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Laws and Regulations Updated

- Draft Act of the Liabilities Against Damage Caused by Unsafe Goods B.E. ...

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Draft Act of the Liabilities Against Damage Caused by Unsafe Goods

Status: *Approved by the Cabinet and shall be forwarded to the House of Representatives for further consideration*

Relevant Authority: *The Consumer Protection Board*

The purpose of this draft Act is for protecting consumers against damage caused by unsafe goods. According to this draft Act, consumers need not prove the unsafety of goods, including intention or negligence in wrongful act of the manufacturer or importer.

The significant principals of the draft Act are as follows:

1. This draft Act shall come into effect upon the lapse of one year from the date of publication in the Government Gazette.
2. If there is any specific law governing the liabilities against damage caused by goods which provides more protection against the injured person than this draft Act, such specific law shall apply instead.
3. The definitions of the following terms shall be stipulated in this draft Act:

“Goods” means all kinds of movable properties manufactured or imported for sale and shall include electricity and unprocessed agricultural products in order to extend scope of consumer protection and to be in compliance with the provisions of international laws. Any exempted goods which shall not be subject to this draft Act shall be announced, from time to time, by the Ministerial Regulation.

“Unsafe Goods” shall be defined for certainty in enforcing the law and compliance with the international laws.

“Damage” means damage caused by the unsafe goods, whether damage against life, body, health, sanitary, mentality or property, but not including such unsafe goods.

4. All operators shall be jointly and severally liable to the injured person against the damage caused by the unsafe goods sold to consumer, whether or not such damage was created by the willful or negligent act of any operator.
5. An injured person or a person entitled to initiate a law suit shall only be required to prove that the damage has been caused by the operator's goods and the usage or storage of such goods have been made regularly. Such person shall not be required to prove that such damage has been caused by the act of any operator.

6. The causes that shall release the operator from the liabilities under this draft Act shall include but not limited to the following: the injured person has already known that the goods were unsafe goods and the damage has been caused due to the improper storage of the goods.
7. The manufacturer per an order of any employer shall be released from liability if it can prove that the unsafety of the goods has been caused by the design of the employer or by the compliance with the order of the employer.
8. Any prior agreement made between the consumer and the operator to waive or limit liabilities of the operator shall not be claimed or applied.
9. The Association certified by the Consumer Protection Board shall be entitled to proceed with a law suit for the injured person under this draft Act and shall be exempted from costs of action in the Court of Justice. However, this provision shall not cover the liability for the costs in the final stage.
10. The court shall be empowered to determine compensation against mentality damage. The spouse, parent or descendant of the injured person shall also be entitled to claim to the operator for their mentality damage due to the death of the injured person. The punitive compensation shall also be provided under this draft Act. The punitive compensation shall apply only in case the operator manufactured, imported or sold the goods with knowing that such goods was unsafe or without knowing due to gross negligence or the operator has known such unsafety of goods after manufacturing, importing or selling but still did not proceed with any proper action for protecting such damage. However, such kind of punitive compensation shall not exceed two times of the actual compensation.
11. The prescription period for claiming against the damage that has been occurred as a result of accumulating in the body or by consuming certain period of time for appearing symptom shall be three (3) years from the date of knowing of such damage and the liable operator, but shall not exceed 10 years from the date of knowing of such damage.
12. The period of prescription shall be interrupted during the negotiation for remedy between the operator and the injured person until the cessation of such negotiation notified by each party.
13. The claim against damage under this draft Act shall not prohibit the injured person from claiming for the damage by virtue of other laws.
14. This draft Act shall not apply to any goods sold to the consumer before the effective date of this draft Act.