

California Enacts Product Recall Safety and Protection Act

On September 29, 2008, California Governor Arnold Schwarzenegger signed into law Assembly Bill 1860, the Product Recall Safety and Protection Act, which takes effect immediately.

Prohibitions/Requirements:

- A commercial dealer, manufacturer, importer, distributor, wholesaler, or retailer is prohibited from manufacturing, remanufacturing, distributing, selling at wholesale or retail, contracting to sell or resell, leasing, or subletting, or otherwise placing into the stream of commerce, a product that is unsafe knowing that the product is unsafe.
- An unsafe product may be retrofitted and sold if the retrofitted product is accompanied by a notice which provides:
 1. A description of the original problem;
 2. A description of how the problem was eliminated;
 3. A declaration that the product is now safe to use;
 4. The name and address of the party which accomplished the retrofit; and
 5. The name and model number of the retrofitted product.
- A commercial dealer, manufacturer, importer, distributor, or wholesaler that has placed into the stream of commerce a product for which a recall or warning has subsequently been issued must initiate specified steps within 24 hours after issuing or receiving the recall notice or warning, including:
 1. Contacting all of its customers, other than end consumers, to whom it sold, leased, sublet, or transferred that particular product; and
 2. Posting prominently on its Internet website a link to recall or warning information that contains the specific recall notice or warning that was issued for the product in question along with:
 - A description of the product;
 - The reason for the recall or warning;
 - A picture of the product; and
 - Instructions on how to participate in the recall or warning.
- The manufacturer of the product must provide for the safe return of the product to the manufacturer, at no cost to the end consumer or retailer, and is required to properly dispose of the product and not export the product, or permit it to be exported, for disposal in a manner that poses a significant risk to the public health or the environment.
- A retailer of a product determined to be unsafe is required to do the following within 3 days after receiving the recall notice or warning of the unsafe product:
 1. Remove the product from the shelves of its stores or program its registers to ensure that the item cannot be sold; and
 2. Post in paper form or electronically in a prominent location in each retail store the recall notice or warning which shall remain posted for at least 60 days.

If the product is sold through the retailer's internet website, then the retailer must do the following within 3 days after receiving the recall notice or warning of the unsafe product:

1. Remove the product from the website or remove the ability to purchase the product through the website; and
2. Post on the homepage or first point of entry a link to recall or warning information that contains the specific recall notice or warning that was issued for the product in question. The recall or warning information shall include:
 - A description of the product;
 - The reason for the recall or warning;
 - A picture of the product, if one was provided; and
 - Instructions on how to participate in the recall or warning.

Definition of Product:

- "Product" means any article, or component part thereof, produced or distributed:
 1. For sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or
 2. For personal use, consumption, or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise.
- "Product" **does not include** food, drugs, cosmetics, pesticides, medical devices, firearms and ammunition, boats, motor vehicles, motor vehicle equipment, aircraft, or tobacco and tobacco products.

Definition of Unsafe Product:

- A product shall be deemed unsafe if it meets one or both of the following criteria:
 1. The product has been recalled because it does not conform to state or federal laws and regulations setting forth standards for the product.
 2. The product has been recalled for any safety hazard reason in cooperation with the federal Consumer Product Safety Commission or its staff, or voluntarily recalled for any safety hazard reason by the product's commercial dealer, manufacturer, importer, distributor, or wholesaler, and the recall has not been rescinded.

Penalties:

- Violators of these provisions are subject to a civil penalty of up to \$1,000 for each occurrence, up to a maximum of \$20,000.

Link to: [AB 1860 Bill](#)

STR offers comprehensive testing and quality assurance services to manufacturers, distributors, and retailers of consumer products. Our hazard prevention program includes comprehensive design evaluation, safety testing, audit, inspection as well as responsible sourcing services. For more information, contact us at info@STRQuality.com.