

The Trouble with Toys

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Consumers have a choice of hundreds of children's products in Canadian department stores. Toys, cribs, clothes, and car seats are among the first goods that come to mind, in each case a manufacturer has produced the item and the parent-purchaser who sees it in the store relies on its apparent quality. We expect that research and careful manufacturing have created a safe product for our home. How can parents be certain of a product's safety and what legal recourse is available if the product is unsafe?

In Canada, the Product Safety Bureau (Health Canada) regulates the sale of many children's products. For example, all pacifiers and strollers must comply with federal safety regulations or they are prohibited. This prohibition is very strict and applies to the sale of used merchandise at a store or even at a garage sale.

If a manufacturer believes one of its products poses a safety risk, the manufacturer may issue its own recall notice. The Infant and Toddler Safety Association (Kitchener, Ontario) publishes a newsletter that lists many of these 'recalls. Some people may find surprising, the number of recalls that are issued annually. For example, the spring 1997 edition of the association's newsletter lists twelve separate manufacturer recalls of products such as playpens, car seats, dolls, high chairs, and toy cars.

Private interest groups and the media play a role in monitoring the safety of children's merchandise. American organizations like the Public Interest Research Group (PIRG) often challenge manufacturers' claims that their toys are completely safe. Each Christmas season, the group releases a list of what it believes to be dangerous toys. In 1996, the list contained over twenty items including products marketed by Mattel and Lego. Choking and strangulation of small children were commonly cited hazards.

Government departments, manufacturers, and the media all try to protect the public from unsafe products and thereby prevent injuries to children and adults. If a product causes injury, however, the courts are the place for citizens to seek recourse and compensation.

The courts recognize a system of tort law known as product liability. This area of law decides who is at fault when injury results from a malfunctioning 'manufactured good. Sometimes blame lies with the manufacturer or retailer; sometimes the loss must be borne by the unfortunate consumer. Additionally, most provinces provide further protection to consumers over and above the court remedy of products liability. These provinces have a Sale of Goods Act or a Consumer Products Warranty Act that sets certain quality standards on all marketed goods.