Millions of Toys Recalled Due to Safety Hazards

The largest toy companies in the United States recently issued product recalls for millions of dangerous toys. These recalls effect some of the most popular toys our children play with, including children’s jewelry, and toys themed upon Elmo, Curious George, Sponge Bob, Big Bird, Diego, Barbie, Batman, Polly Pocket, and Sarge. The Maryland Trial Lawyers Association is dedicated to “keeping families safe,” and the purpose of this article is to educate the legal community on the dangers that the recently recalled toys present, and how to identify any of the recalled toys that may be lurking in your household so that they can be removed without the risk of injury to your children.

The dangers that the most recently recalled toys pose to our children are twofold: (i) Lead Paint Exposure and (ii) Choking Hazards.

The Lead Paint Exposure Hazard:

The lead paint exposure hazard relates to the paint used on the surface of certain plastic pre-school toys and certain jewelry geared towards children. Exposure to dangerous levels of lead based paint on toys and children’s jewelry can lead to brain damage, learning disabilities, other neuropsychological injuries and even death. Some of the most popular toys recently recalled due to the lead paint danger include the following: (i) Character Toys including Big Bird, Elmo, Diego, and Dora the Explorer, (ii) Bongo Band Toys, (iii) Geo Trax Locomotive Toys, (iv) Barbie Accessory Toys, (v) Sarge Die Cast Toy Cars, (vi) Magnetic Toy Train Sets Manufactured by Hampton Direct, (vii) Soldier Bear Toy Sets (viii) Thomas & Friends Wooden Railway Toys, (ix) Curious George and Thomas & Friends Spinning Tops and Tin Pails, and (x) Sponge Bob Square Pants Address Books and Journals. For a complete list of toy hazard recalls and color photos of the recalled toys go to http://www.cpsc.gov/cpscpub/prerel/category/toy.html.

Although the scope and magnitude of the most recent recall is unprecedented, not surprisingly, the toy industry and the Consumer Product Safety Commission ("CPSC") have known about the danger of lead based paint for quite some time. Paint containing more than 0.06 percent lead has been banned from use on toys since 1977. See 16 C.F.R. § 1303.4(b). In 2004, after the CPSC received a report of a child becoming lead poisoned after ingesting toy jewelry from a vending machine, it issued a recall of 150 million pieces of toy jewelry sold in vending machines. Then, in 2006 when a child died from ingesting a toy charm containing lead, there was a voluntary recall of the charm bracelets. According to Mattel, a Chinese subcontractor violated Mattel’s standards and used lead based paint from an unapproved third party supplier at its plant in southern China. Mattel’s website provides information about the recalled products, its efforts to make sure that dangerous toys are not put into the marketplace in the future, and an apology for allowing these dangerous products into the marketplace. See http://www.mattel.com/safety/us/.
The Choking Hazard:

The choking hazard arises from small magnets that are within certain toys that then become loose. If swallowed by children, alone they present a choking hazard; but if two magnets are swallowed, the magnets can attract each other and cause internal injuries or death. For instance, if the magnets are aspirated into the lungs, immediate surgery is typically required. Some of the toys that have been recalled due to this choking hazard include (i) Polly Pocket Play Sets, (ii) Batman Action Figures, (iii) OnePiece Action Figures, (iv) Doggie Day Care Play Sets, and (v) certain Barbie related toys. The CPSC is aware of over 500 incidents of the magnets falling out of toy figures, and reports of at least three children who were seriously injured as a result of swallowing the magnets. MSNBC reported that one child died as a result of swallowing magnets used in toys.

Maryland’s Legislative Effort To Combat Lead Paint in Toys

While the choking hazard presented by the small toys is concerning, the real concern is the lead-paint problem. With so many U.S. companies obtaining their products in foreign countries, there needs to be ways to check these lead levels prior to the toys reaching the millions of children that these toys are sold to. Furthermore, it seems that the CPSC does not currently have the resources needed to prevent these dangerous products from entering the stream of commerce. It will be next to impossible to ensure that all of these recalled toys are returned, thus meaning that our children are still at risk. It is imperative that local and federal law makers place this issue at the forefront of their legislative agendas.

The Maryland Legislature attempted to address the issue of lead paint in toys with House Bill 1214 (HB 1214) during the 2007 legislative session, but the bill did not make it through the Maryland Senate. The proposed legislation prohibited the manufacture and sale of toys containing lead. It also authorized the Maryland Department of Health and Mental Hygiene to enter manufacturing plants, factories and stores to test toys for lead content, and declare any lead containing toys “hazardous,” and require their removal from the stream of commerce. HB 1214 also provided for civil fines and criminal penalties under certain circumstances. HB 1214 passed the House of Delegates unanimously late in the 2007 legislative session, but it was not scheduled for a hearing or vote in the Maryland Senate.

For more information on the toy recall visit the CPSC Website at www.cpsc.gov and/or Mattel’s Website at www.mattel.com. For the full text of HB 1214 see http://mlis.state.md.us/2007rs/billfile/HB1214.htm.