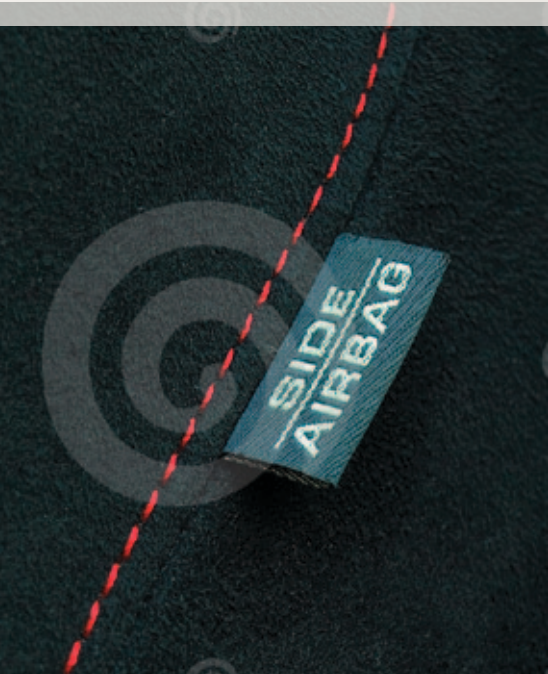


# CONSUMER PRODUCT SAFETY



NEW  
REGULATORY  
REGIME IN  
CANADA



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**Under its Food and Consumer Safety Action Plan, the Government of Canada will soon be bringing into force new legislation that will implement new and very significant oversight over consumer products in Canada. The *Canada Consumer Product Safety Act*, coming into force on June 20, 2011, will have a significant impact on manufacturers, importers/exporters, advertisers and sellers (at wholesale or retail) of consumer products.**

**SOME HIGHLIGHTS**

- **Prohibitions** – the Act implements prohibitions that impact manufacturers, distributors, importers, advertisers and retailers with respect to:
  - The sale of specified products (for example baby bottles containing Bisphenol A)
  - The advertisement or sale of consumer products that are dangerous to human health or safety
- **Reporting Duties in the Event of an “Incident”** – The Act implements very specific reporting obligations on manufacturers, importers and retailers when a product defect, labelling issue or other specified occurrence is discovered that is likely to result in death or serious adverse effects to health.
- **Broad Inspection Powers** – Inspectors will have the power to enter premises for the purposes of determining compliance, seizing property and reviewing and copying information – including information stored electronically at the place of inspection.
- **Broad Recall Powers** – Health Canada will have broad powers to order recalls if the Minister of Health believes that a consumer product is a danger to human health or safety. The Minister can also take other measures including seizing goods, seeking court injunctions and ordering manufacturers and importers to conduct product testing.
- **Record Keeping** – The Act requires that documents be maintained in order to allow the movement of consumer products to be tracked throughout the supply chain. These documents must be kept for six years and provided on written request to the Minister.
- **Penalties** – The Act creates significant penalties, with criminal fines of up to \$5 million and imprisonment for up to two years as well as administrative monetary penalties.



# CONSUMER PRODUCT SAFETY

## IMPLICATIONS

Although the Act has been passed, its provisions will not come into force until Health Canada sets up the necessary regulatory framework. Public consultations have already been held on proposed regulations, so we can anticipate that this may be done on an expedited basis. In light of the significant new obligations the Act imposes, it is critical that all participants in the consumer product supply chain act quickly to put in place policies and procedures to ensure compliance once the Act is in force. These would include:

- Establishing a consumer product safety compliance team.
- Reviewing all consumer products, labelling and advertising for compliance.
- Initiating record-keeping and document retention systems and procedures.
- Drafting incident identification and reporting procedures to ensure that the strict timelines under the Act can be complied with.
- Reviewing insurance policies to ensure that they provide pay-as-you-go coverage for directors and officers.

Cassels Brock's consumer product safety team has been monitoring the development of this legislation closely and advising clients on the implications for their businesses. We have a wealth of experience managing recalls and managing post-recall litigation relating to consumer products, health products and food.

## FOR MORE INFORMATION, PLEASE CONTACT

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