

## Trade Practices Amendment (Australian Consumer Law) Bill (No. 2) 2010

Australia: Trade Practices Amendment (Australian Consumer Law) Bill (No. 2) 2010 (version as introduced and read a first time)

Canada: Bill C-6 - An Act Respecting the Safety of Consumer Products  
(version as passed by the House of Commons)

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[http://www2.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Parl=40&Ses=2&Mode=1&Pub=Bill&Doc=C-6\\_3](http://www2.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Parl=40&Ses=2&Mode=1&Pub=Bill&Doc=C-6_3)

Schedule 1, item 1: Part 3-3, Division 5 — Consumer goods, or product related services, associated with death or serious injury or illness

DUTIES IN THE EVENT OF AN INCIDENT

### Section 131 (1) If:

(a) a person (the *supplier*), in trade or commerce, supplies consumer goods of a particular kind; and

(b) the supplier *becomes aware* that consumer goods of that kind have been associated with the *death or serious injury or illness*\* of any person;

the supplier must, *within 2 days* of becoming so aware, give the Commonwealth Minister a written notice that complies with subsection (5).

[\* Section 2:

*serious injury or illness* means an acute physical injury or illness that requires medical or surgical treatment by, or under the supervision of, a medical practitioner or a nurse (whether or not in a hospital, clinic or similar place), but does not include:

(a) an ailment, disorder, defect or morbid condition (whether of sudden onset

or gradual development); or

(b) the recurrence, or aggravation, of such an ailment, disorder, defect or morbid condition.]

(2) *Subsection (1) does not apply if:*

(a) it is *clear* that the consumer goods supplied were *not associated* with the death or serious injury or illness; or

(b) it is *very unlikely* that the consumer goods supplied were *associated* with the death or serious injury or illness; or

(c) the *supplier is required to notify the death or serious injury or illness in accordance with a law* of the Commonwealth, a State or a Territory that is a law *specified in the regulations*; or

(d) the supplier is required to notify the death or serious injury or illness in accordance with an *industry code of practice* that:

(i) applies to the supplier; and

Definition of “incident”

14. (1) In this section, “incident” means, with respect to a consumer product,

(a) an *occurrence* in Canada *or elsewhere* that *resulted or may reasonably have been expected to result in* an individual’s death or in *serious adverse effects on their health, including a serious injury*;

(b) a *defect or characteristic* that *may reasonably be expected to result in an individual’s death or in serious adverse effects on their health*, including a serious injury;

(c) *incorrect or insufficient information on a label or in instructions* — or the lack of a label or instructions — that *may reasonably be expected to result* in an individual’s death or in serious adverse effects on their health, including a serious injury; or ...

[4. (1) This Act applies to consumer products *with the exception of those listed in Schedule 1* {eg Explosives, Food and Drugs, Vehicles etc}]

(ii) is specified in the regulations.

(3) Subsection (1) applies whether or not the consumer goods were being used before or at the time the death or serious injury or illness occurred.

(4) Without limiting subsection (1), the ways in which the supplier may become aware as mentioned in subsection (1)(b) include receiving the relevant information from any of the following:

- (a) a consumer;
- (b) a person who re-supplies the consumer goods;
- (c) a repairer or insurer of the goods;
- (d) an industry organisation or consumer organisation.

(5) The notice must:

- (a) identify the consumer goods; and
- (b) include *information about the following matters to the extent that it is known by the supplier* at the time the notice is given:

*... (d) a recall or measure that is initiated for human health or safety reasons by*

*(i) a foreign entity,*

*(ii) a provincial government,*

*(iii) a public body that is established under an Act of the legislature of a province,*

*(iv) an aboriginal government as defined in subsection 13(3) of the Access to Information Act, or*

*(v) an institution of an entity referred to in subparagraphs (ii) to (iv).*

Requirement to provide information

(2) A person who manufactures, imports *or sells* a consumer product for commercial purposes shall provide the Minister *and, if applicable, the person from whom they received the consumer product* with *all the information in their control* regarding *any incident related to the product within two days after the day on which they become aware of the incident.*

(i) when, and in what quantities, the consumer goods were manufactured in Australia, supplied in Australia, imported into Australia *or exported from Australia*;

(ii) the circumstances in which the death or serious injury or illness occurred;

(iii) the nature of any serious injury or illness suffered by any person;

(iv) any action that the supplier has taken, or is intending to take, in relation to the consumer goods.

(6) The giving of the notice under subsection (1) is not to be taken for any purpose to be an admission by the supplier of any liability in relation to:

(a) the consumer goods; or

(b) the death or serious injury or illness of any person.

Report

(3) The *manufacturer* of the consumer product, *or if the manufacturer carries on business outside Canada, the importer*, shall *provide the Minister with a written report* — containing *information about the incident, the product involved in the incident, any products that they manufacture or import, as the case may be, that to their knowledge could be involved in a similar incident and any measures they propose be taken* with respect to those products — *within 10 days after the day on which they become aware of the incident* or within the period that the Minister specifies by written notice.