

CLASS ACTION

Consumer Protection

New Website Offers Consumers Quick Access to Product Safety Info

"I believe an informed consumer is an empowered consumer," Consumer Product Safety Commission chief Inez Tenenbaum said recently when announcing the launch of a website for the public to report product safety concerns and search safety reports.

The aim of SaferProducts.gov is to help the CPSC quickly identify product hazards and provide consumers with safety information, the agency said in a March 11 statement.

Previously, the CPSC completed lengthy investigations before products were pulled from shelves or the public was alerted, according to a March 30 article in California's Orange County Register.

Congress mandated the online database as part of the 2008 Consumer Product Safety Improvement Act. The law also imposed new testing and documentation requirements on manufacturers and increased fines for violations.

"Through SaferProducts.gov consumers will have open access to product safety information that they have never seen before," Tenenbaum said, "and the information will empower them to make safer choices."

Anyone can submit a report about product hazards or concerns on the website. The CPSC will review the report within five days and send it to the manufacturer for comment within 10 days. After the 10 days, the report will be posted online and will be searchable by the public.

There will be standards to prevent false statements from appearing online, the CPSC said. If not all required information is listed or if information is determined to be inaccurate within 10 days, the report will not be posted.

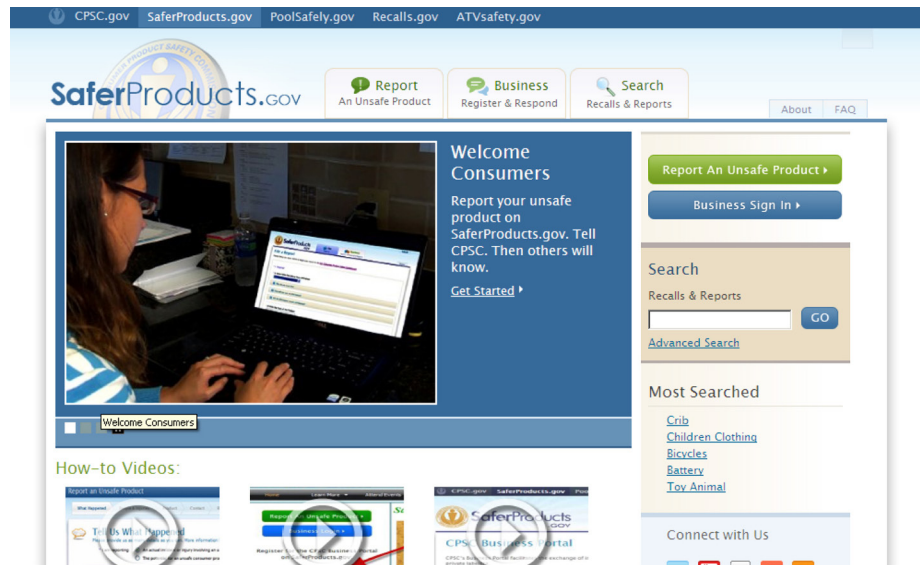
According to the Register, the U.S. Chamber of Commerce expressed some concerns over the new site in a letter to federal legislators last year.

The pro-business group said confusing information and rumors could lead to lawsuits against companies that may have done nothing wrong.

The Chamber is concerned that CPSC staff does not have enough time to check the accuracy of the reports before they become visible to the public, the Register said.



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Thomas J. Henehan, a partner in the product liability and class-action litigation practices of **Schiff Hardin LLP**, noted the business community's concerns about use of the reports in litigation.

"Time will tell if the consumer benefit provided by this database justifies the problems it is likely to create, especially in litigation," Henehan said.

Anyone, including personal injury attorneys, can submit a report not just for an alleged harm associated with a product, but for "perceived" potential harm, he added.

While the CPSC will include a disclaimer on the site that it cannot guarantee the accuracy of the reports, businesses are wary that a disclaimer will not remove the perception that the reports carry the government's imprimatur, Henehan said.

"It's not difficult to imagine how a sophisticated personal injury or class-action lawyer will attempt to make use of the database," he said. "One thing is certain — courts will be thrust into the role of gatekeeper, deciding whether or not these unsubstantiated, hearsay 'reports of harm' make their way into evidence, through 'expert' testimony or otherwise."

When asked if businesses may benefit in some way from the site, Henehan said that idea is "a stretch" and may only be evident in the long term.

"Perhaps, businesses that avoid appearing in the database through some combination of good luck and good practices will deepen their competitive advantage in the marketplace over time," he said. "Perhaps, the database will increase businesses' attention to their internal processes related to product safety, including how they use post-sale consumer data, and that could bring some long-term benefit to those businesses."

The first reports should be posted and searchable by the end of April, according to the CPSC.