

Independent Study Title : Exemptions Of Entrepreneur's Liability for Damages Arising from the Unsafe Products Act B.E. 2551: Analysis of State of the Art and Mandatory Regulations

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ABSTRACT

Promulgation of Liability for Damages Arising from the Unsafe Products Liability Act B.E. 2551 have caused entrepreneurs in various industries to be active and to have concern over an issue of unsafe product liability because this law adopts strict liability principle to define liability of the entrepreneurs to reduce burden in proving for sufferers. However, the entrepreneurs could bring witness to investigation to be discharged from the liability since the fundamentals of the act stipulate that the entrepreneur's liability is not absolute liability.

This independent research aims to analyze and compare reasons for discharge of liability of the entrepreneurs stated in the laws of the United State of America, European Union and Japan as compared to Thailand's as directions to revise and amend this topic to be more comprehensive and clearer to suit the country's context and to create balance in consumers' protection and, at the same time, to protect business of the entrepreneurs.

The study finds that there are 2 legal issues regarding liability discharge of the entrepreneurs as follows:

1. Reasons for liability discharge of the entrepreneur in case a product is produced under the regulation or standard controlled and checked by government agencies known as mandatory regulations have not been included in the Act since it is considered minimum requirement for consumer protection. Therefore, it is highly possible that consumers may be

harmful by unsafe products. This independent research, then, gives recommendations to solve the problem by developing the country's government agencies to have correct procedures and standards that are world-class in practice in order that Thailand's safety standard is accepted by international stage and to protect consumers from unsafe products.

2. Reasons for liability discharge of the entrepreneurs in case that knowledge in science and technology during the time of manufacturing until the period of selling the products does not enable the entrepreneurs to know or detect flaws of the products known as state of the art have been generally accepted in almost every country but do not appear in Thailand's version of the law. This would be obstacle for inventing new products to market and would impact foreigners' confidence in Thailand's legal standard. This independent research, therefore, proposes solutions to the problem by adding such case as reason for the entrepreneurs' liability discharge.

