

Independent Research Title: The Problems and Inadequacy of Product Liability in Thailand
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ABSTARCT

This study researches the concept of Product Liability Law in foreign countries and analyses the problems of the Product Liability in Thailand and surveying what would be the implication if the foreign Product Liability Law is applied in Thailand, in order to find out appropriate pattern of Product Liability Law in Thailand.

Accordingly, it is found that in the referenced foreign countries there are two measures used to regulate the product liability, namely the product liability law which is based on strict liability rules and Product Liability Insurance Fund. While the Strict Liability has pushed excessive accountability to business sector; the Product Liability Insurance Fund can reduce the risk of entrepreneurs, since it allows them to produce goods in competition. Moreover the Product Liability Insurance Fund can take part in the development of the economy of Thailand; so this measure may be used in combination with the modification of the current law of tort in the Civil and Commercial Code concerning the shifting burden of proof to the entrepreneurs who cause damage to the consumer. This concept of Res Ipsa Loquitur will help the Court to consider the liability of the entrepreneurs and make assessment the damages that incur to the consumer in a case by case basic since the different products can cause different level of damage to the consumers.

The Product Liability Insurance Fund is a way out for the problems of the product liability in Thailand. Even though Product Liability Insurance Fund will affect the price of products, but it allows consumers to have more confidence in product safety and the compensation of the damages that they are likely to receive.

The application of the concept of Res Ipsa Loquitur, the Punitive Damage together with the establishment of Product Liability Insurance Fund are the measures which recommended as guidance for the Draft of Product Liability Act.

