

THE CONSUMER PRODUCT SAFETY ACT

By Attorney Michael H. Wald

In 1972 the Federal Government passed a comprehensive and controversial bill, the Consumer Product Safety Act. This Act brought into being an independent regulatory commission, the Consumer Product Safety Commission (CPSC) and assigned it the authority to administer various consumer laws. If a federal tort law is ever passed, CPSC would be a likely agency to administer it.

The purpose of the CPSC is to protect the public against any unreasonable risk of injury associated with consumer products. In order to do this the CPSC "maintains an Injury Information Clearinghouse to collect, investigate, analyze and disseminate injury data, and information related to the causes and prevention of death, injury, and illness associated with consumer products." They also establish test methods and develop product safety testing devices. In testing consumer products they "conduct research, studies, and investigations on the safety of consumer products and on improving the safety of such products."

Tests such as these assist consumers in evaluating the comparative safety of consumer products and help to develop a uniform set of safety standards for consumer products. All information, uses, processes, patents and other developments resulting from the CPSC's efforts are made available to the public without charge on a nonexclusive basis. The only exceptions related to public disclosure of information concerns trade secrets and information that a manufacturer or private labeler has claimed to be confidential.

It is the CPSA which requires a consumer product be "marked with or accompanied by clear and

adequate warnings or instructions that are reasonably necessary to prevent or reduce an unreasonable risk of injury associated with that product." The CPSC not only sets safety standards for many consumer products on the market but it can also ban the manufacture and sale of any product deemed hazardous to consumers. The authority to remove products from the market and require manufacturers to report information about products already sold or intended for sale allows the CPSC to react decisively against products that have proved themselves to be hazardous.

CPSC's performance to date has been criticized as less than spectacular. It has become a testing and information center but it tends to raise the price of many of the products it makes safer through regulation. This is not to say that its effect has not been felt. In the past only court decisions have been available to impose regulations on unsafe products after years of litigation. Now with the CPSC the tools are in place for a quicker and more evenhanded solution to this problem. The mere existence of the CPSC may well have made our lives a little safer from unscrupulous businesses and their unsafe or flammable products.

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