

Product Quality Law of the People’s Republic of China – Full English Translation (2018 Amendment)

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Chapter I — General Provisions

Article 1. This Law is enacted for the purposes of strengthening the supervision and control of product quality, improving the level of product quality, clarifying liability for product quality, protecting the legitimate rights and interests of consumers, and safeguarding social and economic order.

Article 2. The activities of producing and selling products within the territory of the People’s Republic of China shall be governed by this Law. For the purposes of this Law, “products” means products that are processed or manufactured for the purpose of sale. This Law shall not apply to construction projects, except for building materials, building components and fittings, and equipment that are part of construction projects and fall within the scope of products specified in the preceding paragraph.

Article 3. Producers and sellers shall establish and improve their internal product quality management systems and strictly implement post-related quality standards, quality responsibilities and assessment measures.

Article 4. Producers and sellers shall bear liability for product quality in accordance with this Law.

Article 5. It shall be prohibited to forge or falsely use a certification mark or any other quality mark; it shall be prohibited to forge the place of origin of a product, or to forge or falsely use the name or address of another producer; it shall be prohibited to adulterate or mix impurities into products during production or sale, or to pass off fake products as genuine, substandard products as standard, or non-conforming products as conforming.

Article 6. The state encourages the adoption of scientific quality management methods and the use of advanced science and technology by enterprises, and encourages enterprises to have their product quality reach and surpass the industry standards, national standards and international standards. Units and individuals that have made outstanding achievements in the improvement of product quality through advanced product quality management methods and advanced product quality standards shall be rewarded.

Article 7. People's governments at all levels shall incorporate the improvement of product quality into their plans for national economic and social development, strengthen overall planning and organizational leadership for product quality work, guide and urge producers and sellers to strengthen product quality management and improve product quality, and organize relevant departments to take measures in accordance with the law to stop any acts of producing or selling products in violation of this Law and to ensure that this Law is implemented.

Article 8. The department in charge of product quality supervision and administration under the State Council shall be responsible for the supervision of product quality nationwide. The relevant departments under the State Council shall be responsible for the supervision of product quality within the scope of their respective duties. The departments in charge of product quality supervision and administration of local people's governments at or above the county level shall be responsible for the supervision of product quality within their respective administrative regions. The relevant departments of local people's governments at or above the county level shall be responsible for the supervision of product quality within the scope of their respective duties. Where laws provide otherwise for the departments responsible for product quality supervision, the provisions of such laws shall prevail.

Article 9. No functionary of a department responsible for product quality supervision and administration or of any other state organ may abuse his or her power, neglect his or her duties, or engage in malpractices for personal gain, or shield or condone any violation of this Law, or obstruct or interfere with the investigation and punishment of violations of this Law. Where a functionary of a department responsible for product quality supervision and administration or of any other state organ has committed any of the acts specified in the preceding paragraph, if the circumstances are minor, the functionary shall be given an administrative sanction; if a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 10. All units and individuals shall have the right to report to the departments responsible for product quality supervision and administration or to other relevant departments any violation of this Law. The departments responsible for product quality supervision and administration and other relevant departments shall keep confidential the identity of the reporting unit or individual and handle the report in accordance with the relevant provisions.

Article 11. No unit or individual shall obstruct the functionaries of the departments responsible for product quality supervision and administration or of other relevant departments in the lawful performance of their duties, or support or shield any violation of this Law.

Chapter II — Supervision of Product Quality

Article 12. Product quality shall be subject to spot checks, the main method of which shall be random inspection. The samples for spot checks shall be randomly taken from the products on the market or from the finished products in the warehouse of an enterprise. No fees shall be charged to the enterprise for spot checks. The expenses necessary for supervision and inspection shall be covered in accordance with the

provisions of the State Council.

Article 13. Industrial products that may be hazardous to human health or personal or property safety must comply with the national standards and trade standards that ensure human health and personal and property safety. Where no national standard or trade standard exists, the product must meet the requirements for ensuring human health and personal and property safety. It shall be prohibited to produce or sell industrial products that do not meet the standards or requirements for ensuring human health and personal and property safety.

Article 14. The state shall implement a system of enterprise quality system certification by reference to internationally accepted quality management standards. An enterprise may, on a voluntary basis, apply for enterprise quality system certification to a certification body recognized by the product quality supervision and administration department under the State Council or by a department authorized by the State Council. The certification body shall, upon certification of the enterprise's quality system as conforming, issue an enterprise quality system certification certificate. The state shall implement a system of product quality certification by reference to internationally advanced product standards and technical requirements. An enterprise may, on a voluntary basis, apply for product quality certification to a certification body recognized by the product quality supervision and administration department under the State Council or by a department authorized by the State Council. The certification body shall, upon certification of the product as conforming, issue a product quality certification certificate and permit the enterprise to use the product quality certification mark on the certified product or on its packaging.

Article 15. The state shall implement a system of product quality certification by reference to the internationally advanced product standards and technical requirements. An enterprise may, on a voluntary basis, apply for product quality certification to a certification body recognized by the product quality supervision and administration department under the State Council or by a department authorized by the State Council. The certification body shall, in accordance with state provisions, permit the use of a product quality certification mark on the product that has passed the certification or on its packaging.

Article 16. Products that have passed a spot check conducted by the department responsible for product quality supervision and administration in accordance with the law, confirming that such products meet the quality requirements, shall not be subject to repeated spot checks by the same department at the same level within six months. Where necessary, spot checks may be conducted by a higher-level department responsible for product quality supervision and administration or by the relevant department under the State Council within the prescribed scope of authority.

Article 17. Where a product is found through a spot check conducted in accordance with this Law to be non-conforming, the department responsible for product quality supervision and administration that conducted the spot check shall order the producer or seller to make corrections within a prescribed time limit. Where the producer or seller fails to make corrections within the prescribed time limit, the department responsible for product quality supervision and administration of the people's government at or above the provincial level shall make a public announcement; if the product still fails to pass a re-inspection, the producer or seller shall be ordered to suspend business for rectification; where the circumstances are serious, the business license shall be revoked.

Article 18. When investigating and handling suspected violations of this Law, the departments responsible for product quality supervision and administration of people's governments at or above the county level, in accordance with the evidence obtained from reports or spot checks about suspected illegal acts, may exercise the following powers: (1) to conduct on-site inspections of the places where the parties concerned are suspected of engaging in illegal activities of production or sale; (2) to question the parties, interested persons and investigators about the circumstances relating to the suspected illegal activities of production or sale; (3) to review and copy the contracts, invoices, account books and other relevant materials of the parties concerned; and (4) to seal up or seize the products that, based on evidence, are deemed not to comply with

the national standards or trade standards for ensuring human health and personal or property safety, or that have other serious quality defects, as well as the raw and auxiliary materials, packaging materials and production tools directly used for producing or selling such products.

Article 19. Product quality inspection bodies shall possess the corresponding testing conditions and capabilities, and may undertake product quality inspection work only after having passed the evaluation conducted by the product quality supervision and administration department of the people's government at or above the provincial level or by a department authorized by it. Where laws or administrative regulations provide otherwise for product quality inspection bodies, the provisions of such laws or administrative regulations shall prevail.

Article 20. Personnel engaged in product quality inspection, evaluation or certification shall be objective and impartial, and shall obtain relevant qualifications in accordance with the law before performing such duties. Organizations providing intermediary services in product quality inspection, evaluation or certification shall be established in accordance with the law and shall not be affiliated with state organs or any other state institutions.

Article 21. Where a producer or seller disagrees with the result of a product quality supervision and inspection, it may, within 15 days from the date of receipt of the inspection result, apply for a re-inspection to the department responsible for product quality supervision and administration that conducted the spot check or to the department responsible for product quality supervision and administration at the next higher level. The department that accepts the application shall make a decision on re-inspection.

Article 22. Consumers shall have the right to make inquiries with the producers or sellers about the quality of products. Where consumers find that product quality is substandard or that a product has defects, they shall have the right to file complaints or reports with the departments responsible for product quality supervision and administration, the administrative departments for industry and commerce, or other relevant departments. The departments that receive such complaints or reports shall be responsible for handling them.

Article 23. Consumer organizations protecting the rights and interests of consumers may make suggestions to the relevant departments regarding product quality issues reported by consumers, and may support consumers in initiating litigation in a people's court against any damage caused by product quality.

Article 24. The department responsible for product quality supervision and administration under the State Council and the departments responsible for product quality supervision and administration of the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall regularly publish the results of product quality supervision and inspection. When publishing such results, the names of the enterprises whose products fail spot checks shall be disclosed.

Article 25. Departments responsible for product quality supervision and administration or other state organs, as well as product quality inspection bodies, shall not recommend products to the public. No state organ may provide protection for enterprises whose products fail quality spot checks in any disguised form.

Chapter III — Obligations and Liability of Producers and Sellers Regarding Product Quality

Article 26. Producers shall be liable for the quality of the products they produce. A product shall meet the following quality requirements: (1) there is no unreasonable danger endangering the safety of persons or property; where there are national standards or trade standards for ensuring human health and personal and property safety, the product shall comply with such standards; (2) the product has the performance and usefulness it is supposed to have, unless otherwise stated in respect of any defect in the performance; and (3) the product conforms to the product standards indicated on the product or its packaging and to the quality indicated in the product description or in the samples.

Article 27. The marks on a product or its packaging shall be genuine and meet the following requirements: (1) have a certificate of inspection; (2) indicate the product name, the name and address of the producer in Chinese characters; (3) indicate the product specifications, grade and the main ingredients contained, where such information is required according to the characteristics and use of the product; (4) indicate the production date and the safe use period or the expiry date if the product has a limited useful life; and (5) indicate a warning mark or a warning statement in Chinese where the product, if improperly used, is liable to cause damage to the product itself or to endanger personal or property safety.

Article 28. Producers shall not produce products that have been eliminated by order of the state. Producers shall not forge the place of origin, forge or falsely use the name and address of another producer. Producers shall not forge or falsely use a certification mark or any other quality mark.

Article 29. Producers shall not adulterate products or mix impurities into products, nor pass off fake products as genuine, substandard products as standard, or non-conforming products as conforming.

Article 30. Producers shall design, manufacture and inspect their products in accordance with the relevant provisions of the state. Products shall be accompanied by certificates of inspection and instructions for use.

Article 31. Where glass products, ceramic products or any other fragile products are likely to be damaged during transport or storage, the packaging of such products shall be marked with a cautionary statement and an indication such as the direction for placement. Where any product is classified as dangerous, explosive, toxic, corrosive or radioactive, or as any other special product that requires special handling during transport or storage, the packaging of such product must comply with the relevant state provisions, be clearly marked with a warning, and be accompanied by the precautions for safe transport and storage.

Article 32. Producers producing products shall not pass off non-conforming products as conforming products, and shall not use labels, marks or packaging that are false or misleading.

Article 33. Sellers shall establish and implement a system of incoming inspection and acceptance, and verify the product quality certificates and other marks.

Article 34. Sellers shall take measures to maintain the quality of the products for sale and ensure that the products they sell meet the quality requirements as labeled.

Article 35. Sellers shall not sell products that have been eliminated by order of the state, nor sell expired or deteriorated products.

Article 36. The marks on the products sold by sellers shall conform to the provisions of Article 27 of this Law.

Article 37. Sellers shall not adulterate products or mix impurities into products, nor pass off fake products as genuine, substandard products as standard, or non-conforming products as conforming during the process of sale.

Article 38. Sellers shall not sell products that fail to meet the national standards or trade standards for ensuring human health and personal or property safety.

Article 39. Sellers shall not forge the place of origin, forge or falsely use the name and address of another producer. Sellers shall not forge or falsely use a certification mark or any other quality mark.

Chapter IV — Compensation for Damage

Article 40. A seller shall be liable for repair, replacement or return of a product, and compensate the consumer for losses, under any of the following circumstances: (1) the product does not have the performance and usefulness it is supposed to have, and no prior statement has been made thereof; (2) the product does not conform to the product standards indicated on the product or its packaging; or (3) the product does not conform to the quality indicated in the product description or the samples.

Article 41. Where a defective product causes personal injury or damage to property other than the defective product (hereinafter referred to as “other property”), the producer shall be liable for compensation. A producer shall not be liable if it can prove that: (1) the product has not been put into circulation; (2) the defect causing the damage did not exist at the time the product was put into circulation; or (3) the level of science and technology at the time the product was put into circulation was incapable of detecting the existence of the defect.

Article 42. Where a defective product causes personal injury or damage to other property due to the fault of the seller, the seller shall be liable for compensation. Where the seller cannot identify the producer or supplier of the defective product, the seller shall be liable for compensation.

Article 43. Where a defective product causes personal injury or damage to other property, the victim may claim compensation from the producer or the seller. Where the producer is liable and the seller has paid compensation, the seller shall have the right to recover the compensation from the producer. Where the seller is liable and the producer has paid compensation, the producer shall have the right to recover the compensation from the seller.

Article 44. Where personal injury is caused by a defective product, the party liable for compensation shall compensate for medical expenses, nursing expenses during treatment, and reduced income due to lost working time; where a disability is caused, the party liable for compensation shall also pay compensation for self-help devices, living allowances, disability compensation, and the living expenses necessary for any person supported by the disabled person; where death is caused, the party liable for compensation shall also pay funeral expenses, death compensation, and the living expenses necessary for any persons supported by the deceased during their lifetime. Where property damage is caused by a defective product, the party liable for compensation shall restore the damaged property to its original condition or shall pay compensation at the market price. Where the victim suffers other significant losses, the party liable for compensation shall also compensate for such losses.

Article 45. The statute of limitations for bringing an action for compensation for damage caused by a defective product shall be two years, running from the date on which the party concerned knew or should have known that its rights and interests had been infringed. The right to claim compensation for damage caused by a defective product shall be extinguished upon the expiration of 10 years from the date on which the defective product causing the damage was first delivered to the initial consumer, unless the stated safe use period has not expired.

Article 46. For the purposes of this Law, “defect” means an unreasonable danger existing in a product that endangers the safety of persons or other property. Where there are national standards or trade standards for ensuring human health and personal and property safety, “defect” means non-compliance with such standards.

Article 47. Where a civil dispute arises over product quality, the parties may resolve the dispute through negotiation or mediation. Where the parties are unwilling to resolve the dispute through negotiation or mediation, or negotiation or mediation fails, they may apply to an arbitration institution for arbitration in accordance with the agreement between the parties. Where the parties have not reached an arbitration agreement or the arbitration agreement is invalid, they may directly initiate litigation in a people’s court.

Article 48. An arbitration institution or a people’s court may entrust a product quality inspection body specified in Article 19 of this Law to conduct an inspection of the quality of the product in question.

Chapter V — Penalty Provisions

Article 49. Whoever produces or sells a product that does not comply with the national standards or trade standards for ensuring human health and personal or property safety shall be ordered to stop the production or sale, the illegally produced or sold products shall be confiscated, a fine of not less than the equivalent

value but not more than three times the equivalent value of the illegally produced or sold products shall be imposed concurrently; where there are illegal gains, such gains shall also be confiscated; if the circumstances are serious, the business license shall be revoked; and if a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 50. Whoever adulterates or mixes impurities into a product, or passes off a fake product as a genuine one, or passes off a substandard product as a standard one, or passes off a non-conforming product as a conforming one, shall be ordered to stop the production or sale, the illegally produced or sold products shall be confiscated, a fine of not less than 50 percent and not more than three times the equivalent value of the illegally produced or sold products shall be imposed concurrently; where there are illegal gains, such gains shall also be confiscated; if the circumstances are serious, the business license shall be revoked; and if a crime is constituted, criminal liability shall be pursued.

Article 51. Whoever produces a product that has been eliminated by order of the state shall be ordered to stop the production, the illegally produced products shall be confiscated, and a fine of not more than the equivalent value of the illegally produced products shall be imposed concurrently; where there are illegal gains, such gains shall also be confiscated; if the circumstances are serious, the business license shall be revoked.

Article 52. Whoever sells an expired or deteriorated product shall be ordered to stop the sale, the illegally sold products shall be confiscated, and a fine of not more than twice the equivalent value of the illegally sold products shall be imposed concurrently; where there are illegal gains, such gains shall also be confiscated; if the circumstances are serious, the business license shall be revoked; and if a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 53. Whoever forges the place of origin of a product, or forges or falsely uses the name and address of another producer, or forges or falsely uses a certification mark or any other quality mark, shall be ordered to make corrections, the illegally produced or sold products shall be confiscated, and a fine of not more than the equivalent value of the illegally produced or sold products shall be imposed concurrently; where there are illegal gains, such gains shall also be confiscated; if the circumstances are serious, the business license shall be revoked.

Article 54. Where the marks on a product do not conform to the provisions of Article 27 of this Law, the producer or seller shall be ordered to make corrections; where a product with a limited useful life is sold without indicating the production date and the safe use period or the expiry date on the product or its packaging, or where a product is sold without a warning mark or warning statement in Chinese as required, if the circumstances are serious, the producer or seller shall be ordered to stop the production or sale and a fine of not more than 30 percent of the equivalent value of the illegally produced or sold products shall be imposed concurrently; where there are illegal gains, such gains shall also be confiscated.

Article 55. Where a seller sells a product under any of the circumstances specified in Articles 49 through 53 of this Law, but has sufficient evidence to prove that it was unaware that the product was prohibited from sale and truthfully discloses the source from which the product was obtained, the seller shall be given a lighter or mitigated penalty.

Article 56. Whoever refuses to accept a product quality spot check conducted in accordance with the law shall be given a warning and ordered to make corrections; if the party refuses to make corrections, it shall be ordered to suspend business for rectification; if the circumstances are especially serious, the business license shall be revoked.

Article 57. Where a product quality inspection body or certification body forges an inspection result or issues a false certificate, it shall be ordered to make corrections, and a fine of not less than RMB 50,000 but not more than RMB 100,000 shall be imposed on the entity, and a fine of not less than RMB 10,000 but not more than RMB 50,000 shall be imposed on the directly responsible person in charge and other directly

responsible personnel; where there are illegal gains, such gains shall also be confiscated; if the circumstances are serious, the qualification for inspection or certification shall be revoked; and if a crime is constituted, criminal liability shall be pursued in accordance with the law. Where a product quality inspection body or certification body issues a false certificate and causes losses to consumers, the inspection body or certification body shall bear joint and several liability for compensation with the producer or seller. Where a product quality inspection body or certification body issues an inspection result or certificate that is untrue, and causes losses, it shall bear corresponding liability for compensation; if significant losses are caused, the qualification for inspection or certification shall be revoked.

Article 58. Where public organizations or social intermediary institutions undertake to certify the quality of a product in violation of the provisions of this Law and issue false certifications, they shall bear joint and several liability for compensation with the producer or seller of the product.

Article 59. Where any person, in an advertisement, makes any false representation about the quality, performance, use or other characteristics of a product and thereby misleads or deceives consumers, the provisions of the Advertising Law of the People's Republic of China shall apply.

Article 60. The raw and auxiliary materials, packaging materials and production tools specially used for producing the products specified in Articles 49 and 51 of this Law, or for producing products by means of adulteration, mixing of impurities, passing off of fake products as genuine, passing off of substandard products as standard, or passing off of non-conforming products as conforming, shall be confiscated.

Article 61. Where any person knows or should have known that a product is prohibited from production or sale under the provisions of this Law but nonetheless provides transportation, storage or warehousing services or any other convenience for such product, the illegal gains shall be confiscated and a fine of not less than 50 percent and not more than three times the amount of the illegal gains shall be imposed concurrently. Where a person providing the services specified in the preceding paragraph does not have illegal gains or the illegal gains are less than RMB 20,000, a fine of not less than RMB 20,000 but not more than RMB 50,000 shall be imposed. If the circumstances are serious, the relevant business license shall be revoked.

Article 62. Where a service provider uses any of the products prohibited from sale under Articles 49 through 52 of this Law in its business operations, the service provider shall be ordered to stop the use; where the service provider knows or should have known that the products used are prohibited from sale under this Law, it shall be punished in accordance with the provisions applicable to sellers in this Law.

Article 63. Where products that have been sealed up or seized are concealed, transferred, sold or destroyed, a fine of not less than the equivalent value but not more than three times the equivalent value of the concealed, transferred, sold or destroyed products shall be imposed; where there are illegal gains, such gains shall also be confiscated.

Chapter VI — Supplementary Provisions

Article 64. Where a party violates the provisions of this Law and shall bear civil liability for compensation and pay a fine or have its illegal gains confiscated, if the party's assets are insufficient to cover both the civil compensation and the payment of the fine and confiscation, the civil liability for compensation shall take priority.

Article 65. Where the people's government at any level or any other functionary of a state organ commits any of the following acts, the offender shall be given an administrative sanction; if a crime is constituted, criminal liability shall be pursued in accordance with the law: (1) shielding or condoning any act of producing or selling products in violation of this Law; (2) disclosing information about the unit or individual that filed a report so as to enable the unit or individual to be retaliated against; or (3) obstructing or interfering with the investigation and punishment of acts of producing or selling products in violation of this Law carried out by

the departments responsible for product quality supervision and administration or by other relevant departments in accordance with the law. Where serious consequences result from any of the acts specified in the preceding paragraph, the principal responsible person shall also be given an administrative sanction of demotion or removal from office.

Article 66. Where a functionary of a department responsible for product quality supervision and administration abuses his or her power, neglects his or her duties, or engages in malpractices for personal gain, if the act does not constitute a crime, the functionary shall be given an administrative sanction in accordance with the law.

Article 67. Where a party is dissatisfied with an administrative penalty decision made by a department responsible for product quality supervision and administration or by the administrative department for industry and commerce, the party may apply for administrative reconsideration or initiate administrative litigation in accordance with the law.

Article 68. Where a functionary of a department responsible for product quality supervision and administration or of the administrative department for industry and commerce, by taking advantage of his or her position, knowingly shields a producer or seller who the functionary knows has committed an act in violation of this Law and who should be subject to criminal liability, and fails to transfer the case to a judicial organ for criminal investigation, if the circumstances are serious, the functionary shall be given an administrative sanction; if a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 69. The value of products referred to in Articles 49 through 54, 62 and 63 of this Law shall be calculated on the basis of the marked price of the illegally produced or sold products; where there is no marked price, the value shall be calculated on the basis of the market price of similar products.

Article 70. The penalty of revoking a business license provided for in this Law shall be decided by the administrative department for industry and commerce. The penalty of revoking a business license provided for in Articles 49 through 57 and 60 through 63 of this Law shall be decided by the administrative department for industry and commerce. The administrative penalties provided for in Articles 49 through 57, 60 and 63 of this Law shall be decided by the departments responsible for product quality supervision and administration or by the administrative departments for industry and commerce in accordance with the functions and powers prescribed by the State Council. Where laws or administrative regulations provide otherwise for the authorities exercising the power to impose administrative penalties, the provisions of such laws or administrative regulations shall prevail.

Article 71. The confiscated products shall be disposed of or destroyed by the relevant departments in accordance with the relevant state provisions.

Article 72. For the purposes of Articles 49 through 54, 62 and 63 of this Law, “equivalent value of the illegally produced or sold products” means the total value of all the illegally produced or sold products, including those sold and those not yet sold.

Article 73. This Law shall also apply to the activities of producing or selling products by military industrial enterprises that produce civilian products.

Article 74. This Law shall take effect as of September 1, 1993.

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