Manufacturer’s Liability Doctrine)	Pure Contributory	Wrongful Death Purely Punitive	Yes, Personal Injury Limit	No <i>Deere &amp; Co. v. Grose</i> , 586 So.2d 196, 198 (Ala. 1991).	Yes	Yes	Assumption of Risk; Preemption; Learned Intermediary; Alteration; Sophisticated User; Misuse; Compliance with Government Standards; Seatbelts	Both

STATE	Statute of Limitations/ Repose	Liability Standards	Fault Allocations	Non-Economic Caps/Limits On Actual Damages	Punitive Y/N And Limits	Heeding Presumption?	Innocent Seller Statute	Joint and Several Liability	Available Defenses	Restatement 2 <sup>nd</sup> or 3 <sup>rd</sup>
ALASKA	2 Years Personal Injury Wrongful Death Alaska Stat. § 09.10.070  Discovery Rule Applies  10 Years Statute of Repose Alaska Stat. § 09.10.055 (2005)	Negligence Strict Liability Consumer Expectation Warranty	Pure Comparative Alaska Stat. § 09.17.080	Non-Economic Cap	Yes (Limits)	No <i>Ellis v. Coleman Co.</i> , 2000 WL 1131893, at *2 (9 <sup>th</sup> Cir. 2000).	No	No	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Seatbelts; State of Art; Alcohol/Drugs	Both
ARIZONA	2 Years Personal Injury Wrongful Death A.R.S. § 12-542	Negligence Strict Liability Warranty Other	Pure Comparative A.R.S. § 12-2505.	No	Yes	Yes, Vanishing Presumption <i>Golonka v. General Motors Corp.</i> , 65 P.3d 956, 968-69 (Ariz. App. 2003); <i>Dole Food Co. v. N. Carolina Foam Industries, Inc.</i> , 935 P.2d 876, 883 (Ariz. App. 1996).	Indemnity Statute	No A.R.S. § 12-2506	Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of Art; Preemption; Seatbelts; Alcohol/Drugs; Sophisticated User	Both
ARKANSAS	3 Years Personal Injury Wrongful Death A.C.A. § 16-116-103	Negligence Strict Liability Warranty	Modified Comparative A.C.A. § 16-64-122	No	Yes	Yes <i>Bushong v. Garman Co.</i> , 843 S.W.2d 807, 811 (Ark. 1992).	No	No, Unless "In Concert"	Compliance With Government Standards; Government Contractor Defense; Learned Intermediary	Both

STATE	Statute of Limitations/ Repose	Liability Standards	Fault Allocations	Non-Economic Caps/Limits On Actual Damages	Punitive Y/N And Limits	Heeding Presumption?	Innocent Seller Statute	Joint and Several Liability	Available Defenses	Restatement 2 <sup>nd</sup> or 3 <sup>rd</sup>
CALIFORNIA	<p>2 Years Personal Injury Wrongful Death Cal. Civ. Proc. Code § 335.1</p> <p>Discovery Rule Applies</p> <p>4/10 Years Statute of Repose Cal. Civ. Proc. Code § 337.15</p>	<p>Negligence Strict Liability</p> <p>Consumer Expectation Warranty Other</p>	Pure Comparative	Yes	Yes	No <i>Huitt v. Southern California Gas Co.</i> , 116 Cal. Rptr.3d 453, 467-68 (Cal. App. 2010).	No	Yes, for Economic Damage Cal. Civ. Code § 1431.2.	<p>Assumption of Risk; Misuse; Government Contractor Defense; Alteration; Learned Intermediary; Inherently Unsafe Products; State of Art; Presumption; Compliance With Government Standards; Seatbelts; Alcohol/Drugs; Sophisticated User</p>	Both
COLORADO	<p>3 Years Personal Injury Wrongful Death C.R.S. § 4-2-725</p> <p>Discovery Rule Applies</p> <p>10 Years Statute of Repose C.R.S. § 13-21-403(3)</p>	<p>Negligence Strict Liability Warranty</p>	Pure Comparative C.R.S. § 13-21-406(1)	Non-Economic Cap	Yes (Limits)	Yes <i>Staley v. Bridgestone/Firestone, Inc.</i> , 106 F.3d 1504, 1509 (10 <sup>th</sup> Cir. 1997).	Yes C.R.S. § 13-21-402(1), (2)	No C.R.S. § 13-21-111.5	<p>Assumption of Risk; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of Art; Presumption; Compliance With Government Standards; Seatbelts; Alcohol/Drugs</p>	Restatement 3 <sup>rd</sup>
CONNECTICUT	<p>3 Years Personal Injury Wrongful Death C.G.S.A. § 52-577a</p> <p>Discovery Rule Applies</p> <p>10 Years Statute of Repose C.G.S.A. § 52-577a(a)</p>	<p>Negligence Strict Liability Warranty Other C.G.S.A. 52-572m, <i>et seq.</i></p>	Pure Comparative C.G.S.A. § 52-572(h)	No	No	No <i>DeJesus v. Craftsman Machine Co.</i> , 548 A.2d 736 (Conn. App. 1988).	No C.G.S.A. § 52-572m(b)	Yes C.G.S.A. § 52-572o	<p>Assumption of Risk; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Government Contractor Defense; Presumption; Sophisticated User</p>	Both

STATE	Statute of Limitations/ Repose	Liability Standards	Fault Allocations	Non-Economic Caps/Limits On Actual Damages	Punitive Y/N And Limits	Heeding Presumption?	Innocent Seller Statute	Joint and Several Liability	Available Defenses	Restatement 2 <sup>nd</sup> or 3 <sup>rd</sup>
DELAWARE	2 Years Personal Injury Wrongful Death 10 Del. C. § 8119  6 Years Statute of Repose 10 Del. C. § 8127	Negligence Warranty	Modified Comparative 10 Del. C. § 8132	No	Yes	No Never adopted strict liability or Restatement (Second) of Torts § 402A (1965).	Yes 18 Del. C. § 7001	Yes 10 Del. C. § 6301, et seq.	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; Presumption; Sophisticated User	Neither
DISTRICT OF COLUMBIA	3 Years Personal Injury D.C. Code § 12-301  1 Year Wrongful Death D.C. Code § 12-301  Discovery Rule Applies	Negligence Strict Liability Warranty	Pure Contributory Except Strict Liability	No	Yes	Yes	No	Yes	Assumption of Risk; Misuse; Alteration; Learned Intermediary; State of the Art; Government Contractor Defense; Presumption; Sophisticated User	Both
FLORIDA	4 Years Personal Injury F.S.A. § 95.11 (3)(e)  12 Years Statute of Repose F.S.A. § 95.031(b)	Strict Liability	Pure Comparative F.S.A. § 768.81(2)	Paid Meds	Yes (Limits)	No	Yes	No F.S.A. § 768.81	Assumption of Risk; Misuse; Learned Intermediary; Inherently Unsafe Products; State of the Art; Presumption; Seatbelts; Government Contractor Defense; Compliance With Government Standards	Restatement 3 <sup>rd</sup>

STATE	Statute of Limitations/ Repose	Liability Standards	Fault Allocations	Non-Economic Caps/Limits On Actual Damages	Punitive Y/N And Limits	Heeding Presumption?	Innocent Seller Statute	Joint and Several Liability	Available Defenses	Restatement 2 <sup>nd</sup> or 3 <sup>rd</sup>
GEORGIA	2 Years Personal Injury Wrongful Death O.C.G.A. § 9-3-33  Discovery Rule Applies  10 Years Statute of Repose O.C.G.A. § 51-1-11(b)(2)	Negligence Strict Liability Warranty	Modified Comparative O.C.G.A. §§ 51-12-31, 51- 12-33 (2011)	No	Yes (Limits)	Unresolved	No	No O.C.G.A. § 51-12-33	Assumption of Risk; Misuse; Alteration; Learned Intermediary; State of the Art; Compliance With Government Standards; Presumption; Sophisticated User	Restatement 3 <sup>rd</sup>
HAWAII	2 Years Personal Injury Wrongful Death Haw. Rev. Stat. § 657-13  Discovery Rule Applies	Negligence Strict Liability	Modified Comparative (Pure For Strict Liability) Haw. Rev. Stat. § 663- 31	No	Yes	No	No	No Haw. Rev. Stat. § 663- 10.9	Misuse; Government Contractor Defense; Alteration; Inherently Unsafe Products	Both
IDAHO	2 Years Personal Injury Wrongful Death Idaho Code § 6- 1403(3)  10 Years Statute of Repose Idaho Code § 6- 1403(2)	Negligence Strict Liability Warranty	Modified Comparative Idaho Code § 6-1404	Non- Economic Cap	Yes (Limits)	Limited	Yes Idaho Code § 6-1407	No Idaho Code § 6-803	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Presumption; Alcohol/Drugs; Seatbelts; Sophisticated User	Restatement 2 <sup>nd</sup>

STATE	Statute of Limitations/ Repose	Liability Standards	Fault Allocations	Non-Economic Caps/Limits On Actual Damages	Punitive Y/N And Limits	Heeding Presumption?	Innocent Seller Statute	Joint and Several Liability	Available Defenses	Restatement 2 <sup>nd</sup> or 3 <sup>rd</sup>
ILLINOIS	2 Years Personal Injury Wrongful Death 735 I.L.C.S. § 5/13-202  Discovery Rule Applies  12 Years Statute of Repose 735 I.L.C.S. § 5/13-213(b)	Negligence Strict Liability Warranty	Modified Comparative 735 I.L.C.S. § 5/2-1116	No	Yes	No	Yes	Yes 735 I.L.C.S. § 5/2-1117	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Government Contractor Defense; Presumption; Compliance With Government Standards; Sophisticated User	Both
INDIANA	2 Years Personal Injury Wrongful Death I.C. § 34-20-3-1(b)  Discovery Rule Applies  10 Years Statute of Repose I.C. § 34-20-3-1(b)(2)	Negligence Strict Liability Warranty	Modified Comparative I.C. § 34-51-2-7, 8, and 9	No	Yes (Limits)	Yes <i>Ortho Pharmaceutical Corp. v. Chapman</i> , 388 N.E.2d 541, 555 (Ind. App. 1979).	No I.C. § 34-20-2-3	No I.C. § 34-51-2-8	Assumption of Risk; Misuse; Alteration; Learned Intermediary; State of the Art; Government Contractor Defense; Presumption; Compliance With Government Standards; Sophisticated User	Neither
IOWA	2 Years Personal Injury Wrongful Death I.C.A. § 614.1  Discovery Rule Applies  15 Years Statute of Repose I.C.A. § 614.1(2)(A) (2011)	Negligence Strict Liability Warranty	Modified Comparative I.C.A. § 668.3(1)(b).	No	Yes	No	Yes I.C.A. § 613.18	Yes, if ≥ 50%. I.C.A. § 668.4 (2011).	Assumption of Risk; Misuse; Alteration; State of the Art; Presumption; Seatbelts	Restatement 3 <sup>rd</sup>

STATE	Statute of Limitations/ Repose	Liability Standards	Fault Allocations	Non-Economic Caps/Limits On Actual Damages	Punitive Y/N And Limits	Heeding Presumption?	Innocent Seller Statute	Joint and Several Liability	Available Defenses	Restatement 2 <sup>nd</sup> or 3 <sup>rd</sup>
KANSAS	2 Years Personal Injury Wrongful Death K.S.A. § 60-513 (1996)  Discovery Rule Applies  10 Years Statute of Repose K.S.A. § 60-513 (1996)	Negligence Strict Liability Warranty	Modified Comparative K.S.A. § 60- 258a(a) (1987)	Yes	Yes (Limits)	Yes  <i>Wooderson v. Ortho Pharmaceutical Corp.</i> , 681 P.2d 1038, 1057-58 (Kan. 1984).	Yes	No K.S.A. § 60-258a	Sophisticated User; Presumption; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; Compliance With Government Standards; Assumption of Risk	Both
KENTUCKY	1 Year Personal Injury Wrongful Death K.R.S. § 413.140  Discovery Rule Applies	Negligence Strict Liability Warranty	Pure Comparative K.R.S. § 411.182	No	Yes	Yes  <i>Snawder v. Cohen</i> , 749 F. Supp. 1473, 1479-80 (W.D. Ky. 1990).	Yes	No K.R.S. § 411.182	Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Government Contractor Defense; Presumption; Compliance With Government Standards; Seatbelts; Alcohol/Drugs; Sophisticated User	Both
LOUISIANA	1 Year Personal Injury Wrongful Death L.S.A.-C.C. Art. 3492  Discovery Rule Applies	Other	Pure Comparative L.S.A.-C.C. Art. 2323	No	No	Yes Rebuttable  <i>Bloxom v. Bloxom</i> , 512 So.2d 839, 850 (La. 1987).	Yes L.S.A.-C.C. Art. 2531	Yes La. Civ. Code Art. 2324	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Presumption; Alcohol/Drugs; Sophisticated User	Restatement 3 <sup>rd</sup>

STATE	Statute of Limitations/ Repose	Liability Standards	Fault Allocations	Non-Economic Caps/Limits On Actual Damages	Punitive Y/N And Limits	Heeding Presumption?	Innocent Seller Statute	Joint and Several Liability	Available Defenses	Restatement 2 <sup>nd</sup> or 3 <sup>rd</sup>
MAINE	6 Years Personal Injury 14 M.R.S.A. § 752  2 Years Wrongful Death 18-A M.R.S.A. § 2-804(b)	Negligence Strict Liability Warranty Other	Modified Comparative 14 M.R.S.A. § 156	Yes	Yes	No	No	Yes 14 M.R.S.A. § 156-A	Assumption of Risk; Misuse; Alteration; Learned Intermediary; State of the Art; Government Contractor Defense; Sophisticated User	Restatement 3 <sup>rd</sup>
MARYLAND	3 Years Personal Injury Wrongful Death Md. Cts. & Jud. Proc. § 5-101  Discovery Rule Applies	Negligence Strict Liability Warranty	Pure Contributory Except Strict Liability	Non-Economic Cap Md. Cts. & Jud. Proc. § 11-108(b)	Yes	Yes <i>U.S Gypsum Co. v. Mayor of Baltimore</i> , 647 A.2d 405, 413 (Md. 1994); <i>Eagle-Picher Industries, Inc. v. Balbos</i> , 604 A.2d 445, 468-69 (Md. 1992).	Yes Md. Cts. & Jud. Proc. § 5-405	Yes Md. Code § 3-1401	Assumption of Risk; Misuse; Alteration; Learned Intermediary; State of the Art; Presumption; Sophisticated User	Both
MASSACHUSETTS	3 Years Personal Injury Wrongful Death M.G.L.A. 260 § 2A  Discovery Rule Applies  7 Years Statute of Repose M.G.L.A. 260 § 2B	Negligence	Modified Comparative M.G.L.A. 231 § 85	No	Yes	Yes <i>Evans v. Lorillard Tobacco Co.</i> , 990 N.E.2d 997, 1023-24 (Mass. 2013) (following <i>Harlow v. Chin</i> , 545 N.E.2d 602, 606 (Mass. 1989)).	No	Yes Ann L. Mass. Ch. 231B, § 1	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Presumption; Alcohol/Drugs; Sophisticated User	Both



STATE	Statute of Limitations/ Repose	Liability Standards	Fault Allocations	Non-Economic Caps/Limits On Actual Damages	Punitive Y/N And Limits	Heeding Presumption?	Innocent Seller Statute	Joint and Several Liability	Available Defenses	Restatement 2 <sup>nd</sup> or 3 <sup>rd</sup>
MICHIGAN	3 Years Personal Injury Wrongful Death M.C.L.A. § 600.5805(13)  6/10 Years Statute of Repose M.C.L.A. § 600.5839(1)(a),(b)	Negligence  Wrongful Death	Pure Comparative M.C.L.A. § 600.2959	Non-Economic Cap	No	No	Yes M.C.L.A. § 600.2947 (6)	No M.C.L.A. § 600.6304	Assumption of Risk; Misuse; Alteration; State of the Art; Presumption; Compliance With Government Standards; Seatbelts; Alcohol/Drugs; Sophisticated User	Restatement 3 <sup>rd</sup>
MINNESOTA	6 Years Personal Injury M.S.A. 541.05  3 Years Wrongful Death M.S.A. § 573.02  (4 Years – Strict Liability) M.S.A. § 541.07	Negligence  Strict Liability  Warranty	Modified Comparative M.S.A. § 604.01(1)	No	Yes	No	Yes M.S.A. § 544.41	Yes, if > 50%. M.S.A. § 604.02	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Presumption; Compliance With Government Standards; Alcohol/Drugs; Sophisticated User	Neither
MISSISSIPPI	3 Years Personal Injury Wrongful Death M.C.A. § 15-1-49  Discovery Rule Applies	Negligence  Strict Liability  Warranty	Pure Comparative M.C.A. § 11-7-15	Yes	Yes (Limits)	Yes <i>Thomas v. Hoffman-La-Roche, Inc.</i> , 949 F.2d 806 (5 <sup>th</sup> Cir. 1992).	Yes M.C.A. § 11-1-63(h)	No M.C.A. § 85-5-7	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Presumption; Alcohol/Drugs; Sophisticated User	Restatement 3 <sup>rd</sup>

STATE	Statute of Limitations/ Repose	Liability Standards	Fault Allocations	Non-Economic Caps/Limits On Actual Damages	Punitive Y/N And Limits	Heeding Presumption?	Innocent Seller Statute	Joint and Several Liability	Available Defenses	Restatement 2 <sup>nd</sup> or 3 <sup>rd</sup>
MISSOURI	5 Years Personal Injury Mo. Rev. Stat. § 516.120(4) (2002)  3 Years Wrongful Death Mo. Rev. Stat. § 537.100 (2000)  Discovery Rule Applies	Negligence Strict Liability Warranty	Pure Comparative Mo. Rev. Stat. § 537.765.1 (2000)	No	Yes	Yes <i>Moore v. Ford Motor Co.</i> , 332 S.W.3d 749, 762-63 (Mo. 2011); <i>Arnold v. Ingersoll-Rand Co.</i> , 834 S.W.2d 192, 194 (Mo. 1992).	Yes Mo. Rev. Stat. § 537.762.1 and .2 (2000)	Yes Mo. Rev. Stat. § 537.067	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Government Contractor Defense; Presumption; Alcohol/Drugs; Sophisticated User	Both
MONTANA	3 Years Personal Injury Wrongful Death Mont. Stat. § 27-2-202  Discovery Rule Applies	Negligence Strict Liability Warranty	Modified Comparative Mont. Stat. § 27-1-702	No	Yes (Limits)	No	No (Upstream Indemnity) Mont. Stat. § 27-1-719	Yes, if ≥ 51%. Mont. Stat. § 27-1-703	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Government Contractor Defense; Presumption; Alcohol/Drugs; Sophisticated User	Neither
NEBRASKA	4 Years Personal Injury Neb. Rev. Stat. § 25-224 (Reissue 1995)  2 Years Wrongful Death Neb. Rev. Stat. §§ 30-809, 30-810  10 Years Statute of Repose Neb. Rev. Stat. § 25-224(2)	Negligence Strict Liability Warranty	Modified Comparative Neb. Rev. Stat. §§ 25-21 and 185.11.	No	No	Yes (Competing Authorities)	Yes Neb. Rev. Stat. § 25-21,181	Yes Neb. Rev. Stat. §§ 25-21, 185.10	Assumption of Risk; State of the Art; Misuse; Learned Intermediary; Inherently Unsafe Products; Presumption; Sophisticated User; Alteration	Restatement 2 <sup>nd</sup>

STATE	Statute of Limitations/ Repose	Liability Standards	Fault Allocations	Non-Economic Caps/Limits On Actual Damages	Punitive Y/N And Limits	Heeding Presumption?	Innocent Seller Statute	Joint and Several Liability	Available Defenses	Restatement 2 <sup>nd</sup> or 3 <sup>rd</sup>
NEVADA	2 Years Personal Injury Wrongful Death N.R.S. § 11.190(4)(e)  Discovery Rule Applies	Negligence Strict Liability Warranty	Modified Comparative N.R.S. § 41-141(5)(a) and (3)	No	Yes (Limits)	No <i>Rivera v. Philip Morris, Inc.</i> , 209 P.3d 271 (Nev. 2009)	No	Yes N.R.S. § 41-141	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Government Contractor Defense; Presumption; Compliance With Government Standards; Alcohol/Drugs	Both
NEW HAMPSHIRE	3 Years Personal Injury Wrongful Death N.H. Rev. Stat. Ann. § 508:4  Discovery Rule Applies  8 Years Statute of Repose (Construction) N.H. Rev. Stat. Ann. § 508: 4-b	Negligence Strict Liability Warranty	Modified Comparative N.H. Rev. Stat. Ann. § 507:7(d)	No	No	No	No	Yes, if > 50%. N.H. Rev. Stat. Ann § 507:7-e	Assumption of Risk; Misuse; Alteration; Learned Intermediary; State of the Art; Presumption	Both
NEW JERSEY	2 Years Personal Injury Wrongful Death N.J.S.A. § 2A:14-2  Discovery Rule Applies  10 Years Statute of Repose N.J.S.A. § 2A:14-1.1	Strict Liability Consumer Expectation Warranty	Modified Comparative N.J.S.A. § 2A:15-5.1.	Yes	Yes (Limits)	Yes, Rebuttable	Yes N.J.S.A. 2A:58C-9(b)	Yes, if ≥ 60%. N.J.S.A. § 2A:15-5.3	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Government Contractor Defense; Presumption; Seatbelts; Alcohol/Drugs; Sophisticated User	Restatement 3 <sup>rd</sup>

STATE	Statute of Limitations/ Repose	Liability Standards	Fault Allocations	Non-Economic Caps/Limits On Actual Damages	Punitive Y/N And Limits	Heeding Presumption?	Innocent Seller Statute	Joint and Several Liability	Available Defenses	Restatement 2 <sup>nd</sup> or 3 <sup>rd</sup>
NEW MEXICO	3 Years From Injury N.M.S.A. § 37-1-8 (1978)	Negligence Strict Liability Warranty	Pure Comparative	No	Yes	No	No	Yes, in Chain of Distribution N.M.S.A. § 41-3A-1	Assumption of Risk; Misuse; Alteration; Learned Intermediary; State of the Art; Sophisticated User; Presumption	Restatement 3 <sup>rd</sup>
NEW YORK	3 Years Personal Injury N.Y. C.P.L.R. § 214, <i>et seq.</i>  2 Years Wrongful Death N.Y. Est. Powers & Trusts Law § 5-4.1  Discovery Rule Applies (Toxic Substance)	Negligence Strict Liability Warranty	Pure Comparative N.Y. C.P.L.R. § 1411	No	Yes	Unresolved	No	Yes, (With Exceptions) N.Y. C.P.L.R. § 1601	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Government Contractor Defense; Presumption; Compliance With Government Standards; Seatbelts; Alcohol/Drugs; Sophisticated User	Restatement 3 <sup>rd</sup>

STATE	Statute of Limitations/ Repose	Liability Standards	Fault Allocations	Non-Economic Caps/Limits On Actual Damages	Punitive Y/N And Limits	Heeding Presumption?	Innocent Seller Statute	Joint and Several Liability	Available Defenses	Restatement 2 <sup>nd</sup> or 3 <sup>rd</sup>
NORTH CAROLINA	<p>3 Years Personal Injury N.C.G.S.A. § 1-52(1)</p> <p>2 Years Wrongful Death N.C.G.S.A. § 1-53(4)</p> <p>4 Years Uniform Commercial Code Unfair and Deceptive Trade Practices N.C.G.S.A. § 25-2-725(1)</p> <p>12 Years Statute of Repose N.C.G.S.A. § 1-46.1(1)</p>	Negligence Warranty	Pure Contributory N.D.C.C. § 32-03.2-02	Yes (Paid/ Incurred Medical Expenses)	Yes (Limits)	No Never adopted strict liability or <i>Restatement (Second) of Torts</i> § 402A (1965).	Yes N.C.G.S.A. § 99B-2(a)	Yes N.C.G.S.A. § 1B-2	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Presumption; Sophisticated User	<i>Restatement</i> 3 <sup>rd</sup>
NORTH DAKOTA	<p>6 Years Personal Injury N.D.C.C. § 28-01-16</p> <p>2 Years Wrongful Death N.D.C.C. § 28-01-18(4)</p> <p>Discovery Rule Applies</p>	Negligence Strict Liability Warranty	Modified Comparative	No	Yes (Limits)	Yes <i>Crowston v. Goodyear Tire &amp; Rubber Co.</i> , 521 N.W.2d 401, 410 (N.D. 1994); <i>Butz v. Werner</i> , 438 N.W.2d 509, 517 (N.D. 1989).	Yes N.D.C.C. § 28-01.3-05	No N.D.C.C. § 32-03.2-02	Assumption of Risk; Misuse; Alteration; Compliance With Government Standards	Neither

STATE	Statute of Limitations/ Repose	Liability Standards	Fault Allocations	Non-Economic Caps/Limits On Actual Damages	Punitive Y/N And Limits	Heeding Presumption?	Innocent Seller Statute	Joint and Several Liability	Available Defenses	Restatement 2 <sup>nd</sup> or 3 <sup>rd</sup>
OHIO	<p>2 Years Personal Injury Wrongful Death O.R.C.A. § 2305.10(A)</p> <p>Discovery Rule Applies</p> <p>10 Years Statute of Repose O.R.C.A. § 2305.10(C)(1)</p>	Strict Liability	Modified Comparative O.R.C.A. § 2315.33	Yes (With Exceptions)	Yes	Yes Rebuttable <i>Seley v. G.D. Searle Co.</i> , 423 N.E.2d 831, 838 (Ohio 1981).	Yes	Yes O.R.C.A. § 2307.22	Assumption of Risk; Unforeseeable Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; Sophisticated User	Both
OKLAHOMA	<p>2 Years Personal Injury Wrongful Death Okla. Stat. Ann. Tit. 12 § 95(3)</p> <p>Discovery Rule Applies</p> <p>10 Years Statute of Repose Okla. Stat. Ann. Tit. 12 § 109</p>	Negligence	Modified Comparative Okla. Stat. Ann. Tit. 23 § 13	Yes (With Exceptions)	Yes (Limits)	Yes <i>Cunningham v. Charles Pfizer &amp; Co.</i> , 532 P.2d 1377, 1382 (Okla. 1974).	Yes	Several Only 23 Okla. Stat. Ann. § 15	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Government Contractor Defense; Presumption; Alcohol/Drugs; Sophisticated User	Both
OREGON	<p>2 Years Personal Injury O.R.S. § 30.905(1)</p> <p>3 Years Wrongful Death O.R.S. § 30.905(3)</p> <p>Discovery Rule Applies</p> <p>10 Years Statute of Repose O.R.S. § 30.905(2)(a)</p>	Negligence Strict Liability Warranty	Modified Comparative O.R.S. § 31.600	Yes (With Exceptions)	Yes	No <i>McPike v. Enciso's Cocina Mejicana, Inc.</i> , 762 P.2d 315, 319 (Or. App. 1988).	No (Upstream Indemnity)	Several Only (With Exceptions) O.A.R. § 31-610	Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Presumption; Compliance With Government Standards; Seatbelts	Both

STATE	Statute of Limitations/ Repose	Liability Standards	Fault Allocations	Non-Economic Caps/Limits On Actual Damages	Punitive Y/N And Limits	Heeding Presumption?	Innocent Seller Statute	Joint and Several Liability	Available Defenses	Restatement 2 <sup>nd</sup> or 3 <sup>rd</sup>
PENNSYLVANIA	2 Years Personal Injury Wrongful Death 42 Pa. C.S.A. § 5524(2)  Discovery Rule Applies	Strict Liability Warranty	Modified Comparative 42 P.S. § 7102	No	Yes	Yes <i>Coward v. Owens-Corning Fiberglas Corp.</i> , 729 A.2d 614, 620-21 (Pa. Super. 1999).	No	Yes, if ≥ 60%. 42 P.S. § 7102	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Government Contractor Defense; Presumption; Sophisticated User	Restatement 3 <sup>rd</sup>
RHODE ISLAND	3 Years Personal Injury Wrongful Death R.I.G.L. § 9-1-14(b)  Discovery Rule Applies	Negligence Strict Liability Warranty	Pure Comparative R.I.G.L. § 9-20-4	No	Yes	Yes	No	Yes R.I.G.L. § 10-6-2	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Government Contractor Defense; Presumption; Sophisticated User	Restatement 2 <sup>nd</sup>
SOUTH CAROLINA	3 Years Personal Injury Wrongful Death S.C. Code Ann. §§ 15-3-530, 535, 545 (1976)  Discovery Rule Applies  8 Years Statute of Repose (Improvements) S.C. Code Ann. § 15-3-640	Negligence Strict Liability Warranty	Modified Comparative	No	Yes (Qualified Limits)	No <i>Branham v. Ford Motor Co.</i> , 701 S.E.2d 5, 14-16 (S.C. 2010)	No	Yes, if ≥ 50%. S.C. Code Ann. § 15-38-15	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Presumption; Sophisticated User	Restatement 3 <sup>rd</sup>
SOUTH DAKOTA	3 Years Personal Injury Wrongful Death S.D.C.L. § 15-2-12.2  Discovery Rule Applies	Negligence Strict Liability Warranty	Modified Comparative S.D.C.L. § 20-9-2	No	Yes	No	Yes S.D.C.L. § 20-9-9	Yes S.D.C.L. § 15-8-11	Assumption of Risk; Misuse; Alteration; State of the Art; Presumption	Neither

STATE	Statute of Limitations/ Repose	Liability Standards	Fault Allocations	Non-Economic Caps/Limits On Actual Damages	Punitive Y/N And Limits	Heeding Presumption?	Innocent Seller Statute	Joint and Several Liability	Available Defenses	Restatement 2 <sup>nd</sup> or 3 <sup>rd</sup>
TENNESSEE	<p>1 Year Personal Injury Wrongful Death T.C.A. § 28-3-104</p> <p>3 Years Property Damage T.C.A. § 28-3-105</p> <p>4 Years Breach of Warranty T.C.A. § 47-2-725(1)</p> <p>Discovery Rule Applies</p> <p>10 Years Statute of Repose T.C.A. § 29-28-103</p>	Negligence Strict Liability Warranty	Modified Comparative <i>McIntyre v. Balentine</i> , 833 S.W.2d 52 (Tenn. 1992).	Yes	Yes (Limits)	No <i>Payne v. Novartis Pharmaceutical Corp.</i> , 767 F.3d 526 (6 <sup>th</sup> Cir. 2014).	Yes T.C.A. § 29-28-106	Limited	Misuse; Alteration; Learned Intermediary; State of the Art; Compliance With Government Standards; Seatbelts; Alcohol/Drugs	Restatement 2 <sup>nd</sup>
TEXAS	<p>2 Years Personal Injury Wrongful Death Tex. Civ. Prac. &amp; Rem. Code Ann. § 16.003(a) (Vernon 2006)</p> <p>Discovery Rule Applies</p> <p>15 Years Statute of Repose Tex. Civ. Prac. &amp; Rem. Code Ann. § 16.012</p>	Negligence Strict Liability Warranty	Modified Comparative Tex. Civ. Prac. & Rem. Code Ann. §§ 33.001- 33.017	Yes	Yes (Limits)	Limited	Yes Tex. Civ. Prac. & Rem. Code Ann. §82.002(a)	Yes, if > 50%. Tex. Civ. Prac. § 33.013	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Government Contractor Defense; Presumption; Compliance With Government Standards; Seatbelts; Alcohol/Drugs; Sophisticated User	Restatement 3 <sup>rd</sup>



STATE	Statute of Limitations/ Repose	Liability Standards	Fault Allocations	Non-Economic Caps/Limits On Actual Damages	Punitive Y/N And Limits	Heeding Presumption?	Innocent Seller Statute	Joint and Several Liability	Available Defenses	Restatement 2 <sup>nd</sup> or 3 <sup>rd</sup>
UTAH	2 Years Personal Injury Wrongful Death U.C.A. § 78B-6-706	Negligence Strict Liability Warranty	Modified Comparative U.C.A. § 78B-5-818(2)	No	Yes	Yes <i>House v. Armour of America, Inc.</i> , 929 P.2d 340, 347 (Utah 1996).	Yes	No U.C.A. § 78B-5-818	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Presumption; Compliance With Government Standards; Sophisticated User	Restatement 2 <sup>nd</sup>
VERMONT	3 Years Personal Injury Vt. Stat. Ann. Tit. 12, § 512(4)  2 Years Wrongful Death Vt. Stat. Ann. Tit. 14, § 1492  Discovery Rule Applies  4 Years U.C.C. Warranty Vt. Stat. Ann. Tit. 9A, § 2-725	Negligence Strict Liability Warranty	Modified Comparative Vt. Stat. Ann. Tit. 12, § 1036	No	Yes	Yes Rebuttable <i>Needham v. Coordinated Apparel Group</i> , 811 A.2d 124, 129 (2002); <i>Menard v. Newhall</i> , 373 A.2d 505, 506 (Vt. 1977).	No	Yes 12 Vt. Stat. Ann. § 1036	Assumption of Risk; Presumption; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Government Contractor Defense; Compliance With Government Standards; Alcohol/Drugs	Restatement 2 <sup>nd</sup>
VIRGINIA	2 Years Personal Injury Wrongful Death Va. St. § 8.01-243(A)  Discovery Rule Applies	Negligence Warranty	Pure Contributory	No	Yes (Limits)	Yes	No	Yes Va. St. § 8.01-443	Assumption of Risk; Presumption; Misuse; Alteration; Learned Intermediary; Sophisticated User	Neither

STATE	Statute of Limitations/ Repose	Liability Standards	Fault Allocations	Non-Economic Caps/Limits On Actual Damages	Punitive Y/N And Limits	Heeding Presumption?	Innocent Seller Statute	Joint and Several Liability	Available Defenses	Restatement 2 <sup>nd</sup> or 3 <sup>rd</sup>
WASHINGTON	3 Years Personal Injury Wrongful Death R.C.W.A. § 4.16.080	Negligence Strict Liability Warranty	Pure Comparative R.C.W.A. §§ 4.22.005-015	No	No	Yes <i>Luttrell v. Novartis Pharmaceutical Corp.</i> , 894 F. Supp.2d 1324, 1345 n.16 (E.D. Wash. 2012).	Yes (With Exceptions)	Several Only (w/Exceptions) R.C.W.A. § 4.22.070	Assumption of Risk; Presumption; Misuse; Alteration; Learned Intermediary; State of the Art; Government Contractor Defense; Compliance With Government Standards; Seatbelts; Alcohol/Drugs	Both
WEST VIRGINIA	2 Years Personal Injury Wrongful Death W. Va. Code § 55-2-12  Discovery Rule Applies	Negligence Strict Liability Warranty	Modified Comparative W. Va. Code § 55-7-13a to § 55-7-13d (effective 5/15/15)	No	Yes (Limits)	No <i>Muzichuck v. Forest Laboratories, Inc.</i> , C.A. No. 1:07CV16, slip op. at 30 (N.D.W. Va. Jan. 13, 2015).	No	Several Only (With Exceptions) W. Va. Code § 55-7-13a to § 55-7-13d (amended 3/5/15)	Assumption of Risk; Presumption; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Government Contractor Defense; Compliance With Government Standards; Seatbelts; Sophisticated User	Undecided
WISCONSIN	3 Years Personal Injury With Discovery Rule Applies Wis. Stat. § 893.54(1m)  3 Years Wrongful Death Wis. Stat. § 893.54(2)  15 Years Statute of Repose Wis. Stat. § 895.047(5)	Negligence Strict Liability Other	Modified Comparative Wis. Stat. § 895.045(1)	Yes	Yes (Limits)	No Wis. Stat. § 895.047(1)(e).	Yes	Yes, if > 50%. Wis. Stat. §895.045	Alcohol/Drugs; Alteration; Assumption of Risk (Contrib.); Inherently Unsafe Products; Presumption; Misuse; Seatbelts; State of the Art; Sophisticated User	Restatement 3 <sup>rd</sup>

STATE	Statute of Limitations/ Repose	Liability Standards	Fault Allocations	Non-Economic Caps/Limits On Actual Damages	Punitive Y/N And Limits	Heeding Presumption?	Innocent Seller Statute	Joint and Several Liability	Available Defenses	Restatement 2 <sup>nd</sup> or 3 <sup>rd</sup>
<b>WYOMING</b>	<p>4 Years Personal Injury/ Strict Liability Wyo. Stat. §1-3-105(a)(iv)(C)</p> <p>2 Years Wrongful Death Wyo. Stat. §1-38-102(d)</p> <p>10 Years Statute of Repose Wyo. Stat. §1-3-111</p>	Negligence Strict Liability Warranty	Pure Comparative Wyo. Stat. § 1-1-109(b)	No	Yes	Limited	No	No Wyo. Stat. § 1-1-109	Assumption of Risk; Presumption; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Government Contractor Defense; Compliance With Government Standards; Seatbelts; Alcohol/Drugs; Sophisticated User	Restatement 2 <sup>nd</sup>
<b>CANADA COMMON LAW</b>	<p>2 Years Personal Injury Wrongful Death Discovery Rule Applies</p>	Negligence Strict Liability Warranty	Pure Contributory	Yes	Yes (Limits)	No	Varies by Province	Yes	Assumption of Risk; Misuse; Alteration; Learned Intermediary; Inherently Unsafe Products; State of the Art; Compliance With Government Standards; Seatbelts; Alcohol/Drugs	
	Important Caveat/ Distinction	Laws vary by province. This is a generalization of the law in the common law provinces. Aside from the province of Quebec, all provinces follow the common law. Quebec follows the civil code; laws can be substantially different under the civil code.								

These materials and other materials promulgated by Matthiesen, Wickert & Lehrer, S.C. may become outdated or superseded as time goes by. If you should have questions regarding the current applicability of any topics contained in this publication or any publications distributed by Matthiesen, Wickert & Lehrer, S.C., please contact Rich Schuster at [rschuster@mwl-law.com](mailto:rschuster@mwl-law.com). This publication is intended for the clients and friends of Matthiesen, Wickert & Lehrer, S.C. This information should not be construed as legal advice concerning any factual situation and representation of insurance companies and/or individuals by Matthiesen, Wickert & Lehrer, S.C. on specific facts disclosed within the attorney/client relationship. These materials should not be used in lieu thereof in anyway.