461 (Law Div.1987) (finding that in interpreting the Act, court should as "matter of sound judicial policy, ... apply this conservative legislative policy"). The Legislature

> limit[ed] the expansion of products-liability law by creating absolute defenses and rebuttable presumptions of nonliability. *See N.J.S.A.* 2A:58C-3(a)(1) (adopting "state of the art" as complete defense in design defect claims); *N.J.S.A.* 2A:58C-3(a)(2) (providing that a product is not defectively designed if inherent characteristics of the product are known to ordinary person who uses it or consumes it with knowledge common to the class of persons for whom product was intended); *N.J.S.A.* 2A:58C-3(a)(3) (adopting comment k of the *Restatement (Second) of Torts*, which provides that a manufacturer or seller is not liable for a design defect if harm results from unavoidably unsafe aspect and product is accompanied by proper warning); *N.J.S.A.* 2A:58C-4 (establishing presumption of adequate warning if warning approved or prescribed by FDA).
>
> [*Shackil, supra*, 116 *N.J.* at 187-88, 561 *A.*2d 511]

The Legislature passed the Act as "remedial legislation to establish clear rules [in] ... actions for damages for harm caused by ****1370** products, including certain principles under which liability is imposed." *N.J.S.A.* 2A:58C-1. The law does not "codify all issues relating to product liability"; rather, the Legislature intended it to address "matters that require clarification." *Ibid.*

***375** The Act left intact "the three theories under which a manufacturer or seller may be held strictly liable for harm caused by a product-defective manufacture, defective design, and defective warnings." *Dewey v. R.J. Reynolds Tobacco Co.*, 121 *N.J.* 69, 94-95, 577 *A.*2d 1239 (1990). *See N.J.S.A.* 2A:58C-2. The Act also provides that a claimant must "prove[ ] by a preponderance of the evidence that the product causing the harm was not reasonably fit, suitable or safe for its intended purpose." *N.J.S.A.* 2A:58C-2. Except as modified by sections 3 and 4 of the Act, the elements of the causes of action brought for such product claims "are to be determined according to the existing common law of the State." Senate Judiciary Comm., *Statement to Senate Bill No. 2805* (July 22, 1987), *reprinted in* note following section 1 (hereinafter "Senate Judiciary Committee Statement").

[1][2] In attempting to limit a manufacturer's liability, the Legislature, via the Act, strengthened rather than weakened the state-of-the-art defense. William A. Dreier, *Analysis: 1987 Products Liability Act*,41 *Rutgers L.R.* 1279, 1298 (1989). We note, however, that section 3b recognizes an exception to the 3a(1) state-of-the-art defense that is not applicable to this case. The section 3b exception applies to certain egregiously unsafe or ultrahazardous products that have hidden risks or could seriously injure third persons, and have little or no usefulness. State-of-the-art evidence is not a defense to liability for injury caused by such products. However, "[i]t is intended that such a finding would be made only in genuinely extraordinary cases-for example, in the case of a deadly toy marketed for use by young children, or of a product marketed for use in dangerous criminal activities." Senate Judiciary Committee Statement. What is clear is that "section 3(a)(1) now establishes a defense, subject only to the limited exceptions in section 3(b)." Dreier, *supra*, 41 *Rutgers L.R.* at 1298.

III

Section 3a(2) provides

> ***376** a. In any product liability action against a manufacturer or seller for harm allegedly caused by a product that was designed in a defective manner, the manufacturer or seller shall not be liable if:
>
> ....
>
> (2) The characteristics of the product are known to the ordinary consumer or user, and the harm