



**Republika e Kosovës
Republika Kosovo - Republic of Kosovo
Kuvendi - Skupština - Assembly**

Law No. 04/L-189

**ON AMENDING AND SUPPLEMENTING THE LAW NO. 04/L-078
ON GENERAL PRODUCT SAFETY**

Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

**LAW ON AMENDING AND SUPPLEMENTING THE LAW NO.
04/L-078 ON GENERAL PRODUCT SAFETY**

Article 1

Article 2 of the basic Law paragraph 1 shall be reworded with the following text:

1. This law applies to all products, regardless of the manner of (marketing) sales, including the electronic and distance sale. The provisions of this Law shall apply for the products whose general safety is not regulated by a special act.

Article 2

In Article 3 of the Basic Law after paragraph 1.13 a new paragraph 1.14. shall be added with the following text:

1.14. **Trade prohibition** - means any measure undertaken to prohibit distribution, display and provision of the product which is proved to be dangerous to consumers.

Article 3

1. Article 4 of the Basic Law, paragraph 2. shall be reworded with the following text:

2. The product is considered safe if it is in accordance with the requirements of European harmonized standards that have been adapted as Kosovo standards covering risks and relevant risk categories of the product in question.

2. Article 4 of the Basic Law, paragraph 4. shall be reworded with the following text:

4. If there are no special (specific) rules or standards pursuant to paragraph 2. of this Article, compliance of the product with the general safety requirements shall be assessed based on the following elements:

4.1. Kosovo Standards, adapted from the relevant European standards, other than those specified in paragraph 2. of this Article;

4.2. other Kosovo Standards;

4.3. recommendations of the European Commission which provide instructions for assessing the safety of products;

4.4. good practice instructions in the field of product safety in force in this sector;

4.5. level of technology and craftsmanship;

4.6. the level of safety that consumers expect.

3. Article 4 of the Basic Law after paragraph 4 a new paragraph 5. shall be added with the following text:

5. The products referred to in Article 3, paragraph 1., sub-paragraph 1.5 and 1.11 of the Basic Law shall be prohibited to be manufactured, imported, exported, displayed and placed on the market

Article 4

After Article 4 of the Basic Law a new Article 4.A shall be added with the following text:

Article 4.A

Measures on prohibition or restricting the placing on the market of dangerous products

1. Inspectorate in accordance with Article 6 of this Law by a decision prohibits placing of products on the market or orders their withdrawal from the market and / or product recall

from consumers if it verifies that those products endanger the safety and health of consumers and users even if they meet provisions of Article 4 paragraph 3. of the Basic Law and Article 3 of this Law.

2. Within twenty (20) days from the date of publication of the decision of the inspectorate prohibiting or restricting the placing on the market or import of a particular product or a group of products that pose a serious risk, the competent body for general product safety shall issue a directive determining the manner how the manufacturers or distributors must act.

3. Inspectorate in accordance with Article 8 of the Basic Law during the supervision of the implementation of the directive referred to in paragraph 2. of this Article is competent to undertake all the measures set out in Article 8 of the Basic Law.

Article 5

Article 5 of the Basic Law, paragraph 2., after subparagraph 2.2 a new sub-paragraph 2.3 shall be added with the following text:

2.3. product recall shall be applied as the last measure, when:

2.3.1. other measures are not sufficient to prevent the risks;

2.3.2. the manufacturers themselves deem it necessary;

2.3.3. manufacturers are forced to do this due to the measures taken by the inspection supervision.

Article 6

Article 8 of the Basic Law shall be reworded with the following text:

Article 8

Market Surveillance

1. Market inspective supervision for implementation of this law shall be carried out by the Market Inspectorate in accordance with their competences and duties set forth in this Law and the respective Law on Market Inspectorate and Inspective Supervision.

2. Market inspectors except the competences to undertake measures relating to their work, based on this Law have additional responsibilities, as follows:

2.1. for any product:

2.1.1. to perform verification of product characteristics that affect its safety even after being placed on the market as a safe product, until the last stage of use, respectively consumption;

2.1.2. to require all necessary information from manufacturers or distributors;

2.1.3. to take samples for verification of the product safety.

2.2. for any product, which in certain conditions may pose a risk:

2.2.1. to order marking in a clear, and understandable manner in the official languages with the details on the risks that the product may pose;

2.2.2. to order fulfillment of prerequisites so that placing on the market of products to be safe.

2.3. for any product that may pose a risk to certain individuals:

2.3.1. to order that they be warned about the risk in due time and in an appropriate manner, including publication of special warnings.

2.4. for any product that may be dangerous:

2.4.1. to temporarily stop supplying for the necessary period until verification for the product safety is carried out.

2.5. for any dangerous product:

2.5.1. to prohibit its placing on the market and to order appropriate measures to ensure that the prohibition is being complied with.

2.6. for any dangerous product which has been placed on the market:

2.6.1. orders or organizes its full withdrawal and at the same time warns consumers on the risks posed by the product, through media;

2.6.2. orders or supervises manufacturers and distributors to recall the product from consumers and its destruction;

2.6.3. orders product delivery in a good condition to the consumer after eliminating the deficiencies in that product which may have caused damages.

3. Market inspectors undertake the measures set out in paragraph 2 of this Article against:

3.1. manufacturers;

- 3.2. distributors, in the context of their activities, especially against those who are responsible for the first placing of the product on the market of the Republic of Kosovo;
- 3.3. any other legal or natural person, if necessary, in order to cooperate in the activities undertaken to avoid the risk posed by the product.
4. In the event that the products pose a serious risk, inspectors are authorized to undertake all measures necessary to implement the procedures set out in paragraph 2., sub-paragraph 2.1. to sub-paragraph 2.6 of this Article.
5. When inspectors undertake the measures referred to in paragraph 2. of this Article, in particular those set out in sub-paragraph 2.4 to sub-paragraph 2.6, they shall act so as these measures are implemented in proportion to the seriousness of the risk taking into account the direct or indirect risk to health and safety of consumer, which risks have immediate or subsequent effects.
6. Inspectors undertake the measures of product recall from consumers only as a last resort when other measures are not sufficient to prevent certain risks.
7. Against the decision referred to in paragraph 2. of this Article may be submitted an appeal within eight (8) days from the date the decision was taken.
8. The appeal against the decision referred to in paragraph 2. of this Article will not delay its execution.
9. If the inspectorate under paragraph 1. of this Article does not possess the adequate necessary (qualifications) knowledge or necessary equipments to carry out verifications and inspections set out in paragraph 2. of this Article, it may entrust the performance of professional activities within the boundaries of a supervision activity to a qualified institution or individual.
10. If it is confirmed that the product is not safe due to deficiencies or errors made by the manufacturer, the cost of the inspection procedure, which have occurred in the process of inspection will be borne by the manufacturer.
11. The provisions referred to in paragraph 2. to paragraph 10. of this Article shall apply also for the products referred to in Article 3 sub-paragraph 1.11. of the Basic Law.

Article 7

After Article 8 of the Basic Law a new Article 8.A shall be added with the following text:

Article 8A

Customs control of products entering the market of the Republic of Kosovo

1. During the clearance of goods and implementation of other actions within the limits of their responsibilities, Customs Authorities, before the release of products in free circulation, shall prohibit the products and / or groups / series of products for the three (3) working days and inform immediately the inspectorate if they find that:

1.1. specific products or groups of products have specific characteristics which lead to a reasonable suspicion that they may pose a serious risk to the safety and health of consumers when placed on the market and used for the purposes intended or reasonable foreseeable conditions;

1.2. specific products or groups / series of products that are not accompanied by the relevant documents, are not marked appropriately or the assigned mark is located in an irregular manner.

2. If within three (3) working days the inspectorate does not implement any of the measures referred to in Article 8 of the Basic Law or within that period does not inform the Customs Authorities for the implementation of such measures, the latter releases the products or groups of products for free circulation, provided that all other obligations for their release into circulation have been met.

Article 8

Article 9 of the Basic Law shall be reworded with the following text:

Article 9

Penalty provisions

1. With fine in the amount of five thousand (5,000.00) euro up to fifteen thousand (15,000.00) euro shall be fined the legal persons if:

1.1. contrary to Article 4 of the Basic Law and Article 3 of this law, place on the market products that are not safe;

1.2. contrary to Article 3 paragraph 5. of this Law, manufacture, import, export, display and place on the market a dangerous product or dangerous imitation;

1.3. contrary to Article 7 of the Basic Law do not inform consumers and other users about product safety, do not undertake appropriate measures in order to avoid the

risk, do not possess the necessary documents for the product origin and do not cooperate with the inspectorate according to Article 8 of the Basic Law;

1.4. contrary to Article 8 of the Basic Law they do not apply decision of the inspectorate.

2. For the offenses referred in paragraph 1. of this Article, the person in charge of the legal person shall also be fined in the amount of one thousand (1.000) euro up to three thousand (3.000) euro.

3. For the offenses referred in paragraph 1 of this Article, a natural person shall be fined in the amount of one hundred (100) euro to four hundred (400) euro.

4. The inspector will not impose a fine pursuant to paragraph 1. of this Article, if the manufacturers or distributors voluntarily undertake measures to meet the safety requirements, or through a call for cooperation with the inspectorate according to the Article 8 of the Basic Law fulfill all the obligations set out in Article 5 of the Basic Law.

Article 9

Entry into force

This Law shall enter into force fifteen (15) days after its publication in the Official Gazette of the Republic of Kosovo.

Law No. 04/L-189
28 March 2013

President of the Assembly of the Republic of Kosovo

Jakup KRASNIQI