

## **PRODUCT SAFETY AND LIABILITY**

It is very important for the entrepreneur to assess whether any product that is to be marketed in the new venture is subject to any regulations under the Consumer Product Safety Act. The act, which was passed in 1972, created a five-member commission that has the power to prescribe safety standards for more than 15,000 types of consumer products.

In addition to setting standards for products, the commission also has a great deal of responsibility and power to identify what it considers to be substantial hazards and bar products it considers unsafe. It is especially active in recognizing whether possible product defects may be hazardous to consumers. When this is the case, the commission will request the manufacturer, in writing, to take corrective action.

The act was amended and signed into law in 1990. The amended law establishes stricter guidelines for reporting product defects and any injury or death resulting from such defects. Manufacturers could be subject to fines of \$1.25 million for failing to report product liability settlements or court awards. Manufacturers have presented their concerns to the Consumer Product Safety Commission about information in these reports becoming public prematurely. This information could prove damaging even when the commission may subsequently find that the firm was not negligent.

Any new product that is responsible for the entrepreneur's entry into a business should be assessed to ascertain whether it falls under the consumer Product Safety Act. If it does, the entrepreneur will have to follow the appropriate procedures to ensure that he or she has met all the necessary requirements.

Product liability problems are complex and continue to be an important consideration for entrepreneurs. Changes in the legislation thus far unsuccessful were felt to be necessary to address many longtime concerns of businesses such as the amount of punitive damages allowed in certain cases and the application of the product liability laws to durable goods that have been in use for more than 15 years. Changes in the global market have also contributed to the need for reform. Risk managers claim that without new reform legislation start-up companies that do not have a product liability track record may have difficulty finding this type of coverage.

Claims regarding product liability usually fall under one of the following categories:

1. Negligence. Extends to all parts of the production and marketing process. It involves being negligent in the way a product is presented to a client, such as using deficient labels, false advertising, and so on.
2. Warranty. Consumers may sue if advertising or information overstate the benefits of a product, or if the product does not perform as stated.
3. Strict liability. In this action, a consumer is suing because the product in question was defective before its receipt.
4. Misrepresentation. This occurs when advertising, labels, or other information misrepresent material facts concerning the character or quality of the product.

The best protection against product liability is to produce safe products and to warn consumers of any potential hazards. It is impossible to expect zero defects, so entrepreneurs should be sensitive to what kinds of product liability problems may occur.

Hisrich, PhD, Robert D., Michael P. Peters, PhD and Dean A. Shepherd, PhD.  
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