



## Even Distributors Can Have Product Liability Exposures

Prepared especially for:



Common sense tells us that if a company manufactures a faulty product, that company is liable for the damages it causes. But what if you distribute this faulty product? Could that make you liable as well? If you work in the distribution industry, the answer to this question may shock you.

Today's market forces have caused the U.S. to import its manufactured products in record volumes from developing and third world countries. Faulty products that are manufactured from these areas, cause bodily injury or property damage to third parties, and are distributed by your company, can put your business at risk of being sued. In addition, even if your manufacturer or supplier is in the US or a developed country, without the correct endorsements, you will still be paying at least the defense costs in the likely case your company is named in a product liability lawsuit.

### Facts Distributors Should Know

- In most cases, a product liability claim should not be compensable in the courts as long as the distributor does not alter the product, however many distributors still incur defense costs to be removed from lawsuits naming all parties involved without the correct endorsement.
- Inadequate limits of liability insurance by the manufacturer may force you to have to share the cost of the damages.
- Distributors using manufacturers from most foreign countries will be held responsible for bodily injury and property damage resulting

from the same exposures that the manufacturer has. This is a result of the difficulty in recovering damages from these countries with different court systems and laws.

- Altering the products you distribute, even slightly, greatly increases your exposure.

### Protect Your Company

Protecting yourself from being held responsible for a faulty product manufactured inside the U.S. or elsewhere, requires that you are named as an "Additional Insured" under the Vendors Endorsement of the manufacturer if you are not altering the products. Make sure the manufacturer has sufficient limits to protect you from being liable for bodily injury and property damage to a third party from defective products and/or other claims tagged to the manufacturers' product you distribute. Also, be sure that each product you distribute from the manufacturer is clearly stated on the Vendors Endorsement.

If you are altering the products you distribute or are importing them from developing or third world countries, then it is extremely important that you also have a Products Liability policy. The altering of a product includes almost anything – even repackaging products, unless the purpose of the unpacking was inspection, demonstration, testing, or the substitution of parts under instruction from the manufacturer. Even then, in order for coverage to be effective, the product must be repackaged in the original container. Unless it is absolutely necessary, you should avoid altering products for these reasons.

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It is also important to have Products Liability coverage because the Vendors Endorsement will not protect you for product demonstration, installation, servicing, or repair operations away from the distributor's own premises. Unless these operations are performed in connection with the sale of the product, coverage will not apply even at the distributor's premises.

### Final Thoughts

So, yes, distributors can have product liability exposures. If you are unsure whether you are listed on a Vendor's Endorsement that provides enough coverage for your exposures— have your broker take a look at it. Don't take the manufacturers' word that their endorsement fully protects you. You also have the option of avoiding potentially dangerous products from oversea suppliers if you are not comfortable taking on the exposure. To learn more about the exposures you bear as a distributor, talk to your broker to set up a risk management consultation meeting. ▲

***For more information on this article, please e-mail [iha-insurance@assuranceagency.com](mailto:iha-insurance@assuranceagency.com) or phone 847.463.7300 to speak with an IHA member services representative.***

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