

## **BILL ANALYSIS**

C.S.H.B. 4167  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In 2003, the 78th Legislature, Regular Session, enacted H.B. 4 as part of the civil action reforms, enacting a general rule that a seller who does not manufacture a product is not liable for harm caused by that product. There are a number of exceptions, including when the manufacturer of the product is not subject to the jurisdiction of the court. The burden is on the claimant to prove that the manufacturer is not subject to the jurisdiction of the court. The gathering of facts necessary to make the jurisdictional determination may place an undue burden on the claimant not originally anticipated with the passage of H.B. 4.

C.S.H.B. 4167 establishes that it is conclusively presumed that a manufacturer is not subject to the jurisdiction of the court unless the seller is able to secure personal jurisdiction over the manufacturer in the case if after service of process or complaint through the secretary of state on certain nonresident manufacturers, the manufacturer fails to answer or otherwise make an appearance in the time required by law.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 4167 amends Civil Practice and Remedies Code provisions relating to the liability of a nonmanufacturing seller in a products liability suit to establish that it is conclusively presumed that a manufacturer is not subject to the jurisdiction of the court unless the seller is able to secure personal jurisdiction over the manufacturer in the action if after service on a nonresident manufacturer of process or complaint through the secretary of state on a nonresident manufacturer, the manufacturer fails to answer or otherwise make an appearance in the time required by law.

### **EFFECTIVE DATE**

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 4167 differs from the original by specifying that service of process through the secretary of state is on a nonresident manufacturer.