

CPSC LAUNCHES SAFERPRODUCTS.GOV DATABASE ON CONSUMER PRODUCT INCIDENT REPORTS

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The Consumer Product Safety Commission (CPSC) has launched a website called SaferProducts (www.saferproducts.gov), a publicly searchable database of consumer product incident reports. The website is based on the Consumer Product Safety Improvement Act passed by Congress. This Alert discusses this new database and its potential use in evaluating subrogation product losses.

The premise of SaferProducts is that reports of products that cause harm may be publicly disclosed on the website as long as the minimum information required to publish is provided. Such minimum information includes a consumer identifying him or herself, identification of the product, the manufacturer, and an issue related to the product involving potential harm to life or property. If the minimum report requirements are met, then the report is sent to the manufacturer for possible comment, and published on the website within 10 to 15 business days after submission.

The manufacturer cannot prevent a report from being published. It can, however, include its own comments that will be published with the report.

Function and Use

SaferProducts provides a useful investigation tool for product defect cases because it provides reports and complaints by consumers, recall notices by the CPSC, and responses from manufacturers. Currently, the database is limited to consumer reports submitted to the website in 2011. However, recall notices on the website date back as far as the 1970s.

Searching SaferProducts is as straightforward as using a standard search engine. One tip: make sure to go into advanced search and click on "reports" only if all you want to see are reports, and not recalls; vice-versa if you wish to see recalls.

Reliability

While SaferProducts provides a significant amount of information, the reports are not necessarily reliable. Per the rules governing the usage of SaferProducts, 16 CFR 1102, hearsay reports lacking first hand-knowledge are allowed to be published as long as the minimum information requirements are met. Furthermore, the CPSC does not guarantee the accuracy of the information submitted to it. A report can be published with materially inaccurate information, which is defined as "false or misleading, and is so substantial and important as to affect a reasonable consumer's decision making about the product." The burden is then upon the manufacturer identifying the inaccurate information to submit a written request with evidence and other information to the CPSC to remove the materially inaccurate information. While a manufacturer's claim to have the materially inaccurate information removed is pending, the report may still be published.

While SaferProducts can assist with product investigation, the information it provides may not be entirely reliable. However, because a manufacturer has the ability to comment on a report or submit a claim regarding materially inaccurate information, if a report has a neutral comment from a manufacturer attached to it (e.g. "Our company is dedicated to bringing high quality goods and takes all such claims seriously") and it has been on SaferProducts for several weeks or longer, its reliability increases.

Conclusion

SaferProducts is a viable starting point for evaluating product defect related issues. In time, as more consumer reports are added, and their reliability increases, it may become a go-to database for product defect investigation.

For additional information, contact David Denton or other members of Cozen O'Connor's Subrogation and Recovery Department.