



## Product Liability Insurance

Product liability insurance protects the business from claims related to the manufacture or sale of products, food, medicines or other goods to the public. It covers the manufacturer's or seller's liability for losses or injuries to a buyer, user or bystander caused by a defect or malfunction of the product, and, in some instances, a defective design or a failure to warn. When it is part of a commercial general liability policy, the coverage is sometimes called products-completed operations insurance.

To understand the need for this coverage it is critical to understand the potential liability. There are generally three types of products "claims" a company may face:

- **Manufacturing or Production Flaws-** A claim that some part of the production process created an unreasonably unsafe defect in the resulting product. Recent claims against Chinese manufacturers regarding the presence of dangerous chemicals in their products are an example of this type of claim.
- **Design Defect-** A claim that the design of the product is inherently unsafe. The most memorable example is the series of Pinto car cases against Ford in the 1970's.
- **Defective Warnings or Instructions-** The claim that the product was not properly labeled or had insufficient warnings for the consumer to understand the risk. The McDonald's "coffee case" is an example

The damages awarded in these claims include medical costs, compensatory damages, economic damages, and, in some instances, attorneys' fees, costs and punitive damages. Product liability claims can and do put businesses out of business - just ask any of the officers from any asbestos manufacturer.

All too often, resellers, gray market commercial sellers, and retailers fail to secure this coverage. The logic is that, since they did not "manufacture" anything, the coverage is not necessary. However, manufacturers are not the only ones subject to product liability exposure, retailers and wholesalers are often brought into a lawsuit for alleged negligence by the consumer. Most states follow the "stream of commerce" model of liability. This means that if your company participated in placing the product into the "stream of commerce," it can be held liable for damages to the end user.

If your company provides any products to the consuming public, then your company needs product liability or completed-operations coverage. In most cases, some form of this coverage will be present in the standard commercial general liability or business owners' policy. You will need to confirm this with your insurance professional. You will want to have a clear understanding of what is covered (for example, some policies will cover economic damages, but not punitive or statutory damages).

Finally, the premiums on such policies are based upon the type of product, volume of sales, and the role of the insured in the process. Thus, underreporting the volume of sales may seem like a good way to lower premiums or the idea may be to insure only a part of the sales. Don't under report or try to insure less than the actual amount of sales. This is because there are usually substantial underinsurance penalties applied when the insured underinsures. On the other hand, you will want to make absolutely sure that your products are properly identified. For example, if you supply step stools, you do not want them categorized as ladders. Ladders will have a much higher premium because of the risk potential.