

Independent Study Title	Legal Measures on Product Liability of Product Distributors
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ABSTRACT

Since, in Thailand, there have currently been no any legal provisions on product liability of producers to be enforced, the consumer protection is subject to the Consumer Protection Act, B.E. 2522 (1979). However, the said Act has several restrictions to provide protection. The legal principles on contract and wrongful acts in the Civil and Commercial Code are applied in the litigation in order that the consumers or injured persons will receive the indemnity and remedy for damage incurred due to the defection of products or services. Unfortunately, with regard to the consumer protection in accordance with the said related legal principles, there are several problematic issues viz.:

1. Problems on the consumer protections according to Thailand's and other countries' laws which are different in terms of the product liability and the application of the liability principles;

2. Problems on the consumer protection according to the Consumer Protection Act, B.E. 2522 (1979) with regard to the restrictions of only the contractual parties. Consequently, the injure persons who are not contractual parties cannot be in the status of consumers according to this Act. Also, consumer's rights are not prescribed to seek the liable persons and the remedy for the particular damage;

3. Problems on the consumer protection according to laws on contract and wrongful act. Under the contract law, only contractual parties are protected and under the wrongful act law, there are difficulties in terms of the burden of proof;

4. Problems on the protection of injured persons who do not buy the products or services. Even though they are entitled to litigate according to the wrongful act, they have to bear the burdens and expenses. They are also not ascertained whether or not the damage shall be remedied.

In the aforesaid problems, the study found that though the applicable laws regarding consumer protection in Thailand reflects a good approach and principle, details of product liability should be amended to include the legal provisions in connection with the protection of consumer's right of recompense or the consumer's right to divert the liability of the defected products or services to the entrepreneurs. The strict liability or the extension of protection to include injured consumers who do not directly buy or use the products or services must be applied. Also the burden to prove the willful act and negligence of the entrepreneurs and distributors must be reduced so that consumer protection from the damage incurred due to defective products and services can be provided more effectively, with fairness and convenience as well as the legal provisions can be in conformity with the other countries' laws. Alternatively, if there is no amendment of the existing legal provisions to solve such problems, it is recommended that law on the product liability be issued and enforced as the consumer protection law and as a tool to create the balance between the entrepreneurs or service providers and consumer. In this regard, if these laws can be enacted and enforced, it is believed that these can be consumer protection laws with the security to be efficiently protected under the principle of the right of recompense for the defected products and services. The utmost benefits will fall on the consumers.