

CANADA CONSUMER PRODUCT SAFETY ACT: WHAT YOU NEED TO KNOW

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It is rumored that following WWII, in an effort to undermine an American boycott on Japanese imported goods, Japan renamed one of its manufacturing cities "Usa". This way, its goods could be labeled "MADE IN USA," without alerting American consumers to their actual origin. Although this story is likely an urban myth, most consumers know very little about the goods they purchase on a daily basis. The Canadian government recognizes that in today's global marketplace "not knowing" can have serious health and safety consequences, as well as negative effects on the environment. This cognizance has prompted the creation of the *Canada Consumer Product Safety Act*, S.C. 2010, c. 21. (the "Act" or the "CCPSA") that comes into force on June 20, 2011 and will be administered by Health Canada.

"CONSUMER PRODUCTS"

The stated purpose of the CCPSA is to "protect the public by addressing or preventing dangers to human health or safety that are posed by consumer products" available to Canadians. "Consumer products" is defined as products that are expected to be obtained by individuals for personal use - and includes accessories and packaging. This definition is very broad - although products such as explosives, cosmetics, food, natural health products, and vehicles are exempt and are dealt with in other legislation.

PROHIBITIONS UNDER THE CCPSA

The act creates two primary prohibitions. The prohibitions affect those engaged in the selling, manufacturing, importing, advertising, or storing (for commercial purposes) of Consumer Products (the "Product Industry"). Importantly, "selling" Consumer Products includes leasing them - or even distributing them free of charge. In its current form, the Act does not differentiate between types of retailers, and impacts retailers of all sizes, including small businesses.

The first main prohibition forbids a member of the Product Industry from dealing with a product that is prohibited under the Act, does not meet requirements in the regulations, is a danger to human health or safety, or has been recalled.

The second prohibition forbids a member of the Product Industry from packaging or labeling a Consumer Product in a manner that is false, misleading or deceptive, which could give the erroneous impression that they are safe. Additionally, labeling must not misrepresent the product's status of certification or compliance with any safety standard or regulation.

OBLIGATIONS UNDER THE CCPSA

The Act also mandates some further specific obligations for the Product Industry in respect of Consumer Products. Such obligations include the requirement to:

- (a) prepare and maintain documents recording a product supplier's name and address and the location and timeframe during which the product was sold, or record a product recipient's name and address;
- (b) notify the Minister within two days of any accident, injury, defect or improper labeling related to a product, and provide a written report within 10 days;
- (c) conduct tests or research on a product if ordered to do so by the Minister;
- (d) submit to inspections of products or facilities.

Non-compliance with the CCPSA can result in fines of up to \$500,000 and/or jail time up to 2 years for the most serious offences. All businesses, from small proprietorships to large corporations, that have any dealings whatsoever with Consumer Products - even on a very small scale - should understand their obligations under the CCPSA and act now to implement procedural frameworks to ensure compliance with this new legislation.

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