

**LAW No. 04/L-078
ON GENERAL PRODUCT SAFETY**

Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo;

Approves:

LAW ON GENERAL PRODUCT SAFETY

**Article 1
Purpose**

1. The purpose of this Law is to ensure that the products placed in the market are safe.
2. This Law sets out the general product safety requirements, obligations of producers and distributors, public information, promotion of voluntary measures and surveillance on fulfillment of the specified requirements defined by this Law.

**Article 2
Scope of Application**

1. This Law applies to all the products as defined in this Law. The provisions of this Law apply in so far as there are no specific provisions with the same purpose in the applicable legislation in Kosovo.
2. If there are separate provisions that regulate the specific product safety requirements, then this Law shall apply only to those aspects and risks or categories of risks not covered by those provisions.

**Article 3
Definitions**

1. Terms used in this Law shall have the following meaning:
 - 1.1. **Ministry** – the relevant Ministry of Trade and Industry.
 - 1.2. **Minister** –the relevant Minister of Trade and Industry.
 - 1.3. **Product** –any product, including the product within the provision of services, which is intended for consumers or that could reasonably be used by the consumers even if it is not intended for them, and which was sent to market or is available for use, whether paid or unpaid, within any commercial activity, notwithstanding whether the product is new, used or processed. This definition shall not apply to second-hand products supplied as antiques or as products to be repaired or reconditioned prior to being used, provided that the supplier clearly informs the person who receives the product regarding to this.
 - 1.4. **Safe product** – any product which, under normal or under reasonable foreseeable conditions of use, including the duration, and where applicable, putting into service, installation and maintenance requirements, does not present any risk or any minimal risk

regarding the use of the product and which is considered acceptable and consistent with a safety and protection of human health, in particular taking into account the following elements under 1.4.1.- 1.4.4. The possibility of obtaining higher levels of safety or the availability of other products presenting a low degree of risk shall not constitute sufficient grounds for considering a product to be dangerous.

1.4.1. the characteristics of the product, its composition, packaging, instructions for assembly and, where applicable, for installation and maintenance;

1.4.2. its effect on other products, where it is reasonably foreseeable that it will be used with other products;

1.4.3. the presentation of the product, its marking, warnings and instructions for its use, placing and disposal or termination after using it and any other type of indication or information regarding the product;

1.4.4. the categories of consumers exposed to risk when using a certain product, in particular children and the elders;

1.5. **Dangerous product** –any product that is not in accordance with the definition in sub-paragraph 1.4. of this Article.

1.6. **Serious risk** –any risk that requires rapid intervention of the competent state body, including the risk whose consequences are not immediate.

1.7. **Producer** – shall mean:

1.7.1. the producer of the product established in the Republic of Kosovo and any other legal or natural person presenting himself as the producer by affixing to the product his name, trade mark or other distinctive mark, or the one who reconditions the product;

1.7.2. the producer's representative when the producer is not established in the Republic of Kosovo, and then there is no representative, the importer of the product;

1.7.3. any other person whose activity in the supply chain may affect to that extent the safety of product' features;

1.8. **Distributor** –any natural or legal person, who takes part in the supply chain, whose activity does not affect the safety properties of products.

1.9. **Recall of the product** –any permanent or temporary measure in terms of recalling dangerous products that the producer or distributor has supplied or made available to consumers.

1.10. **Withdrawal of the product** - any measure taken whose purpose is interruption the distribution, exposure or provision of dangerous product.

1.11. **Dangerous imitation of the product** - a product with deceiving appearance, that is not foodstuffs, but possesses a form, odor, color, external appearance, packaging, labeling, volume or size that will confuse consumers, in particular children, to replace it with foodstuffs and as a consequence to put in the mouth or swallow, which may present risk and cause, suffocation, poisoning, or obstruction in the digestive tract.

1.12. **European Harmonized Standard** –the standard adopted under the mandate of the European Commission, the reference data which have are published in the Official Gazette of the European Union.

1.13. **Standard of Kosovo – “SK”** – a standard which is publicly available and which is approved by the Kosovo Standardization Agency.

Article 4 **General product safety requirements**

1. Producer shall be obliged to place only safe products on the market.
2. The product shall be deemed safe, if it meets all the standards for the products safety as provided for in the applicable Law in the Republic of Kosovo for the safety and conformity of products.
3. The product is deemed to be safe as far as the risks and risk categories, if it meets the standards determined by European standards adapted as Standards of Kosovo SK. Their list is published on the official website of MTI. MTI is responsible for periodical update of this list.
4. Conformity of a product with the criteria designed to ensure the general safety requirement shall not bar the competent authorities from taking appropriate measures to impose restrictions on its being placed in the market or to require its withdrawal from the market or recall where there is evidence that, despite such conformity, it is dangerous.

Article 5 **Obligations of Producers and Distributors**

1. Within the field of their activities, producers:
 - 1.1. shall inform consumers and other users with instructions of use and relevant information so that consumers and other users may assess the risks related to the products during normal use, when such risks are not clearly visible, without adequate warnings and take action against these risks;
 - 1.2. in accordance with the characteristics of products they provide, they shall undertake measures that enable them timely information on the risk posed by the products, and where appropriate to withdraw products from the market or recall the products from consumers in order to avoid risks;
 - 1.3. undertake action to recall the products from consumers only as a last resort, when other measures are not sufficient to prevent certain risks, when producers deem it necessary or when forced to act according to the measures undertaken by the competent body.
2. Measures referred to in paragraph 1. sub-paragraph 1.2. of this Article include:
 - 2.1. placing information of the identity and details of the producers on the product or its packaging and product marking so that it can be clearly identified;
 - 2.2. carrying out sample testing of marketed products in all cases where necessary, reviewing the written complaints, keeping a register on written complaints and information of the distributors on the activities undertaken.

3. Activities defined in paragraph 2. sub-paragraph 2.2. of this Article must be undertaken by producers voluntarily or at the request of the competent authority referred to in Article 8 of this Law.

4. Information referred to in paragraph 1 sub-paragraph 1.1. of this Article does not release the producers from meeting other obligations determined by this Law.

5. Distributors must act with due care in order that the products shall meet the safety requirements. The distributors shall not offer products for which they know or should have known based on the data they possess as professionals that the products do not meet safety requirements. Within the limits of their activities, the distributors must participate in monitoring the safety of products placed on the market, to exchange and communicate the information concerning the risks of products, maintain and provide documentation necessary to verify the origin of products and to cooperate with competent bodies and producers in taking measures to prevent the risks.

6. When producers and distributors know or ought to know, on the basis of the information in their possession, that a product that they have placed on the market poses risks to consumers that are incompatible with the general safety requirements, they shall immediately inform the competent body of the danger and of the measures they have undertaken to prevent the risk to consumers.

7. If the producers and distributors estimate that there is a serious danger, the information referred to in paragraph 6. of this Article shall contain:

7.1. the data enabling identification of the product or its series,

7.2. full description of the danger posed by that product,

7.3. all necessary information for tracking the product;

7.4. description of activities undertaken to prevent risk to consumers.

8. Producers and distributors are obliged to cooperate with the competent bodies according to the applicable Law and procedures established by the Ministry on taking measures to avoid risks posed by products which have been supplied or are being supplied.

9. Communication and notification that producers and distributors submit to the competent bodies shall be regulated by the applicable Law and the Ministry with sub-legal acts.

Article 6 Promotion of Voluntary Measures

The competent body for the surveillance of the general product safety systematically encourages producers and distributors to make voluntary actions in accordance with the provisions of this Law and supports the establishment of good practice regulations for the safety of products in certain sectors aiming to place safe products on the market.

Article 7 Public Information, Exchanges of Information in Rapid Intervention Situations

1. The competent body in the Ministry is responsible to inform the public on the dangerous product.

2. The procedures and the forms of public information on the dangerous product should be regulated by a sub-legal act considering:

- 2.1. the public's right to information;
 - 2.2. the importance of informing the public concerning dangerous products;
 - 2.3. the preservation of professional secrecy.
3. Information related to safety characteristics of a product which should be available to the public for the purpose of protecting consumers' health and safety cannot be considered professional secrecy.
4. Exchange of Information on the general product safety and the relevant sub-legal acts shall be in compliance with the current legislation in Republic of Kosovo that covers certain issues for protection of consumers' health and safety
5. In order to ensure effective market surveillance, aimed at guaranteeing a high level of consumers' health and safety protection, the Ministry shall issue sub-legal acts that define the procedures on information and exchange of information with other bodies of state administration and international subjects regarding:
- 5.1. the exchange of information on risk assessment, dangerous products and test methods;
 - 5.2. the establishment of joint surveillance and testing projects;
 - 5.3. measures which are undertaken when dangerous products have been observed;
 - 5.4. interventions undertaken or which should be undertaken immediately according to the level of danger and possible consequences

Article 8 Surveillance

Inspecting surveillance of this Law shall be carried out by Market Inspectorate in compliance with the competences and obligations as regulated by applicable legislation on inspectorate and market surveillance.

Article 9 Punitive provisions

Fines and penalties are determined according to the applicable legislation that regulates the inspectorate and market surveillance.

Article 10 Transitional and final provisions

In order to implement this Law, the Ministry of Trade and Industry shall issue sub-legal acts within twelve (12) months from the date of entry into force of this Law.

Article 11 Repealing provisions

Upon the entry into force of this Law, the Law No. 02/L-21 'On General Product Safety' shall be repealed.

Article 12 Entry into force

This Law shall enter into force fifteen (15) days after its publication in the Official Gazette of the Republic of Kosovo.

Law No. 04/L-078
21 December 2011

Promulgated by Decree No.DL-054-2011, dated 30.12.2011, President of the Republic of Kosovo Atifete Jahjaga.