



ALSTON & BIRD

CPSC Recall Snapshot

A MONTHLY REVIEW OF CONSUMER PRODUCT RECALLS
AND CIVIL PENALTIES ANNOUNCED BY THE CPSC

May 2017

Welcome to the May edition of the Alston & Bird *CPSC Recall Snapshot*.

In late April, the CPSC voted 3-2 to issue a notice of proposed rulemaking (NPR) “to address the risk of blade-contact injuries on table saws.” Democratic Commissioner Elliot Kaye issued a statement, [available here](#), indicating that the NPR “was long overdue.” He pointed to the CPSC staff’s analysis, which showed that an estimated 33,400 table-saw-related emergency room injuries occurred in 2015, resulting in 4,700 amputations. Ninety-two percent of table-saw-related injuries were from contact with the spinning blade. Commissioner Kaye opined that the current voluntary standards were inadequate, citing the staff’s analysis showing that table saw injuries have had “no discernible change in the number of injuries or the level of risk associated with table saw injuries from 2004 to 2015,” despite the introduction of different safety devices. His “principal criticism” for those who oppose the proposed rule is that their alternative of deferring to “the market” is not “an injury prevention strategy.” The proposed rule provides for a performance requirement based on the maximum depth of the laceration made to a surrogate finger moving at 1 m/s into a spinning table saw. The proposed rule does not restrict the method for stopping the blade or require a particular test method to show compliance.

One of the two dissenting votes was from Republican Commissioner Joe Mohorovic, who also issued a statement, [available here](#), related to his vote. Commissioner Mohorovic provided the reasoning for his objection to the proposed rule:

In the case of table saws ... the risk is clear to consumers. The ways of avoiding it are clear, as well, whether through use of a guard and careful cutting or through purchase of the AIM-equipped saws already on the market... [T]here is no reason to conclude consumers’ purchasing decisions are under-informed. People who buy and use table saws understand what they are getting, both the features and the potential hazards, and it is not our place to tell them they have the wrong conclusion.

If there were a genuine market failure – some indication that consumers are not signing up for what they are getting – I might be more interested in intervening. As it is, there is not. The market is offering consumers an informed choice; it is their right to make that choice. The fact that three out of a group of five unelected and unaccountable bureaucrats would make a different choice is not evidence of a market failure.

Moreover, we stand poised to create a market failure. Monopoly is a classic failure, and, in the current market, only one participant has the technology to make a compliant saw without allegedly infringing on a patent. When consumers are forced to pay double for their saws, perhaps we will feel better about their “choice” – because we will have made

it for them – but I believe consumers will be less than thrilled. This is not idle speculation: of the 1,600 comments we received in response to the Advance Notice of Proposed Rulemaking, 92% were opposed to a mandatory rule.”

These two statements highlight the divergent views of rulemaking among the commissioners. When the commission moves to a Republican majority after the end of Commissioner Robinson’s term in October 2017, we can expect to see more votes with a majority voting against proposed regulations.

Click [here](#) to subscribe to the *Snapshot*. For additional information or questions about CPSC issues, please email me at: jenifer.keenan@alston.com.

Sincerely,

A handwritten signature in black ink that reads "Jenifer Keenan". The signature is written in a cursive, flowing style.

[Jenifer Keenan, Esq.](#)

Editor

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Voluntary Recalls Announced by the CPSC in April 2017

NUMBER OF RECALLS BY PRODUCT CATEGORY

Child/Infant – 5
Vehicle – 3

Furniture – 4
Miscellaneous – 2

Housewares – 3
Apparel – 1

Sporting Goods – 3

PRODUCT	PRODUCT CATEGORY	ALLEGED HAZARD	REPORTED INJURIES	NUMBER OF PRODUCTS
Backpack Carrier Press Release	Child/Infant	Fall Hazard	4	82,000 U.S. 5,732 Can.
Infant Boots Press Release	Child/Infant	Choking Hazard	0	38,000
Water Absorbing Toy Press Release	Child/Infant	Ingestion Hazard	0	560,000
Remote-Control Model Vehicle Press Release	Child/Infant	Fire Hazard	0	18,600 U.S. 540 Can.
Jacket Press Release	Child/Infant	Choking/ Laceration Hazard	0	48,000
Chest of Drawers Press Release	Furniture	Tip-Over/ Entrapment Hazard	0	170
Adjustable Bed Press Release	Furniture	Electric Shock Hazard	0	50,000
Lingerie Chest Press Release	Furniture	Tip-Over Hazard	0	500
Dining Chair Press Release	Furniture	Fall Hazard	0	4,700
Garbage Disposal Press Release	Housewares	Impact Hazard	0	146,000 U.S. 2,700 Can.
Tumbler Press Release	Housewares	Burn Hazard	1	23,600 U.S. 1,600 Can.
Food Dehydrator Press Release	Housewares	Fire/Burn Hazard	0	14,000

PRODUCT	PRODUCT CATEGORY	ALLEGED HAZARD	REPORTED INJURIES	NUMBER OF PRODUCTS
Bicycle Stem Press Release	Sporting Goods	Fall/Injury Hazard	0	100
Bicycle Press Release	Sporting Goods	Fall/Crash Hazard	0	370 U.S. 100 Can.
Kick Scooter Press Release	Sporting Goods	Fall Hazard	1	3,000
Off-Highway Vehicle Press Release	Vehicle	Fire/Burn Hazard	0	51,000
All-Terrain Vehicle Press Release	Vehicle	Crash Hazard	0	3,800
Utility Vehicle Press Release	Vehicle	Crash Hazard	0	8,500
Solar Panel Press Release	Miscellaneous	Fire Hazard	0	28,000
Caster Board Press Release	Miscellaneous	Fall Hazard	4	158,000
Sweater Press Release	Apparel	Flammability Hazard	1	400

Civil Penalties Announced by the CPSC in April 2017

PRODUCT	PRODUCT CATEGORY	BASIS FOR PENALTY REPORTED INJURIES	CIVIL PENALTY AMOUNT
Gas Range Press Release	Appliance	Knowing failure to report a defect and an unreasonable risk of serious injury. The failure to report began after the company received 170 reports between 2008 and 2014 that the ranges would turn on spontaneously and could not be turned off with the control knobs.	\$4.65 million

Alston & Bird helps companies navigate the CPSC's complex regulations—from testing, to labeling, to recalls—and everything in between. We also help companies monitor and respond to complaints submitted to the CPSC's consumer complaint database, www.SaferProducts.gov. For additional information or questions about recalls, the SaferProducts.gov database or other CPSC issues, please email jenifer.keenan@alston.com or visit the firm's website at www.alston.com.

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