



Snell & Wilmer L.L.P.

LEGAL ALERT

CONSUMER PRODUCT SAFETY UPDATE

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May 14, 2009

SNELL & WILMER

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CPSIA Alert: Stay of Section 103 – Undecided

The ballot vote for the Request for Emergency Stay of Enforcement of the Tracking Label Requirement of Section 103 of the CPSIA was due yesterday, May 13. Today the CPSC posted the decision on its website (<http://cpsc.gov/library/foia/ballot/ballot09/tracklabelstay.pdf>). Unfortunately, a decision on the matter was not reached. Acting Chairman Nord voted to grant the request for a stay of enforcement of Section 103, but Commissioner Moore voted to deny the request for a stay of enforcement. Since the stay has not been granted, manufacturers should ensure that they are in compliance with Section 103 on the effective date - August 14, 2009.

Chairman Nord and Commissioner Moore both issued statements with their votes. Even though Commissioner Moore voted to deny the stay, it appears he understands the extreme confusion and pressure the language of Section 103 has created for manufacturers. To that end, he stated that if the CPSC “finds manufacturers who have diligently tried to comply with the statute, but miss the mark on devising a complying tracking label, we will work with them (and learn from them) to make their marks comply with the law. This will be a learning process for all of us and not an excuse to punish an unwitting mistake.” (emphasis added) Manufacturers should come to a reasonable conclusion based on their reading of the statute and their products and implement this plan by August 14, 2009.

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