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## **Other Resources**

[ALB Legal News](#)

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## **CHINA ALERT**

### ***Promulgation of New Tort Law in China 7/1/10***

- Punitive Damages generally allowed in product liability cases. Risk profile for manufacturers selling into China raised with related impact on pricing decisions and risk management. China will become more litigious as the number of lawyers increases and judgments grow in amount.
- Privacy of medical records expressly acknowledged along with a right of private action. Healthcare providers at new risk of litigation. As China vastly expands its healthcare spending and the number of public/private or private healthcare facilities, this field of legal liability will draw more attention from plaintiff's lawyers since they are not just suing the government.
- Product liability lawsuits in general are more clearly enabled procedurally, with some shifts in the burden of proof, establishment of recall obligations, and other beefing up of consumer rights. Distributors and Sales Agents are the first targets. How do your current agreements affect your risk management as the manufacturer?

### ***Action Suggested***

- Review your insurance coverage to take these changes into account. Most sophisticated insurance providers are up to speed. If yours isn't, consider changing your insurance provider.
- Review your internal risk management procedures in China, especially if you are a drug manufacturer, a medical equipment manufacturer or a healthcare provider. You may need to be much more on top of developments in order quickly to spot a problem and deal with it before you become example #1 of recall requirements or privacy violations.
- If you operate in China through distributors or agents, review the contracts for provisions concerning notice of claims/suits and indemnifications. You need to get in front of the problem before it mushrooms. Also remember the much increased risk that utterly unfair 28 U.S. C. §1782 federal discovery orders will land on you without notice in "assistance to" litigation in China to which you are not a party.

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