
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 169

Session of
1975

INTRODUCED BY MESSRS. SCHMITT, A. K. HUTCHINSON, MRS. GILLETTE,
MR. MANDERINO, MRS. TOLL, MESSRS. FINEMAN, ROMANELLI, VANN,
SHANE, TAYLOR, LAUGHLIN, COHEN, ROSS, TRELLO, DeMEDIO, DOYLE,
ABRAHAM, GREENFIELD, DOMBROWSKI, BELLOMINI, MORRIS, BERLIN,
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KERNICK, MESSRS. McCALL, COWELL, ZORD, REED, FEE, BENNETT,
IRVIS, KOWALYSHYN, RUGGIERO, WARGO, WALSH AND O'DONNELL,
JANUARY 28, 1975

REFERRED TO COMMITTEE ON CONSUMER PROTECTION, JANUARY 28, 1975

AN ACT

1 Requiring insurance companies, associations and exchanges to
2 render semi-annual reports to the Insurance Commissioner of
3 unsafe products as revealed by insurers' records; granting
4 immunity to an insurer, its agents, officers and employees
5 and to the Insurance Commissioner and imposing powers and
6 duties on the Insurance Commissioner.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Short Title.--This act shall be known and may be
10 cited as the "Unsafe Product Reporting Act."

11 Section 2. Definitions.--As used in this act:

12 "Biological hazard" means a product, if, in normal use or by
13 failure to function properly or when subjected to reasonable
14 foreseeable damage or abuse, its design, manufacture, care
15 pending sale, or installation presents a risk of personal injury
16 or illness, death or property damage because of disease, vermin,
17 insects or allergy.

1 "Chemical hazard" means a product, if, in normal use or by
2 failure to function properly or when subjected to reasonably
3 foreseeable damage or abuse, its design, manufacture, storage or
4 maintenance present a risk of personal injury or illness, death
5 or property damage because it is toxic, corrosive, an irritant,
6 a strong sensitizer, or caustic.

7 "Electrical hazard" means a product, if, in normal use or by
8 failure to function properly or when subjected to reasonable
9 foreseeable damage or abuse, its design, manufacture,
10 installation or maintenance presents a risk of personal injury
11 or illness, death or property damage by electrical shock.

12 "Insurer" means any insurance company, association or
13 exchange authorized to transact the business of insurance in the
14 Commonwealth of Pennsylvania including an eligible surplus lines
15 insurer as defined and so designated under the act of January
16 24, 1966 (1965 P.L.1509, No.531), entitled "An act relating to,
17 regulating, taxing, supervising and controlling the placing of
18 insurance on risks located in the Commonwealth of Pennsylvania
19 with insurers not licensed to transact insurance business in
20 Pennsylvania, permitting licensed insurers to afford coverage
21 which may be placed with unlicensed insurers, providing fees and
22 penalties, and repealing certain existing laws."

23 "Mechanical hazard" means a product, if, in normal use or by
24 failure to function properly, or when subjected to reasonably
25 foreseeable damage or abuse, its design, manufacture, care
26 pending sale, installation, storage or maintenance presents risk
27 of personal injury or illness, death or property damage (i) from
28 fracture, fragmentation or disassembly, (ii) from propulsion of
29 or by the product or any part or accessory of it, (iii) from
30 points, or other protrusions, surfaces, edges, openings or

1 closures, (iv) from moving parts, (v) because of any dangerous
2 characteristics such as slipperiness, which the product imparts
3 to another product or surface, (vi) because of self-adhering
4 characteristics of the product, or (vii) because of any other
5 mechanical aspects of the products design or manufacture.

6 "Records" means the insurer's claims and underwriting files,
7 confidential adjusters reports, loss experience, loss prevention
8 studies, safety evaluation reports and any other information,
9 files or studies related to unsafe products as revealed from
10 claims of insureds and/or other claimants.

11 "Suffocation, asphyxiation and drowning hazard" means a
12 product, if, in normal use or by failure to function properly or
13 when subjected to reasonably foreseeable damage or abuse, its
14 design, manufacture, storage or maintenance presents a risk of
15 personal injury or illness, death or property damage from
16 interference with normal breathing or intake of oxygen.

17 "Thermal, fire and explosion hazard" means a product, if, in
18 normal use or by failure to function properly or when subjected
19 to reasonably foreseeable damage or abuse, its design,
20 manufacture, storage or maintenance presents a risk of personal
21 injury or illness, death or property damage because of (i) heat
22 as from heated parts, substances or surfaces, (ii) fire, or
23 (iii) the impact, heat or natural physical consequences of
24 explosion.

25 "Unsafe products" means foreign or domestic grown or
26 manufactured goods, wares, substances, merchandise and tangible
27 property of every conceivable kind and nature, whether new, used
28 or secondhand, sold, distributed or given away (including but
29 not limited to food, liquids, medicines, motor vehicles,
30 household appliances, chemicals, animal pets, fabrics and

1 childrens' playthings) which are fragile, deleterious, dangerous
2 and hazardous or unreasonably prone to damage, malfunctioning or
3 accident resulting in personal injury or illness, death or
4 property damage whether or not resulting from defective
5 manufacture, failure to function properly, improper use,
6 inherent defects, improper testing, failure to adhere to
7 acceptable safety standards, mistake or deficiency in any
8 design, formula, plan, specifications, advertising material or
9 printed instructions or for any other reason. Unsafe products
10 shall include those which are toxic, are corrosive, are
11 irritants, are strong sensitizers, are flammable or generate
12 pressure through decomposition, heat or other means and as a
13 result thereof cause personal injury or illness, death or
14 property damage during or as a proximate result of any customary
15 or reasonably foreseeable handling or use, including reasonably
16 foreseeable ingestion by children. Unsafe products shall further
17 include those potentially capable of being a biological hazard;
18 a suffocation, asphyxiation and drowning hazard; a thermal, fire
19 and explosion hazard; an electrical hazard; a chemical hazard
20 and a mechanical hazard as hereinafter defined.

21 Section 3. Reports of Unsafe Products by Insurer and
22 Independent Evaluation and Determination of Unsafe Products by
23 the Insurance Commissioner.--Every insurer shall prior to
24 January 31 and July 31 of each year render to the Insurance
25 Commissioner a semi-annual report of unsafe products or a report
26 based upon its information, knowledge and belief from its
27 records to the nonexistence of any unsafe products. The insurer
28 shall determine a specific reportable unsafe product based upon
29 its records related to its insureds and/or other claimants;
30 frequency of occurrence of personal injury or illness, death or

1 property damage; and/or amount paid in settlement or compromise
2 of a claim as related to a specific unsafe product. Such semi-
3 annual report shall contain such matters and information as are
4 prescribed by the Insurance Commissioner and shall be in such
5 form as is approved by him. The Insurance Commissioner may at
6 any time require an insurer to furnish him with additional
7 information as regards unsafe products which he considers
8 material and which will assist him in evaluating unsafe
9 products. For verification of any semi-annual report submitted
10 or an independent evaluation and determination of unsafe
11 products, the Insurance Commissioner or any person designated by
12 him shall have the power of visitation of and examination into
13 insurer's records at any time in the discretion of the Insurance
14 Commissioner. In connection therewith, the Insurance
15 Commissioner shall have the powers granted him by section 216,
16 act of May 17, 1921 (P.L.789, No.285), known as "The Insurance
17 Department Act of one thousand nine hundred and twenty-one," and
18 the expenses of such examination shall be borne and paid as
19 therein provided.

20 Section 4. Public Disclosure of Unsafe Products.--The
21 Insurance Commissioner, in his discretion, may, in the public
22 interest, make known to the public specific unsafe products
23 under their generic, brand, trade or manufacturer's name, symbol
24 or other designation as revealed by the aforesaid semi-annual
25 reports submitted to him by an insurer or his own independent
26 evaluation and determination as provided for in section 2.

27 Section 5. Rules and Regulations.--The Insurance
28 Commissioner shall promulgate rules and regulations necessary
29 and proper and for public convenience or necessity and in the
30 public interest in the administration of this act, subject to

1 the provisions of the act of July 31, 1968 (P.L.769, No.240),
2 known as the "Commonwealth Documents Law."

3 Section 6. Non-liability for Unsafe Products Reports or
4 Furnishing Information Pertaining Thereto.--There shall be no
5 liability on the part of and no cause of action of any nature
6 shall arise against the Insurance Commissioner, any insurer, or
7 any person, firm, association or corporation or governmental
8 subdivision or authority, the authorized representatives,
9 officers, agents and employees of any of them for submission of
10 or making public semi-annual reports or related information of
11 unsafe products or furnishing information relating to reports of
12 unsafe products.

13 Section 7. Suspension, Et Cetera of Certificate of
14 Authority; Civil Penalty.--(a) Upon failure of an insurer to
15 render a semi-annual report of unsafe products or of the
16 nonexistence of unsafe products to the Insurance Commissioner;
17 or to comply with any other provisions of this act or rules or
18 regulations promulgated hereunder; or if an independent
19 evaluation and determination as provided in section 3 should
20 reveal an unsafe product which should have been reported by the
21 insurer, the Insurance Commissioner may, in his discretion,
22 pursue any one or more of the following courses of action:

23 (1) Suspend or revoke or refuse to renew the certificate of
24 authority or license to transact the business of insurance of
25 such insurer or in the case of an eligible surplus lines insurer
26 its prior designation as such.

27 (2) Impose a civil penalty of not more than \$1,000 for each
28 and every violation by an insurer.

29 (b) Before the Insurance Commissioner shall take any course
30 of action as set forth in subsection (a), he shall give written

1 notice to the insurer stating specifically the nature of the
2 alleged violation of this act and fixing a time and place at
3 least 10 days thereafter, when a hearing of the matter shall be
4 held. After such hearing or upon failure of the insurer's
5 representative, officer or attorney to appear at such hearing,
6 the Insurance Commissioner shall pursue such above of the
7 courses of action as he deems advisable. The hearing and the
8 right to appeal on the part of any insurer aggrieved by any
9 final adjudication of the Insurance Commissioner shall be as
10 prescribed by and provided for in the act of June 4, 1945
11 (P.L.1388, No.442), known as the "Administrative Agency Law."

12 Section 8. Effective Date.--This act shall take effect
13 immediately.