Product Quality Law of the People's Republic of China (2018 Amendment)[1]

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[1] Translated by Health Law Asia – Pharmaceutical, Medical Device, and Cosmetics Law

Chapter I: General Provisions

Article 1

This Law is enacted for the purposes of strengthening the supervision and administration of product quality, improving the level of product quality, clarifying the responsibilities for product quality, protecting the legitimate rights and interests of consumers, and maintaining the order of the socialist market economy.

Article 2

Any person or entity engaged in the production or sale of products within the territory of the People's Republic of China must comply with this Law.

The term "products" as used in this Law refers to goods that are manufactured or processed for the purpose of sale.

This Law does not apply to construction projects; however, construction materials, structural components, and equipment used in construction projects that fall within the scope of products as defined in the preceding paragraph shall be governed by this Law.

Article 3

Producers and sellers shall establish and improve internal product quality management systems and strictly implement position-based quality standards, quality responsibilities, and corresponding evaluation mechanisms.

Article 4

Producers and sellers shall bear responsibilities for product quality in accordance with this Law.

Article 5

It is prohibited to forge or fraudulently use certification marks or other quality marks; to forge the origin of products; to forge or fraudulently use the name or address of another manufacturer; or to mix impurities or imitations into products, substitute fake products for genuine ones, or use substandard products in place of high-quality ones.

Article 6

The State encourages the adoption of scientific quality management methods and advanced science and technology, and supports enterprises in ensuring that their product quality meets or exceeds industry standards, national standards, and international standards.

Units and individuals that achieve outstanding results in product quality management or whose product quality reaches an internationally advanced level shall be commended and rewarded.

Article 7

People's governments at all levels shall include the improvement of product quality in their national economic and social development plans, strengthen overall planning and organizational leadership for product quality work, guide and urge producers and sellers to improve quality management, take measures to ensure product quality, and stop acts that violate this Law in the course of production and sales, so as to ensure its effective implementation.

Article 8

The department of market supervision and administration under the State Council shall be responsible for product quality supervision nationwide. Relevant departments under the State Council shall, within their respective responsibilities, be responsible for product quality supervision.

The departments of market supervision and administration at or above the county level shall be responsible for product quality supervision within their respective administrative areas. Relevant departments of local people's governments at or above the county level shall, within their respective responsibilities, be responsible for product quality supervision.

Where other laws provide otherwise regarding product quality supervision departments, such provisions shall prevail.

Article 9

Government officials and other state functionaries at all levels shall not abuse their power, neglect their duties, engage in malpractices for personal gain, shelter, or connive at acts in violation of this Law in the course of product production or sales, or obstruct or interfere with the lawful investigation and handling of such acts.

Where local people's governments or other state organs shelter or connive at such acts, the principal responsible persons shall be held legally accountable in accordance with the law.

Article 10

Any organization or individual has the right to report acts in violation of this Law to the department of market supervision and administration or other relevant departments.

Such departments shall keep the identity of whistleblowers confidential and shall grant rewards in accordance with the regulations of the people's government of the relevant province, autonomous region, or municipality directly under the central government.

Article 11

No organization or individual may exclude or restrict the entry of quality-qualified products produced by enterprises from other regions or systems into their own region or system.

Chapter II: Supervision of Product Quality

Article 12

Products must pass inspection and meet quality standards. It is prohibited to pass off nonconforming products as qualified products.

Article 13

Industrial products that may endanger human health or the safety of persons and property must comply with national or industry standards that ensure health and safety. Where such standards have not yet been formulated, products must meet the necessary health and safety requirements. The production or sale of industrial products that do not conform to such standards or requirements is prohibited. Specific administrative measures shall be formulated by the State Council.

Article 14

The State shall promote an enterprise quality system certification system based on internationally accepted quality management standards. Enterprises may voluntarily apply to certification bodies accredited or authorized by the State Administration for Market Regulation (SAMR) for quality system certification. A certificate shall be issued by the certification body if the enterprise passes certification.

The State shall also promote a product quality certification system with reference to advanced international product standards and technical requirements. Enterprises may voluntarily apply for product quality certification with the aforementioned accredited or authorized bodies. Upon passing certification, the enterprise may display a quality certification mark on its products or packaging.

Article 15

The State shall implement a supervision and inspection system based primarily on random sampling. Sampling inspections shall be carried out for products that may endanger human health or safety, for industrial products important to the national economy and people's livelihood, and for products suspected of quality problems based on consumer or organizational complaints.

Samples shall be randomly taken from the market or from unsold finished products in warehouses.
The supervision and sampling inspections shall be organized and planned by the State Administration for Market Regulation (SAMR). Local market supervision departments at or above county level may organize sampling inspections within their jurisdictions. Where another law provides otherwise for product quality supervision and inspection, such provisions shall apply.

Products that are subject to national-level random inspections may not be subject to repeat inspections by local authorities. Likewise, products already inspected by a higher authority may not be re-inspected by a lower one.

If inspection is required during sampling, the quantity of samples shall not exceed reasonable testing needs, and no inspection fees may be charged to the inspected party. Inspection costs shall be covered in accordance with State Council regulations.

Where producers or sellers dispute the results of an inspection, they may, within 15 days of receiving the results, apply for a re-inspection to the same or a higher-level market supervision department, which shall issue a conclusion.

Article 16

Producers and sellers must not refuse legally conducted product quality inspections.

Article 17

Where products fail random sampling inspections, the responsible market supervision authority shall order the producer or seller to rectify the issue within a time limit. If they fail to do so, the provincial-level or higher market supervision department shall make a public announcement. If re-inspection still shows noncompliance after the announcement, operations shall be suspended, and rectification shall be ordered. If the product still fails inspection after the rectification period, the business license shall be revoked.

Where products under inspection present serious quality issues, penalties shall be imposed according to Chapter V of this Law.

Article 18

Market supervision departments at or above county level, based on evidence or reports of violations, may take the following enforcement actions:

1-Conduct on-site inspections of premises suspected of illegal production or sales;

2-Interview legal representatives, key personnel, or others involved in suspected violations;

3-Review and copy contracts, invoices, account books, and other relevant documents;

4-Seal or seize products suspected of violating health or safety standards, or with other serious quality issues, as well as raw materials, packaging, or production tools directly used in their manufacture or sale.

Article 19

Product inspection institutions must possess the necessary testing conditions and capabilities and shall only conduct product inspections upon passing assessment by a provincial or higher-level market supervision authority or its authorized body. Where laws or administrative regulations provide otherwise, such provisions shall prevail.

Article 20

Intermediary agencies engaged in product quality inspection or certification must be established in accordance with law and must not be subordinate to or have a vested interest in administrative or other state organs.

Article 21

Product inspection and certification bodies must objectively and impartially issue inspection results or certification reports in accordance with relevant standards.

Product certification bodies shall conduct post-certification supervision on products bearing quality marks. Where products fail to meet certification standards, corrective actions shall be required. In serious cases, the right to use the certification mark shall be revoked.

Article 22

Consumers have the right to inquire with producers or sellers about product quality issues, and to file complaints with market supervision or other relevant authorities. Authorities accepting such complaints shall be responsible for handling them.

Article 23

Social organizations that protect consumer rights may recommend that relevant departments handle product quality complaints raised by consumers and may support consumers in bringing lawsuits over damages caused by product defects.

Article 24

Market supervision departments under the State Council and those at the provincial, autonomous region, or municipal level shall regularly publish quality status announcements based on their sampling inspections.

Article 25

Market supervision authorities or other state agencies, as well as product quality inspection institutions, must not recommend specific producers' products to the public or engage in the marketing of products under the guise of supervision or monitoring.

Chapter III: Producers' and Sellers' Liability and Obligations for Product Quality

Section 1: Producers' Liability and Obligations

Article 26

Producers shall bear full responsibility for the quality of their products. Product quality must meet the following requirements:

-Must not create unreasonable risks to personal or property safety. Where national or industry standards exist to protect human health and safety, those standards must be met.

-Must perform as reasonably expected for the type of product, unless any known performance limitations or defects are clearly disclosed.

-Must comply with any product standards indicated on the product or its packaging and meet the quality represented through descriptions, samples, or other forms of representation.

Article 27

Labels on products or their packaging must be accurate and shall include:

-A certificate of product quality qualification;

-Product name, manufacturer name, and address indicated in Chinese;

Where applicable, specifications, grade, main ingredients and their contents, all in Chinese; if pre-use information must be provided to consumers, it must appear on the outer packaging or be proactively communicated;

For products with limited shelf life, a clear indication of production date and shelf-life or expiration date in a prominent location;

Warning signs or Chinese warning instructions for products that, if misused, may cause product damage or endanger persons or property.

Products sold unpackaged—such as bulk foods or other goods difficult to label—may be exempt from these labeling requirements.

Article 28

Dangerous items—such as fragile, flammable, explosive, toxic, corrosive, or radioactive materials—as well as products that must not be stored or transported inverted or which have special handling requirements shall be packaged to corresponding standards, include appropriate warning signs or Chinese instructions, and clearly state storage and transportation requirements in accordance with national regulations.

Article 29

Producers shall not manufacture products that are officially prohibited from production.

Article 30

Producers shall not forge product origin claims or falsify or misuse another manufacturer's name or address.

Article 31

Producers shall not forge or misuse certification marks or other quality marks.

Article 32

Producers must not adulterate, counterfeit, exchange for inferior goods, or represent nonconforming products as qualified.

Section 2: Sellers' Liability and Obligations

Article 33

Sellers must establish and implement a purchase inspection and acceptance system to verify product qualification certificates and other labels.

Article 34

Sellers must take measures to maintain the quality of the products they sell.

Article 35

Sellers must not sell products that have been officially eliminated, nor those that have expired or deteriorated.

Article 36

Product labels sold by sellers must comply with the provisions of Article 27.

Article 37

Sellers must not forge product origin claims or falsify or misuse another manufacturer's name or address.

Article 38

Sellers shall not forge or misuse certification marks or other quality marks.

Article 39

Sellers must not adulterate, counterfeit, exchange for inferior goods, or represent nonconforming products as qualified.

Chapter IV: Compensation for Damages

Article 40

Where sold products exhibit any of the following situations, sellers shall be responsible for repair, replacement, or return; if the consumer suffers loss, the seller shall compensate:

-Failure to possess expected performance characteristics without prior disclosure;

-Nonconformance with standards indicated on the product or packaging;

-Nonconformance with quality as represented in product documentation or samples.

After fulfilling their obligations to repair, replace, return, or compensate, sellers reserve the right of recourse against producers or upstream suppliers responsible. If sellers fail to comply with these obligations, market regulatory authorities shall order correction. In cases where commercial or service contracts between producers and sellers stipulate otherwise, parties shall follow contractual terms.

Article 41

Where a defective product causes personal injury or damage to property other than the product itself, the producer shall assume liability. However, the producer shall be exempt from liability if it proves one of the following:

-The product was not introduced into circulation;

-The defect did not exist when the product was circulated;

-The defect could not have been discovered using the scientific and technological level at the time of circulation.

Article 42

Where a seller's fault causes the product to be defective, resulting in personal injury or other property damage, the seller shall assume liability. If the seller cannot identify the producer or supplier of a defective product, the seller shall bear liability.

Article 43

In cases of defective products causing harm, the victim may claim damages from either the producer or the seller. If a seller compensates for a defect attributable to the producer or

another supplier, the seller has the right of recourse. Likewise, a producer compensating for seller-responsible defects may seek recourse.

Article 44

For personal injury caused by a defective product, the liable party must compensate medical expenses, nursing costs, and lost income due to missed work; if disability results, compensation must include expenses for assistive devices, living subsidies, disability compensation, and living costs of dependents; if death results, compensation includes funeral expenses, death benefits, and support for dependents. For damage to property caused by defects, the liable party must restore the original condition or compensate its depreciated value; if the victim suffers significant additional loss, the liable party must compensate accordingly.

Article 45

The statutory limitation period for claims arising from product defects is two years, starting from the date the plaintiff knows or should have known their rights were infringed. Claims for product defect-related damage expire ten years after the defective product is delivered to the first consumer, unless within the clearly stated safety usage period.

Article 46

A "defect" refers to an unreasonable hazard to personal or property safety, or product nonconformance with health and safety standards where such standards exist.

Article 47

In civil disputes related to product quality, parties may negotiate or mediate. If negotiation or mediation is declined or fails, parties may pursue arbitration if previously agreed; otherwise, they may file a lawsuit in People's Court.

Article 48

Arbitration institutions or People's Courts may, as needed, commission accredited product quality inspection institutions (as per Article 19) to evaluate product quality.

Chapter V – Penalties

Article 49

Producers or sellers of products that fail to comply with national or industry standards designed to safeguard human health or personal and property safety shall be ordered to cease production or sales. Illegally produced or sold products shall be confiscated. A fine shall be imposed amounting to not less than the value and not more than three times the value of the illegal products (including both sold and unsold goods). If there are illegal gains, they shall also be confiscated. In severe cases, the business license shall be revoked. Where a crime is constituted, criminal liability shall be pursued according to law.

Article 50

Where products are adulterated, counterfeited, falsely represented, or substandard products are passed off as qualified products, the party responsible shall be ordered to stop production or sales. The products involved shall be confiscated. A fine shall be imposed amounting to not less than 50% and not more than three times the value of the illegal products. Illegal gains, if any, shall be confiscated. In serious cases, the business license shall be revoked. Where a crime is constituted, criminal liability shall be pursued according to law.

Article 51

Where a party produces products that are explicitly prohibited by the state or sells products that have been expressly eliminated or banned from sale, they shall be ordered to cease production or sales. The products shall be confiscated, and a fine of up to the equivalent value of the illegal products shall be imposed. Illegal gains shall also be confiscated. In severe cases, the business license shall be revoked.

Article 52

Selling expired or deteriorated products shall result in an order to stop sales. The products in question shall be confiscated. A fine of up to twice the value of the illegal products shall be imposed. Illegal gains, if any, shall be confiscated. In severe cases, the business license shall be revoked. Where a crime is constituted, criminal liability shall be pursued according to law.

Article 53

Falsifying product origin, forging or fraudulently using another entity's factory name or address, or forging/fraudulently using certification marks or quality labels shall result in an order to correct the violation. The products shall be confiscated, and a fine of up to the equivalent value of the illegal products shall be imposed. Illegal gains shall be confiscated. In serious cases, the business license shall be revoked.

Article 54

Where product labeling does not comply with Article 27 of this Law, the violator shall be ordered to rectify it. If packaging labels violate Paragraphs (4) or (5) of Article 27 and the circumstances are serious, production and sales shall be halted. A fine of up to 30% of the product value shall be imposed. Any illegal gains shall be confiscated.

Article 55

Where a seller is found selling products prohibited under Articles 49 to 53 of this Law, and there is sufficient evidence that they were unaware of the product's illegal nature and can truthfully identify the source of procurement, punishment may be mitigated or reduced.

Article 56

Refusal to accept legally mandated product quality inspections shall result in a warning and an order to rectify the behavior. Continued refusal may lead to business suspension. In extremely serious cases, the business license shall be revoked.

Article 57

Where product quality inspection or certification institutions falsify test results or issue fraudulent certificates, they shall be ordered to rectify their conduct. The institution shall be fined between 50,000 and 100,000 yuan, and responsible individuals shall be fined between 10,000 and 50,000 yuan. Illegal gains shall be confiscated. In serious cases, inspection or certification qualifications shall be revoked. Where false results or certificates cause damage, the institution shall be held liable for compensation. In the event of significant damage, its qualifications shall be revoked. If a certification body violates Paragraph 2 of Article 21 by failing to require correction or revoke a certificate for products not meeting certification standards, and consumers suffer losses as a result, the certifier shall be jointly liable with the producer or seller. In serious cases, the certification qualification shall be revoked.

Article 58

If a social organization or intermediary makes quality-related guarantees or claims about a product that does not meet those promises, and this results in consumer harm, the organization or intermediary shall be jointly liable with the producer or seller.

Article 59

Where product quality is falsely advertised or consumers are misled or deceived through advertising, liability shall be pursued in accordance with the Advertising Law of the People's Republic of China.

Article 60

Raw materials, packaging materials, and production tools specifically used to manufacture products listed in Articles 49 and 51, or used in the production of counterfeit goods, shall be confiscated.

Article 61

Entities or individuals who knowingly, or who should reasonably know, that products are prohibited under this Law, and still provide transportation, storage, or warehousing services, or supply technological assistance for counterfeit production, shall have all related income confiscated and be fined between 50% and three times the illegal income. Where a crime is constituted, criminal liability shall be pursued according to law.

Article 62

Operators in the service industry who use products prohibited under Articles 49 to 52 for business purposes shall be ordered to cease using them. If they knew or should have known the products were prohibited, they shall be penalized in accordance with the provisions applicable to sellers, based on the value of both used and unused illegal products.

Article 63

Anyone who hides, transfers, sells, or destroys products that have been sealed or seized by the market supervision authorities shall be fined not less than the value and not more than three times the value of the concealed, transferred, sold, or destroyed items. Illegal gains, if any, shall be confiscated.

Article 64

Where parties are simultaneously subject to civil liability and fines or penalties, and their assets are insufficient to satisfy both, civil compensation shall take priority.

Article 65

Government officials or personnel of state agencies who engage in any of the following shall be subject to administrative sanctions; where a crime is constituted, criminal liability shall be pursued:

-Shielding or condoning violations of this Law in production or sales;

-Alerting or assisting violators to evade enforcement;

-Obstructing or interfering with the lawful enforcement activities of market regulators, resulting in serious consequences.

Article 66

If market supervision departments collect more samples than permitted during quality inspections or charge fees to inspected entities, higher authorities or supervisory agencies shall order the return of the samples or fees. In serious cases, those directly responsible shall be given administrative sanctions.

Article 67

Where market supervision departments or other state agencies violate Article 25 by endorsing products or engaging in commercial activities such as supervised production or sales, their higher authorities shall order correction and remediation. Illegal income shall be confiscated. In serious cases, responsible personnel shall be administratively sanctioned. Where quality inspection agencies engage in such violations, they shall be ordered to correct the conduct, eliminate impact, and may be fined up to the amount of the illegal income. In serious cases, their inspection qualifications shall be revoked.

Article 68

Where personnel of market supervision and administration departments abuse their powers, neglect their duties, or engage in favoritism or malpractice, criminal liability shall be pursued according to law if a crime is constituted. If the act does not constitute a crime, administrative sanctions shall be imposed according to law.

Article 69

Those who obstruct personnel of the market supervision and administration departments from lawfully performing their duties by means of violence or threats shall be subject to criminal liability in accordance with the law. Those who refuse or obstruct enforcement without the use of violence or threats shall be penalized by public security organs in accordance with the provisions of the *Law on Penalties for Administration of Public Security*.

Article 70

Administrative penalties stipulated in Articles 49 to 57 and Articles 60 to 63 of this Law shall be imposed by market supervision and administration departments. Where laws or

administrative regulations provide otherwise regarding the authority to impose administrative penalties, such provisions shall prevail.

Article 71

Products confiscated in accordance with the provisions of this Law shall be destroyed or otherwise disposed of in accordance with relevant state regulations.

Article 72

The value of goods referred to in Articles 49 to 54, Article 62, and Article 63 shall be calculated based on the labeled price of the illegally produced or sold products. If no price is indicated, the value shall be calculated based on the market price of similar products.

Chapter VI: Supplementary Provisions

Article 73

The measures for the supervision and administration of the quality of military products shall be separately formulated by the State Council and the Central Military Commission. Where laws or administrative regulations provide otherwise regarding liability for damages caused by nuclear facilities or nuclear products, such provisions shall apply.

Article 74

[Omitted]