

Now Online: Unproven Reports About Your Products

3/10/2011

[Christopher J. Predko](#)

Beginning March 11, 2011, the Consumer Product Safety Commission (CPSC) will post safety complaints about consumer products at www.saferproducts.gov. CPSC is implementing this new publicly available and searchable database as part of the Consumer Product Safety Improvement Act of 2008.

The database will allow consumers and others to submit reports of any claimed injury, sickness or harm related to the use (or possibly misuse) of any consumer product. Generally, a "consumer product" is defined as any product used in or around the home, school or recreation. In addition to product users, nearly anyone may submit a report for online posting, including: the user's family members, relatives, guardians, friends, attorneys, investigators and even anyone who has simply observed the products being used. Other potential "second-hand" submitters include government agencies, health care professionals, child-care providers and public safety entities.

The reports are relatively easy to file online through the database's fill-in-the-blank template. The submitter need only provide the minimum information:

1. Description of the product
2. Identification of the product manufacturer or private labeler
3. Description of the illness, injury or death, or risk of injury, illness or death related to the use of the product
4. The date or approximate date on which the incident occurred, or when the submitter first became aware of the potential for a product to be unsafe
5. Category in which a submitter falls, such as user, witness or child-care provider
6. Name and complete mailing address of the submitter

And, as long as the submitter checks a box certifying the report is "true and accurate to the best of the submitter's knowledge, information, and belief," the CPSC will post the report online 10 days after notifying the product manufacturer.

After receiving notice of the report, product manufacturers will have an opportunity to comment on or respond, and to have their responses posted online with the complaints. Any published response, however, must be carefully considered. Just like the online reports, manufacturers' responses will be publicly available to all viewers including:

- Consumers who own the product or are shopping for new products
- Industry competitors
- Consumer and industry groups
- Plaintiff's attorneys looking for their next product liability defendant or searching for information to support an existing claim

As the new CPSC database goes into action, product manufacturers should promptly:

- Implement internal procedures that identify steps to be taken upon receipt of a report
- Designate an individual or internal committee to receive, investigate and respond to all reports
- Register online with the CPSC to receive prompt email notification of any reports about your products
- Consult with counsel to decide whether to submit an online response to a report, and if so, carefully prepare the response

Warner Norcross & Judd's Consumer Product Safety Group is actively advising clients regarding the new CPSC database. If you have questions about the database or other product regulation issues, please contact Chair Chris Predko (616.752.2190 or cpredko@wnj.com).