Managing Product Liability Risk

Many businesses, large and small, have suffered due to products that resulted in injury, illness, death, or property damage. Settlements in product liability lawsuits have been in the billions of dollars. Any business that designs, manufactures, distributes, and markets products is at risk.

There are three major types of product defects:

- **Design defects:** A product with design defects exposes consumers to risk even when they're using it properly. To recover damages for a dangerous product, a person must identify the defect, show how it caused harm, and prove they were following instructions.

- **Manufacturing defects:** These defects occur when manufacturers fail to follow a product's design plans. This includes using incorrect parts, making assembly mistakes, or allowing contamination by hazardous materials.

- **Marketing defects:** Product marketing defects are caused by insufficient instructions and warnings or improper labels that result in harm. To prove a marketing flaw in court, the injured party must identify the misleading information and show how it caused damages.

## To minimize your product liability risk, follow these best practices:

- **Control or eliminate hazards and risks in the product design phase.** When designing products, a safety review should consider how a product will be used, who it will be used by, all likely conditions in which it will be used, and the potential problems that may result.

- **Be sure all manufacturing equipment meets quality assurance standards.** Regular calibration, maintenance, and inspection can reduce manufacturing errors.

- **Test your products in house.** Set minimum acceptance standards to produce hig- quality products.

- **Be sure all products comply with industry and government safety standards.** Consult https://www.usa.gov/federal-agencies/consumer-product-safety-commission or search for standards and statutes at https://www.cpsc.gov/Regulations-Laws--Standards/Statutes. Know which standards apply to your product(s).

- **Confirm all labels, warnings, and instructions adhere to these standards.** Labels should be prominent, detailed, understandable, and in multiple languages where applicable.

- **Hold regularly-scheduled safety reviews.** Reviews should confirm that any design or manufacturing changes comply with all internal and external standards.

- **Understand your exposure if you import foreign products or materials.** Any U.S. company that imports a product from a foreign manufacturer is considered the manufacturer and is responsible for the product liability.

- **Enable and review customer feedback.** Make it easy for consumers to share their concerns. This can increase opportunities for improving product quality. **Review all complaints and feedback from your customers.** Such information can help a company take positive steps at an early stage to minimize or avoid product issues and exposures.

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Keep all essential records

- **Keep copies of customer design specifications and product orders,** including customer signoff on final designs. Establish an engineering change order system to document any change and provide a clear and complete reason for the change.

- **Develop written procedures and instructions** that describe the flow of the product through the manufacturing process and quality control steps. Keep documentation to help verify the quality and conformity at each of the quality control steps.

- **Establish a document retention policy** to help ensure preservation of documents important to the investigation and defense of product liability claims.

- **Consider quality assurance software.** These systems typically include features for tracking product defects, managing supplier quality control, and maintaining regulatory compliance.
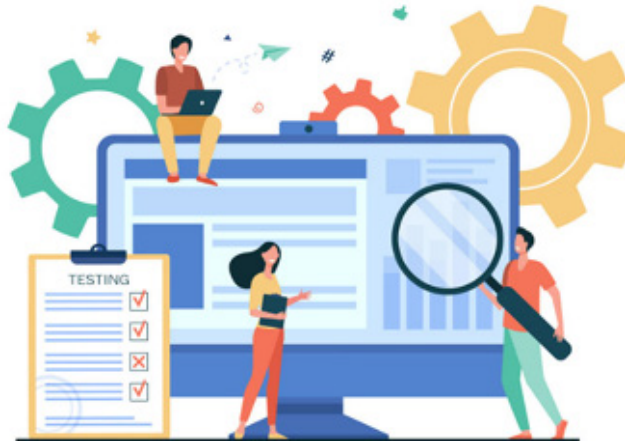
What to do if you suspect a product defect

Take immediate actions if you become aware of a product defect, including:

- Publicly acknowledge the alleged product problem in a statement.

- Contact retailers, wholesalers, or distributors that sell the product.

- Develop a plan to fix the defect. The response may also entail a product recall and reimbursing affected consumers.

Businesses that recall a product should consult **the United States Consumer Product Safety Commission's (CPSC) Recall Guidance webpage.** This resource includes an extensive handbook, a checklist, and guides for notifying the public.

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