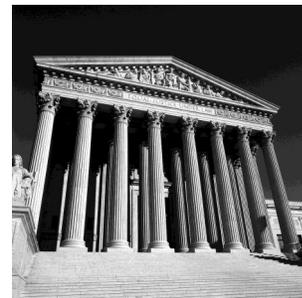


WHV Legal Updates

January 28, 2011

What Is

www.SaferProducts.gov?



The United States Congress recently enacted legislation requiring the Consumer Product Safety Commission (CPSC) to “establish and maintain a database on the safety of consumer products” that is publicly available, searchable and accessible through the Internet. The CPSC will maintain and monitor this database and website. The website will be launched and fully functional on March 11, 2011. On January 24, 2011, the CPSC performed a soft launch of the website to allow the public the ability to review the website and become familiar with it. The address for the website is www.SaferProducts.gov.

Prior to the enactment of this legislation, the only way that a person could obtain “reports of harm” about a consumer product from the CPSC was by submitting a Freedom of Information Act (FOIA) request. A FOIA request takes a great deal of time to process. After a FOIA request is made, a person may wait months to receive the requested reports of harm from the CPSC. The database and website essentially eliminate this time delay. In fact, the purpose of the database and website is to provide timely access to safety-related consumer product incidents.

The database will include reports of harm resulting from the use of consumer products and other products or substances regulated by the CPSC and information, in general, related to recalls. Those who can submit the reports of harm include: (1) consumers, (2) local, state and federal government agencies, (3) health care professionals, (4) child service providers and (5) public safety entities. This is obviously quite a broad list. The CPSC considers just about anyone a “consumer”, including those who are not eyewitnesses to the incident.

In order for a submission to be included in the database, it must be a “report of harm.” The report must identify a “discernable bodily harm or risk of bodily harm.” A report that only relates to the cost or quality of a product will not be included in the database. The report must also contain a description of the consumer product, identification of the manufacturer or private labeler, the contact information of the person submitting the report and a verification by the submitter that the information is “accurate to the best of the person’s knowledge.” Also, the person must consent to the information being included in the database.

Once the CPSC receives the submission, its goal is to send the report of harm to the manufacturer or private labeler within five business days. If the manufacturer or private labeler wants its response to be available at the same time the submitter's report is made public, then it must provide its response to the CPSC within ten business days. The manufacturer or private labeler can indicate to the CPSC that the report contains confidential or materially inaccurate information that should not be included in the database. The CPSC, in its sole discretion, will make the determination if such information is confidential or materially inaccurate. The CPSC enables manufacturers or private labelers to register on the website so that they are able to receive the reports of harm via email instead of regular U.S. mail.

The CPSC is committed to the premise that reports of harm should immediately be available to the public when trying to learn more about the purported safety of a consumer product. In fact, the Government Accountability Office is required to determine the usage of the website to ensure that it is being used by a broad range of the public and, if not, to determine ways to increase the usage.

If you are interested in obtaining additional information regarding how www.SaferProducts.gov may impact your business or litigation strategies, do not hesitate to contact Chris Corpus, Esq. at cacorpus@wegmanlaw.com. Chris and the law firm of Wegman, Hessler & Vanderburg represent clients that manufacture consumer products which are subject to the jurisdiction of the CPSC.