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## Bill Would Protect Vendors From Y2K Lawsuits

**Proposed Good Samaritan Law shields vendors from Year 2000-related lawsuits, so long as disclosure statements are made.**

**Blaise Zerega, InfoWorld Electric**

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Recent measures by the federal government to encourage full disclosure of Year 2000 compliance may deny end-user companies legal recourse against their computer vendors.

Sent to Congress for introduction this week, President Clinton's Good Samaritan Law shields vendors from Year 2000-related lawsuits on the basis of their disclosure statements, provided the statements were made in good faith.

Analysts note that the law will likely be significant for owners of computer equipment because the computer industry has not been not very proactive--compared to automobile or appliance manufacturers--in notifying consumers of potential Year 2000 problems or recalling products.



However, lifting liability in an effort to spread information may benefit vendors more than users, some analysts said.

"[The proposed law] is letting vendors say something that may not be true without having to take responsibility for it," said Kazim Isfahani, an industry analyst at Giga Information Group, in Cambridge, Massachusetts.

Chip manufacturers, in particular, are skittish about sharing information because of the difficulty in discerning problems in embedded systems.

"My guess is the chip makers are terrified," said Peter de Jager, a Year 2000 consultant in Brampton, Ontario. "If you force a major chip manufacturer to replace every broken chip, they'll go bankrupt."

Although the proposed legislation could take the legal heat off some vendors, the pending bill offers no remedy for vendors already facing litigation--and as many as eight cases have already been filed, Isfahani noted.

BIOS vendors, attorneys, and lawmakers are closely watching a potential landmark case, Produce Palace versus TEC-America. In the lawsuit, a Michigan-based grocer is suing its point-of-sale system provider for selling it an allegedly non-Year-2000-compliant solution in 1995.

According to the plaintiff's attorney, Brian Parker of Bingham Farms, Michigan, the parties in the suit agreed on July 29 to enter state-sponsored mediation, averting a September trial date set the same day by the Circuit Court for the County of Macomb, Michigan. The move comes after the plaintiff rejected an earlier \$260,000 mediated settlement.

Attorneys and analysts say the Produce Palace case underscores the vulnerability of embedded chip manufacturers to Year-2000 lawsuits and highlights the potentially huge amounts of money at stake. The Gartner Group, in Stamford, Connecticut, estimates that Year 2000 litigation costs could reach \$1 trillion.

"The lawsuits over the Year 2000 problem may dwarf the problem itself," said Jim Pooley, principal at Fish & Richardson, a law firm in Menlo Park, California.

Not surprisingly, embedded systems manufacturers--makers of the chips and software that run applications such as security systems as well as PCs--welcome the potential for legal protection.

"The whole point of the Clinton legislation is to mitigate the risk of Y2K lawsuits. It's a step in the right direction," said John Ambrose, vice president of corporate marketing at SystemSoft, a BIOS software vendor in Natick, Massachusetts.

Analysts attribute the risky legal position of embedded systems manufacturers to incomplete or nonexistent assessment tools for their wares.

"Assessment tools can only detect 95 percent of the problems," de Jager said.

Many companies are turning to embedded systems vendors for information but are coming up empty.

"There's certainly people playing it close to the vest because of [legal] concerns," said Richard Heiman, research manager at International Data Corporation.

Hewlett-Packard, like other hardware and software vendors, is largely depending on public awareness, its Web site, and diagnostic tools to inform users about compliance issues.

"We're not going to be sending out direct mail," said Ken Bosley, product manager for personal computer products at HP, in Palo Alto, California.

Users are mixed in their reactions to the proposed Good Samaritan Law, welcoming more openness from vendors but remaining skeptical.

"We're checking all the BIOSes ourselves. We're not going to rely on vendor statements," said Craig Lowenthal, vice president of information systems at Reliance Insurance, in New York.