

REPUBLIC OF LITHUANIA

LAW

ON PRODUCT SAFETY

1 June, 1999, No VIII-1206

Vilnius

CHAPTER I

GENERAL PROVISIONS

Article 1. Purpose and Intent of the Law

1. This Law shall establish general requirements for product safety, the principles of state and public control of product safety, the procedure for providing and communicating information about dangerous products, the duties and liability of producers, sellers and suppliers of services for placing dangerous products on the market of the Republic of Lithuania (hereinafter - the market) and damage caused by them to consumers.

2. The purpose of the Law is to ensure that only safe products are placed on the market.

Article 2. The Scope of the Law

1. This Law shall apply to legal and natural persons, enterprises without the status of a legal person who place on the market products intended for personal and household needs.

2. This Law shall not apply when placing on the market:

1) second-hand articles which are placed on the market as antiques, nor shall it apply to goods to be repaired or reconditioned prior to being used, provided that the supplier clearly informs the person to whom the good is supplied to that effect in writing;

2) products intended exclusively for a commercial- economic activity;

3) products placed on the market prior to entry into force of this Law.

Article 3. Definitions

1 **Product** - shall mean a manufactured good or service.

2. **Placing of a product on the market** - shall mean putting a product into circulation, its distribution, import, rent, sale or some other way of transfer.

3. **Manufactured good** - shall mean any movable property (thing) placed on the market and intended for the consumer.

4. **Service** - shall mean the result of activity by the supplier of a service when discharging a transaction between the supplier of a service and the client, including a centralised supply of drinking water, gas, heat and electricity.

5. **Safe manufactured good** - shall mean any product which, under normal conditions prescribed by the manufacturer or reasonably foreseeable conditions of use, including duration, does not present any risk or only the minimum risks compatible with the article's use, considered as acceptable and consistent with a high level of protection for the safety and health of persons, taking into account the following points in particular:

1) the characteristics of the manufactured good, including its composition, packaging, instructions for assembly and maintenance;

2) the effect on other manufactured goods, where it is reasonably foreseeable that it will be used with other manufactured goods;

3) the presentation of the manufactured good, the labelling, any instructions for its use and disposal and any other indication or information provided by the producer;

4) the categories of consumers at serious risk when using the manufactured good, in particular children.

6. **Dangerous manufactured good** - shall mean any manufactured good which does not meet the definition of "safe manufactured good" set forth in legal acts.

7. **Safe service** - shall mean any service provided in accordance with the specified conditions, which does not violate requirements for a safe service set forth in legal acts, and while providing it or after, does not present any risk or presents a risk not exceeding levels permitted by legal acts.

8. **Dangerous service** - shall mean any service which does not comply with the requirements for a safe service set forth in legal acts.

9. **Producer** - shall mean a person established in the Republic of Lithuania in the manner prescribed by legal acts :

1) who has manufactured the good and has announced that by affixing to the good his name, trade mark or other distinctive mark;

2) who acts as the manufacturer's representative and places the manufactured good on the market at the manufacturer's request and affixes to the good his name, or, if there is no representative - imports the manufactured good;

3) who stores and/or packages manufactured goods and indicates himself as the producer of manufactured goods;

4) whose activities, as a participant in the supply chain of goods or services, may affect the safety properties of a manufactured good.

10. **Supplier of service** - shall mean a person established in the Republic of Lithuania in the manner prescribed by legal acts who provides services.

11. **Seller** - shall mean a person established in the Republic of Lithuania in the manner prescribed by legal acts who sells manufactured goods.

12. **Consumer** - shall mean a person who buys manufactured goods and makes use of services for personal or household needs.

13. **Product safety monitoring** - shall mean state and public product safety control of whether the product placed on the market is safe.

14. **Product safety expert examination** - shall mean assessment of product properties affecting safety of consumers and a statement whether the product conforms to the prescribed safety requirements.

Article 4. General Principles of Product Safety

1. A product about to be placed on the market must be safe. The possibility to ensure higher levels of safety or obtain other products the use of which involves less risk than prescribed must not be a reason for placing the product in the category of dangerous products if it complies with the product safety requirements set forth in legal acts.

2. The producer, seller and supplier of a service, when placing manufactured goods and services on the market, must comply with the product safety requirements set forth in legal acts.

CHAPTER II

STATE REGULATION OF PRODUCT SAFETY

Article 5. Competence of the Government, Government Institutions, Ministries, Departments under the Ministries and Other Bodies in Regulating Product Safety

The Government, its institutions, ministries, departments under them and other bodies, within their respective spheres of state administration, shall set forth, within the limits of their competence, mandatory product safety and marking requirements aligned with the requirements of the United Nations, the European Union, and the World Trade Organisation and subject to the approval of their conformity with the prescribed requirements.

Article 6. Co-ordination of Implementation of Legal Acts Regulating Product Safety

1. Implementation of this Law and other legal acts regulating product safety shall be co-ordinated by the National Council for the Protection of Consumer Rights (hereinafter - the Council).

2. The competence, legal status, establishment, appointment and dismissal of its members, requirements for the members, their term of office, the decision-making procedure and sources of the Council's funds shall be set forth in laws and other legal acts.

Article 7. Notification of the European Commission and Foreign States about Dangerous Products

1. If the Council or state product safety monitoring authorities (hereinafter - "monitoring authorities") decide to apply measures which restrict the placing on the market of products supplied from Member States of the European Union or states with which appropriate international agreements have been concluded, they must notify, without delay, the European Commission or the authorities of the states with which international agreements where such notification is required have been concluded, specifying their reasons for applying them.

2. The reasons and procedure of communicating information specified in paragraph 1 of this Article shall be laid down by laws, international treaties and other legal acts.

CHAPTER III

OBLIGATIONS OF THE PRODUCER, SELLER AND SUPPLIER OF SERVICES TO ENSURE PRODUCT SAFETY

Article 8. Producer's Obligation to Ensure Product Safety

The producer shall be obliged:

- 1) to place only safe manufactured goods on the market;
- 2) to mark manufactured goods and provide consumers with the relevant information about the risks inherent in a manufactured good throughout the indicated, normal or reasonably foreseeable period of its use;
- 3) upon discovering that a manufactured good is dangerous, inform, without delay, the consumers, the Council, and appropriate monitoring authorities, and withdraw the good from the market in the manner prescribed by the Government;
- 4) to carry out instructions and requirements of monitoring authorities;
- 5) to compensate for the damage caused to the consumer by a dangerous product;
- 6) to carry out other duties laid down by this Law and other legal acts on product safety.

Article 9. Seller's Obligation to Ensure Product Safety

The seller shall be obliged;

- 1) to place only safe manufactured goods on the market;
- 2) to provide consumers with relevant information about the risks inherent in a manufactured good throughout the indicated, normal or reasonably foreseeable period of its use;
- 3) upon discovering that a manufactured good is dangerous, to inform, without delay, the consumers, the Council and an appropriate monitoring authority, and withdraw the good from the market in the manner prescribed by the Government;
- 4) to carry out instructions and requirements of monitoring authorities;
- 5) to compensate for the damage caused to the consumer by a dangerous manufactured good;
- 6) to carry out other duties laid down by this Law and other legal acts on product safety.

Article 10. Obligation of the Service Supplier to Ensure Product Safety

1. The service supplier shall be obliged :

- 1) to provide only a safe service to the consumer;
- 2) to provide consumers with relevant information about the risks inherent in the service throughout the indicated, normal or reasonably foreseeable period of its use;

3) upon discovering that a service may involve risks for the consumer, to terminate, without delay, provision of the service and inform the consumer, the Council and an appropriate monitoring authority;

4) to carry out instructions and requirements of state product safety monitoring authorities;

5) to compensate for the damage caused to the consumer by a dangerous service;

6) to carry out other duties laid down by this Law and other legal acts on product safety.

CHAPTER IV

PUBLIC CONSUMER PROTECTION ORGANISATIONS

Article 11. Rights of Public Consumer Protection Organisations

Public consumer protection organisations shall have the following rights:

1) to obtain information pertaining to product safety from producers, sellers and suppliers of services;

2) to conduct consumer opinion polls about product safety and publish summaries of the information in mass media;

3) at the request of the consumer or at their own initiative, to bring an action against legal and natural persons, enterprises without the status of a legal person who have violated consumer rights and lawful interests;

4) to establish information and counselling centres and product safety test laboratories;

5) to provide to the Council and monitoring authorities information about violations of legal acts on product safety and make proposals about promotion of consumer protection;

6) to take part as an observer at the meetings of the Council.

CHAPTER V

STATE MONITORING OF PRODUCT SAFETY

Article 12. Monitoring of Compliance with Product Safety Requirements

Compliance with the requirements set forth in this Law and other legal acts which ensure that only safe products are placed on the market shall be controlled by uniform monitoring authorities for food and non-food product safety established by the Government in the manner prescribed by laws and other legal acts of the Republic of Lithuania.

Article 13. Subject Matter of the State Product Safety Monitoring

1. Direct product safety monitoring shall include:
 - 1) product safety checks conducted on the initiative of a product safety monitoring authority;
 - 2) product safety checks conducted on the basis of reports of consumers, their organisations and other interested bodies and institutions;
 - 3) supervision of destruction of dangerous manufactured goods;
 - 4) analysis of the findings of product safety monitoring and communication of the relevant information to the Council.
2. Indirect monitoring of product safety shall be comprised of gathering, storing, processing and analysis of statistical data about the manufacturing, import and sales of dangerous products, and information about any factors resulting in the increase or decrease of risks involved in the consumption.

Article 14. Rights and Obligations of Monitoring Authorities

1. In exercising state product safety monitoring, the monitoring authorities shall have the right:
 - 1) to check the compliance with legal acts regulating product safety, and collect information pertaining to product safety;
 - 2) to obtain information and documentation necessary for investigation of violations of this Law and other legislation from national and local executive bodies, legal and natural persons, and enterprises without the status of a legal person;
 - 3) to obtain, in the manner prescribed by the Government or an institution authorised by it, from producers, sellers and suppliers of services information, documentation, and product samples necessary for investigation of violations of this Law and other legislation;
 - 4) to require that managers of manufacturing, sales and service supply companies, or persons authorised by them, appear in person and provide oral or written explanation;
 - 5) to recommend to the authority to cancel the licence to engage in commercial- economic activities issued to those persons whose products placed on the market caused damage to consumers;
 - 6) upon establishing violations of the requirements of legal acts on product safety, to notify the producer, seller and supplier of service and obligate them to rectify the violations without delay;
 - 7) to apply marketing restrictions in accordance with the principles set forth in this Law and other legislation.
2. Monitoring authorities shall be obliged:
 - 1) to provide law enforcement institutions with all information pertaining to infringement of legal acts on product safety if these products could cause or have caused health impairment or death;
 - 2) to ensure confidentiality of information constituting a trade secret obtained from producers, sellers or suppliers of services.
3. The staff of monitoring authorities designated to carry out control of product safety, who infringe requirements of this Law shall be held liable in the manner prescribed by law.

Article 15. Information Not Constituting a Trade Secret

1. Information with regard to a product not constituting a trade secret shall be as follows:

- 1) the name of the product;
- 2) possible methods and means of remaking the product into a safe product;
- 3) results of tests concerning health effects of the product on the consumers;
- 4) methods of decontamination and/or safe destruction;
- 5) methods of product examination;
- 6) potentially hazardous components of the product;
- 7) potentially hazardous factors related to supply of a service.

CHAPTER VI

EXERCISE OF THE POWERS OF STATE PRODUCT SAFETY MONITORING AUTHORITIES

Article 16. Basis for Restrictions on the Placing of a Product on the Market

Restrictions on the placing of a product on the market (hereinafter - restriction on the marketing) may be applied provided the products have been placed on the market in violation of the requirements of subparagraphs 1, 2, 3 of Article 8, subparagraphs 1, 2, 3 of Article 9, and subparagraphs 1, 2, 3 of Article 10 of this Law.

Article 17. Restrictions on Marketing

1. When there are grounds for restrictions on the marketing in pursuance of Article 16 of this Law, the Council or the monitoring authorities shall have the right to apply, in the manner prescribed by the Government, the following restrictions on the marketing:

1) to cancel or ban any placing of products on the market, to obligate the producer, seller, and supplier of a service to eliminate harmful properties of the product or to destroy the dangerous product in a safe way;

2) to demand the withdrawal of the dangerous product from the market, and where the producer, seller or supplier of a service do not proceed to do that in a timely manner, or where it is impossible to identify promptly the producer, seller or supplier of a service, the monitoring authorities themselves shall withdraw the dangerous product from the market;

3) to ban advertising of the dangerous product and to request discontinuation of advertising of such a product.

2 If a monitoring authority itself withdraws a dangerous product from the market, by the decision of the Council, the expenses incurred shall be recovered from the producer, seller, and supplier of a service.

3. Decisions of the Council or resolutions of the monitoring authorities with regard to the beginning or end of restrictions on the marketing must be published in the information appendix of the "Valstybės žinios" (the "Official Gazette").

4) Producers, sellers and service suppliers must carry out decisions of the Council or resolutions of the monitoring authorities from the moment of their receipt unless a later date is specified in the decision or resolution.

CHAPTER VII

STATE EXPERT EXAMINATION OF PRODUCT SAFETY

Article 18. State Expert Examination of Product Safety

1. State expert examination of product safety shall be undertaken:
 - 1) at the request of the monitoring authorities;
 - 2) upon a reasoned proposal of public consumer protection organisations.
2. The procedure for carrying out state expert examination of product safety and its principles shall be established by the Government or an institution designated by it..
3. State expert examination of product safety shall be carried out by institutions designated by the Government.

Article 19. Conclusions of State Expert Examination of Product Safety

If during state expert examination of product safety it is established that product samples or services are dangerous the whole batch from which samples for expert examination have been taken or all the services provided by the service supplier from the moment of establishing shall be deemed dangerous.

CHAPTER VIII

LIABILITY FOR VIOLATIONS OF LAW ON PRODUCT SAFETY

Article 20. Liability for Violations of the Law

1. Producers, suppliers of services in breach of the requirements of this Law shall be held liable in the manner stipulated by this Law and other legislation.
2. The importer in breach of the requirements of this Law shall be held liable in the same way as the producer.
3. If the producer cannot be identified the seller shall be held liable.

Article 21. Compensation for Material Damage

1. Damage caused to the consumer by a dangerous product shall be compensated in the manner prescribed by law.
2. Any agreement providing exemptions of the producer, seller or supplier of a service through whose fault the damage has been caused from compensation for the damage shall be null and void.

Article 22. Persons Subject to Economic Sanctions for Violations of the Law

Economic sanctions for violations of this Law shall be imposed on the producer or seller of the product, or the supplier of a service.

Article 23. Economic Sanctions for Violations of the Law

1. The producer or seller who place dangerous products on the market may be warned or may be punishable by a fine from 500 to 5,000 Litas.

2. The producer or seller who place dangerous products on the market following the order to suspend their sale may be punishable by a fine from 3,000 to 15,000 Litas.

3. The supplier of a service who has provided or is providing dangerous services may be warned or may be punishable by a fine from 500 to 2,500 Litas.

4. The supplier of a service who provided or keeps providing dangerous services following the order to suspend providing them may be punishable by a fine from 2,000 to 10,000 Litas.

5. If the person referred to in Article 22 of this Law fails to comply with the requirements of the Council or the monitoring authorities to withdraw dangerous products from the market or to destroy them may be punishable by a fine from 5,000 to 20,000 Litas.

6. If the person referred to in Article 22 of this Law placed dangerous products on the market which have caused a health impairment to the consumer he may be punishable by a fine from 5,000 to 40,000 Litas.

7. If the person referred to in Article 22 of this Law placed dangerous products on the market which caused the consumer's death he may be punishable by a fine from 20,000 to 80,000 Litas.

8. Application of economic sanctions does not exempt the fined persons from paying damages to the consumer.

Article 24. Mitigating and Aggravating Circumstances

1 The producer and seller of a dangerous product, or the supplier of a service shall not be held liable for the placing of a dangerous product on the market if they prove that:

- 1) the dangerous product has not been placed on the market;
- 2) the product became dangerous as a result of actions of a third person during an improper (unsafe) transportation or keeping (storage) or because of any other reasons;
- 3) at the time when the dangerous product was placed on the market, the level of science and technology was not adequate for establishing a potential risk;
- 4) the consumer used the product in breach of the instructions, precautions and safety measures, which resulted in the damage;
- 5) dangerous properties of the product resulted as a consequence of *force majeure*.

2. In deciding upon the amount of an economic sanction the Council shall take into account the mitigating and aggravating circumstances.

3. When imposing a fine, the fact that persons who have committed a violation rectified it and compensated the damage caused to consumers in good faith, as well as other relevant circumstances shall be regarded as mitigating circumstances.

4. When imposing a fine, the fact that a person repeatedly committed the same type of violation within one year after a previous violation, and persisted in committing it without regard to the order of the Council or the monitoring authority to discontinue unlawful actions, and has failed to compensate for the damage or avoided to compensate for it, shall be regarded as aggravating circumstances.

Article 25. Time-period for Imposing Economic Sanctions

The economic sanctions referred to in Article 23 of this Law may be imposed within three months from establishing a violation of the Law; and in the event of a continuing violation - from the day of ascertaining it. This provision shall not apply when a dangerous product impairs the consumer's health or causes his death.

Article 26. Administrative Liability

Violations of the Law on Product Liability shall carry administrative liability in the manner prescribed by law

Article 27. Investigation of Violations of the Law and Procedure of Imposing Economic Sanctions

1. Economic sanctions referred to in this Law shall be imposed and cases shall be investigated by the Council. Preparation and investigation of the cases and the procedure of imposing economic sanctions shall be laid down by this Law and regulations of the Council approved by the Government.

2. The staff of the monitoring authorities shall draw up a statement reporting a violation of this Law and together with the relevant evidence shall submit it within three work days to the Council.

3. A representative of the monitoring authority which submitted the relevant material shall be present during the hearing of the case; the person in breach or his representative must be duly informed and may also attend the hearing. The person in breach or the Law or his representative has the right to familiarise himself with the materials of the case, give explanations, make motions, give evidence, and appeal against the adopted decisions. Failure of the person in breach or his representative when he was informed in a timely manner about the venue and time of the hearing to appear during the hearing of the case shall not prevent the hearing from taking place.

4. After investigation of the case the Council shall adopt an appropriate decision. The decision shall state the name of the institution which adopted the decision, the date and venue of the investigation, information about the person in breach of the Law, the circumstances of the violation, the evidence on which the decision is based, the adopted decision, the time-limit for appealing against it and its procedure.

Article 28. Appeal Against Resolutions of the Monitoring Authorities and Decisions of the Council

1. Within 20 days from adoption of a resolution or a decision, the producer, seller and supplier of services may file an appeal with a court against the decisions of the Council or resolutions of the monitoring authorities relating to the restrictions on the marketing and the decisions of the Council on imposing economic sanctions in the manner set forth by the Law on Administrative Proceedings.

2. Appeal to the court shall not stay enforcement of the decision or resolution unless the court provides otherwise.

Article 29. Recovery of Fines

1. The imposed fines referred to in Article 23 of this Law shall be paid into the State budget within one month after the day of service on the person in breach of the Law of the decision to impose a fine upon him.

2. The unpaid fines shall be recovered in the manner laid down by the Code of Civil Procedure.

CHAPTER IX

FINAL PROVISIONS

Article 30. Entry into Force

This Law, with the exception of article 31, shall enter into force from January 1, 2000.

Article 31. Recommendation to the Government

The Government of the Republic of Lithuania:

1) prior to 1 October, 1999, shall prepare drafts for the amendment of laws related to this particular Law;

2) prior to December 31, 1999, shall adopt legal acts implementing this law.

I promulgate this Law passed by the Seimas of the Republic of Lithuania

PRESIDENT OF THE REPUBLIC

VALDAS ADMAKUS