

Products Liability

Torts II
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Products Liability

- Three theories:
 - Negligence
 - Warranty
 - **Strict liability** ← *we are only learning this*

Strict Products Liability applies if ...

1. Product is sold in a defective condition
2. By an entity in the regular chain of distribution,
3. Which injures a person's body or property

Who can be a plaintiff?

- Any person suffering a compensable injury
- Privity is not required

Who can be liable?

- Anyone in regular chain of distribution
 - Manufacturer
 - Wholesaler
 - Retailer
 - Bailor
- Joint and several liability
- Not non-regular sellers
 - E.g., garage sale
- Does not depend on fault

What counts as a product?

- A tangible good
- *Not a service*

What counts as a defect?

- Manufacturing defect
- Design defect
- Warning defect
 - (can be thought of as a kind of design defect)

What makes something defective?

- Being “unreasonably dangerous”
- Tests:
 - Consumer expectations test
 - Risk-utility test

What counts as an injury?

- To a person's body
- To property
- *Not:*
 - Pure economic injury, loss of money
 - Emotional distress
 - Reputation
 - Not damage to the product itself