

Chapter 21

UNITED STATES

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Introduction

Product liability was born in the United States in the early 1900s primarily with food contamination cases. There was a view with some judges that product manufacturers should be 'strictly liable' to consumers who use their products and suffer injury. Subsequently, courts decided that this theory of strict liability should expand to all types of products. This expansion, which finally culminated in the 1960s with the adoption of strict liability as an accepted theory of liability, served as the basis for an explosion of litigation in the United States and the adoption of strict liability in many countries around the world. This chapter will discuss the main theories of liability, the development of product safety regulations in the United States, a broad outline of the litigation system which has become so prominent in the United States and elsewhere, and a discussion of international treaties and agreements.

Theories of liability

Law within the United States comes mainly from two sources: common law created by the courts and legislative law created by the federal and State legislatures and government agencies.

Contract and warranty

Claims and lawsuits based on breach of contract and breach of warranty obviously involve a contract between two parties for the purchase of a

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