The U.S. Supreme Court has ruled that federal law does not bar a man whose wife died in a boating accident from suing a boat motor manufacturer in state court.

In a unanimous decision, the high court Tuesday overturned a 5-1 Illinois Supreme Court ruling that barred the lawsuit. "Manufacturers of defective products were trying to hide behind federal inaction," said Joseph A. Power Jr., an attorney representing the widower.

Power said Wednesday that the unanimous decision sends a message to manufacturers that they can’t rely on a federal agency’s inaction to shield themselves from lawsuits. But industry officials claimed that the decision undermines the purpose of the Federal Boat Safety Act of 1971, which directs the Coast Guard to issue nationwide regulations for passenger boats.

“I fear this [decision] may lead to a patchwork of inconsistent regulations in multiple jurisdictions, with safety standards being set by juries rather than safety experts,” said Monita Fontaine, vice president of the National Marine Manufacturers Association.

In an opinion written by Justice John Paul Stevens, the high court concluded that the FBBSA didn’t prevent victims from suing manufacturers for product defects even though it forbids states to issue boat safety regulations.

“Of course, if a state common-law claim directly conflicted with a federal regulation promulgated under the act, or if it were impossible to comply with any such regulation without incurring liability under state common law, preemption would occur. This, however, is not the case,” Stephens wrote for the court.

The preemption clause in the act prevents states from establishing or enforcing “a law or regulation” for recreational boats that differs from federal regulations.

But the act also includes a savings clause that states that compliance with the federal regulations “does not relieve a person from liability at common law or under state law.”

Tuesday’s decision clears the way for the widower to pursue a claim in Cook County Circuit Court that Mercury Marine, a division of Brunswick Corp., should have installed a propeller guard on the ski boat operated by a suburban Chicago family.

The woman, Jeanne Spietsma, was riding in an 18-foot boat with her family on a lake on the Kentucky-Tennessee border in July 1995. When the boat turned sharply, she fell out of the boat and was struck by the propeller blades of a 115-horsepower outboard motor.

She died as a result of the injuries.

Mercury Marine argued successfully before a Cook County trial judge and an appeals court panel that Rex R. Spietsma was expressly preempted from bringing the suit under the act.

The Illinois Supreme Court determined in an August 2001 ruling that the act didn’t expressly bar the suit, but the majority found that the federal statute impliedly preempted the cause of action.

Justice Rita B. Garman wrote the majority decision for the Illinois court. She pointed out that the Coast Guard decided against a rule requiring propeller guards in 1988, the same year the motor was manufactured.
The state justices relied on a 1983 U.S. Supreme Court decision holding that “a federal decision to forgo regulation in a given area may imply an authoritative federal determination that the area is best left unregulated, and in that event would have as much preemptive force as a decision to regulate.” *Arkansas Electric Cooperative Corp. v. Arkansas Public Service Commission*, 461 U.S. 375, 76 L.Ed.2d 1, 103 S.Ct. 1905 (1983).

The nation’s high court acknowledged that precedent but found that the Illinois justices misconstrued the Coast Guard’s decision not to require propeller guards on motors.

The Coast Guard decided against the proposed rules because they didn’t meet “stringent” criteria for federal regulation. It also cited the expense of retrofitting millions of boats and the difficulty of finding a universally acceptable propeller guard design.

“The Coast Guard did not take the further step of deciding that, as a matter of policy, the states and their political subdivisions should not impose some version of propeller guard regulation, and it most definitely did not reject propeller guards as unsafe,” Stephens wrote for the court.

“The Coast Guard’s apparent focus was on the lack of any ‘universally acceptable’ propeller guard for ‘all modes of boat operation.’ But nothing in its official explanation would be inconsistent with a tort verdict premised on a jury’s finding that some type of propeller guard should have been installed on this particular kind of boat equipped with respondent’s particular type of motor,” he added.

The majority of the Illinois high court cited the need for uniform regulations among the states, especially because boats could travel easily from one state to another.

In a dissent, then-Chief Justice Moses W. Harrison II asserted that his colleagues placed too high a priority on uniformity. “Uniformity is no virtue if it means being uniformly wrong,” he wrote.

He also claimed the savings clause in the statute allowed claims like Spietsma’s to go forward.

“Indeed, it is difficult to see how Congress’ intention to preserve such tort claims could have been expressed any more explicitly,” he wrote then.

Justice Robert R. Thomas took no part in the Illinois decision.

Leslie R. Brueckner of Trial Lawyers for Public Justice handled the case for Spietsma before the U.S. Supreme Court.

She was joined by [Michael J. Quirk] of TLPJ; Todd A. Smith and Devon Bruce of Power, Rogers & Smith; and John B. Kralovec of Kralovec, Jambois & Schwartz.

Chicago attorney Stephen M. Shapiro of Mayer, Brown & Platt represented Mercury Marine before the high court. He could not be reached for comment.

Michael J. Cucco of Cassidy, Schade & Gloor and Gary W. Klages of Thomas & Persin also handled the defense.

The U.S. Supreme Court case is *Rex R. Spietsma, etc. v. Mercury Marine, etc.*, No. 01-706.