

Product Quality Law of The People's Republic of China

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Chapter I General Provisions

Article 1 This Law is enacted to strengthen the supervision and control over product quality, to define the liability for product quality, to protect the legitimate rights and interests of users and consumers and to safeguard the socio-economic order.

Article 2 Anyone who conducts activities of production and sale of any product within the territory of the People's Republic of China must abide by this Law.

Product referred to in this law means a product which is processed or manufactured for the purpose of sale.

This Law shall not apply to construction projects.

Article 3 Producers and sellers shall be liable for product quality in accordance with this Law.

Article 4 It is prohibited to forge or falsely use authentication marks, famous-and-excellent-product marks or other product quality marks; it is prohibited to forge the origin of a product, to forge or falsely use the name and address of a factory of another producer; and it is prohibited to mix impurities or imitations into products that are produced or sold, or pass a fake product off as a genuine one, or pass a defective product off as a high-quality one.

Article 5 The State shall encourage the popularization of scientific methods in product quality control and the adoption of advanced science and technology. The State shall encourage enterprises to make their product quality meet and even surpass their respective trade standards, the national and international standards. Units and individuals that have made outstanding achievements in ensuring advanced product quality control and in raising product quality to the advanced international standards shall be awarded.

Article 6 The department in charge of supervision and control over product quality under the State Council shall be responsible for nation-wide supervision and control over product quality. The relevant departments under the State Council shall be responsible for supervision and control over product quality within the scope of their respective functions and responsibilities.

The administrative departments responsible for supervision over product quality in the local people's governments at or above the county level shall be in charge of supervision and control over product quality within their administrative regions. The relevant departments in the local people's governments at or above the county level shall be in charge of supervision and control over product quality within the scope of their respective functions and responsibilities.

Chapter II Supervision and Control over Product Quality

Article 7 The quality of a product shall be inspected and proved to be up to the standards. No sub-standard product shall be passed off as a product up to the standards.

Article 8 Industrial products constituting possible threats to the health or safety of human life and property must be in compliance with the national standards and trade standards safeguarding the health or safety of human life and property; In the absence of such national standards or trade standards, the product must meet the requirements for safeguarding the health or safety of human life and property.

Article 9 The State shall, in compliance with the international quality control standards in general use, practise a rule of authentication for enterprise quality system. an enterprise may on voluntary basis apply to the department in charge of supervision and control over product quality under the State Council or an authentication agency approved by a department authorized by the

department in charge of supervision and control over product quality under the State Council for authentication of enterprise quality system. With respect to the enterprise which has passed the authentication, the authentication agency shall issue an authentication certificate of enterprise quality system.

The State shall perform a product quality authentication system by making reference to the internationally advanced product standards and technical requirements. An enterprise may on voluntary basis apply to the department in charge of supervision and control over product quality under the State Council or to an authentication agency approved by a department authorized by the department in charge of supervision and control over product quality under the State Council for authentication of product quality. With respect to the enterprise that has passed the authentication, the authentication agency shall issue a product quality authentication certificate and permit it to use the product quality authentication marks on its products or the packages thereof.

Article 10 The State shall, with respect to product quality, enforce a supervision and inspection system with random checking as its main form. Products constituting possible threats to the health or safety of human life and property, important industrial products which have a bearing on the national economy and the people's livelihood, and products with quality problems as reported by users, consumers or relevant organizations shall be subjected to random checking. Such a supervision and random checking shall be planned and organized by the department in charge of supervision and control over product quality under the State Council. The administrative departments responsible for supervision over product quality of the local people's governments at or above the county level may also organize supervision and random checking within their respective administrative regions. However, overlapping random checking shall be avoided. The results of random checking of product quality shall be made public. Where the laws provide otherwise with respect to the supervision over and inspection of product quality, the provisions of such laws shall apply.

Products may be inspected if the supervision and random checking for such products so require, but no fees shall be charged for such purposes from the enterprises concerned. Expenses thus incurred shall be disbursed in accordance with the relevant regulations of the State Council.

Article 11 Product quality inspection institutions must have appropriate testing facilities and capabilities, and shall undertake the work of inspection of product quality only after being examined and verified by a department in charge of supervision and control over product quality under the people's government at or above the provincial level or an organization authorized by the department. Where the laws, administrative rules and regulations provide otherwise with respect to the product quality inspection institutions, the provisions of such laws, rules and regulations shall apply.

Article 12 Users and consumers shall have the right to make inquiries to the producers and sellers about the quality of their products. Where a complaint is made to a department in charge of supervision and control over product quality or to an administrative department for industry and commerce or to any other department concerned, such department shall be responsible for the handling thereof.

Article 13 Social organizations responsible for the protection of the rights and interests of consumers may, with respect to matters concerning product quality as reported by consumers, suggest to the departments concerned that they handle the matters, and may support consumers in bringing a suit to a people's court for the damage caused by quality problems of products.

Chapter III Liability and Obligation of Producers and Sellers Concerning Product Quality

Section 1 Liability and Obligation of Producers Concerning Product Quality

Article 14 Producers shall be liable for the quality of the products they produce.

The products shall meet the following quality requirements:

- (1) being free from unreasonable dangers threatening the safety of human life and property, and conforming to the national standards or trade standards safeguarding the health or safety of human life and property where there are such standards;
- (2) possessing the properties and functions that they ought to possess, except for those with directions stating their functional defects;
- (3) conforming to the product standards marked on the products or the packages thereof, and to the state of quality indicated by way of product directions, samples, etc.

Article 15 All marks on the products or the packages thereof shall meet the following requirements:

- (1) with certification showing that the product has passed quality inspection;
- (2) with name of the product, name and address of the factory that produced the product, all being marked in Chinese;
- (3) with corresponding indications regarding the specifications, grade of the product, the main ingredients and their quantities contained in the product, where such particulars are to be indicated according to the special nature and instructions for use of the product;

(4) with production date, safe-use period or date of invalidity if the product is to be used within a time limit;

(5) with warning marks or warning statements in Chinese for products which, if improperly used, may cause damage to the products per se or may endanger the safety of human life or property.

Food products without package and other non-packed products which are difficult to be marked because of their special nature may dispense with product marks.

Article 16 The packages of poisonous, dangerous or fragile products, or products that should be kept upright during storage and transportation, or other products with special requirements must meet the corresponding requirements and carry warning marks or warning statements in Chinese indicating directions for storage and transportation.

Article 17 No producer may produce any product that has been officially eliminated by the State.

Article 18 No producer may forge the origin of a product, nor forge or falsely use another producer name and address.

Article 19 No producer may forge or falsely use another producer authentication marks, famous-and-excellent-product marks or other product quality marks.

Article 20 In producing products, producers may not mix impurities or imitations into the products, nor substitute a fake product for a genuine one, a defective product for a high-quality one, nor pass a substandard product off as a good-quality one.

Section 2 Liability and Obligation of Sellers Concerning

Product Quality

Article 21 A seller shall practise a check-for-acceptance system while replenishing his stock, and examine the quality certificates and other marks.

Article 22 A seller shall adopt measures to keep the products for sale in good quality.

Article 23 A seller may not sell invalid or deteriorated products.

Article 24 The marks of seller products shall conform to the provisions of Article 15 of this Law.

Article 25 A seller may not forge the origin of a product, nor forge or falsely use another producer name and address.

Article 26 A seller may not forge or falsely use another producer authentication marks, famous-and-excellent-product marks or other product quality marks.

Article 27 In selling products, sellers, may not mix impurities or imitations into the products, nor substitute a fake product for a genuine one, a defective product for a high-quality one, nor pass a substandard product off as a good-quality one.

Chapter IV Compensation for Damage

Article 28 A seller shall be responsible for repair, or change, or refund of a product if it is sold under any of the following circumstances, and, where the product has caused any loss on users or consumers, the seller shall compensate for such loss:

- (1) not having the functions it ought to have, and no prior explanation thereabout having been given by the seller;
- (2) not conforming to the product standards marked on the product or its package;
- (3) not conforming to the state of quality indicated by way of product directions or sample, etc.

After repair, change, refund or compensation has been made according to the provisions of the preceding paragraph, if the liability is attributed to the producer or to another seller who has supplied the product (hereinafter referred to as supplier), the seller shall have the right to recover his losses from the producer or the supplier.

Where a seller fails to make repair, change, refund or compensation in accordance with the provisions in the first paragraph, the department in charge of supervision over product quality or the administrative department for industry and commerce shall order the seller to make rectification.

Where contracts for purchase and sale of products or for processing concluded between producers or sellers or between producers and sellers provide otherwise, the parties concerned shall act in accordance with the provisions of the contracts.

Article 29 A producer shall be liable for compensation if his defective product causes damage to human life or property other than the defective product itself (hereinafter referred to as another persons property).

A producer shall not be liable for compensation if he can prove the existence of any of the following circumstances:

- (1) The product has not been put in circulation;
- (2) The defect causing the damage did not exist at the time when the product was put in circulation;
- (3) The science and technology at the time the product was put in circulation was at a level incapable of detecting the defect.

Article 30 Where damage to human life or another person property is due to a products defect caused by the fault of a seller, the seller shall be liable for compensation.

Where the seller can identify neither the producer of the defective product nor the supplier thereof, the seller shall be liable for compensation.

Article 31 Where a defective product causes damage to human life or another persons property, the victim may claim compensation from the producer and may also claim compensation from the seller of such product. Where the liability falls on the producer, but the seller has made the compensation, the seller shall have the right to recover the loss from the producer. Where the liability falls on the seller, but the producer has made the compensation, the producer shall have the right to recover the loss from the seller.

Article 32 Where bodily injury is caused by a product due to its defect, the infringer shall compensate for the medical expenses of the infringed, the decreased earning due to the loss of his working time as well as the subsistence allowance if the infringed is disabled; where such defect causes death to the infringed, the infringer shall also pay the funeral expenses, the pension for the family of the deceased and the living expenses necessary for any other person(s) supported by the deceased before his death.

Where damage is caused to the property of the infringed due to the defect of a product, the infringer shall restore the damaged property to its original state, or pay compensation at the market price. Where the infringed suffers any other serious losses, the infringer shall also compensate for such losses.

Article 33 The limitation period for bringing an action for damages arising from the defect of a product is two years, counting from the day when the party concerned knew or should have known the infringement of his rights and interests.

The right to claim for damages arising from defective products shall be forfeited upon completion of ten years from the day when the defective product causing the damage is delivered to the first user or consumer, except that the clearly stated safe-use period has not expired.

Article 34 Defect referred to in this Law means the unreasonable danger existing in product which endangers the safety of human life or another person property; where there are national or trade standards safeguarding the health or safety of human life and property defect means inconformity to such standards.

Article 35 Where a civil dispute concerning product quality arises, the parties concerned may seek a settlement through negotiation or mediation. If the parties are unwilling to resort to negotiation or mediation, or negotiation or mediation proves to be unsuccessful, they may apply to an arbitration organization for arbitration as agreed upon between the parties; if the parties fail to reach an arbitration agreement, they may bring a suit before a people's court.

Article 36 The arbitration organization or the people's court may entrust an organization in charge of product quality inspection specified in Article 11 of this Law with product quality inspection.

Chapter V Penalty Provisions

Article 37 Where products produced do not comply with the relevant national or trade standards safeguarding the health or safety of human life and property, the producer shall be ordered to stop the production, the products and earning illegally produced and made shall be confiscated, and, a fine from twice to five times the amount of the unlawful earnings shall be imposed concurrently, and the business licence may be revoked; if the case constitutes a crime, the offender shall be investigated for criminal responsibility according to law.

Where products sold do not comply with the relevant national or trade standards safeguarding the health or safety or human life and property, the seller shall be ordered to stop the sale. If a seller intentionally sells products not complying with the relevant national or trade standards safeguarding the health and safety of human life and property, the products for illegal sale and the unlawful earnings thus made shall be confiscated. And a fine from twice to five times the unlawful earnings shall be imposed concurrently, and the business licence may be revoked; if the case constitutes a crime, the offender shall be investigated for criminal responsibility according to law.

Article 38 Where a producer or a seller mixes impurities or imitations into a product, or passes a fake product off as a genuine one, or passes a defective product off as a high-quality one, or passes a substandard product off as a good-quality one, the producer or seller shall be ordered to stop production or sale, the unlawful earnings shall be confiscated. And a fine from twice to five times his unlawful earning shall be imposed concurrently, and the business licence may be revoked; if the case constitutes a crime, the offender shall be investigated for criminal responsibility according to law.

Article 39 Where a product which has been officially eliminated by the State is produced, the producer shall be ordered to stop the production, the products and earnings illegally produced and made shall be confiscated. And a fine from twice to five times the unlawful earnings shall be imposed concurrently, and the business licence may be revoked.

Article 40 Where invalid or deteriorated products are sold, the seller shall be ordered to stop the sale, the products for illegal sale and the unlawful earnings shall be confiscated. And a fine from twice to five times the unlawful earnings shall be imposed concurrently, and the business licence may be revoked; if the case constitutes a crime, the offender shall be investigated for criminal responsibility according to law.

Article 41 Where a producer or a seller forges the origin of a product or falsely uses another producer name and address, or forges or falsely uses authentication marks, famous-and-excellent-product marks or other product quality marks, the producer or seller shall be ordered to make public rectification, and the unlawful earnings shall be confiscated; a fine may be imposed concurrently.

Article 42 Where anyone sells or purchases products mentioned in Article 37 to 40 of this Law by offering or accepting bribes or other unlawful means and if the case constitutes a crime, the offender shall be investigated for criminal responsibility according to law.

Article 43 Where the marks of a product do not comply with the provisions of Article 15 of this Law, the producer or seller concerned shall be ordered to make rectification; where the marks of the packed products do not comply with the provisions of item (4) or (5) of Article 15 of this Law and if the case is serious, the producer or seller concerned may be ordered to stop production or sale. And a fine from 15% to 20% of the unlawful earnings may be imposed concurrently.

Article 44 Whoever forges inspection data or inspection conclusion of a product shall be ordered to make rectification, and a fine from twice to three times the inspection fee may be imposed. If the circumstance is serious, the business licence shall be revoked; where the case constitutes a crime, the person held directly responsible shall be investigated for criminal responsibility by applying mutatis mutandis the provisions of Article 167 of the Criminal Law.

Article 45 An administrative sanction in the form of revocation of business licence provided for in this Law shall be decided by the administrative department for industry and commerce, while other administrative sanctions shall be decided by the department responsible for supervision over product quality or the administrative department for industry and commerce according to the functions and powers prescribed by the State Council. Where the laws or administrative rules and regulations provide otherwise as to the authorities exercising the power of administrative sanctions, the relevant provisions of such laws and administrative rules and regulations shall apply.

Article 46 If a party is not satisfied with the decision on administrative sanction, it may, within 15 days of receipt of the sanction notice, apply for reconsideration to the authorities at the next higher level over the authorities that have made the decision on sanction; the party may also bring a suit in a people's court directly within 15 days of receipt of the sanction notice.

The authorities responsible for reconsideration shall make a reconsideration decision within 60 days of receipt of the application for reconsideration. If a party concerned is not satisfied with the reconsideration decision, it may bring a suit in a people's court within 15 days of receipt of such decision. If no decision has been made by the authorities responsible for reconsideration upon the expiry of the time limit, the party concerned may bring an action in a people's court within 15 days of the expiry of the time limit for reconsideration.

If the party concerned does not apply for reconsideration, nor bring a suit in a people's court upon the expiry of the time limit, nor carry out the decision on sanction, the authorities that have made the decision on sanction may apply to the people's court for compulsory enforcement.

Article 47 Any State functionary engaged in the work of supervision and control over product quality, who abuses power, neglects duty, engages in malpractice for private benefit, shall be investigated for criminal responsibility if his act constitutes a crime; if his act does not constitute a crime, he shall be subjected to administrative sanction.

Article 48 Any State functionary who clearly knows that an enterprise, institution or individual has committed criminal actions in violation of this Law, and takes advantage of his position to protect the offenders intentionally from prosecution, shall be investigated for criminal responsibility according to law.

Article 49 Whoever obstructs, by means of violence or intimidation, State functionaries engaged in the work of supervision and control over product quality from carrying out their duties according to law shall be investigated for criminal responsibility in accordance with the provisions of Article 157 of the Criminal Law; whoever refuses or impedes, without resorting to violence or intimidation, State functionaries engaged in the work of supervision and control over product quality to carry out their duties shall be punished by the public security organs in accordance with the relevant provisions of the Regulations on Administrative Penalties for Public Security.

Chapter VI Supplementary Provisions

Article 50 Measures for supervision and control over quality of military industrial products shall be formulated separately by the State Council and the Central Military Commission.

Article 51 This Law shall come into force as of September 1, 1993.

(In case of discrepancy, the original version in Chinese shall prevail.)

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