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CONSUMER PRODUCT SAFETY COMMISSION

#225
OS
Rm. 1025

OCT 21 1975

TO: Harold A. Pellerite
Alexander Labonski, Director, NYC
THRU: Margaret A. Freeston, Assistant General Counsel
FROM: Jeanette Michael, OGC

SUBJECT: Jurisdiction Over Paddle Boats

This is in response to your memo dated September 9, 1975, regarding the Consumer Product Safety Commission's jurisdiction over paddle boats as amusement rides.

Section 3(a)(1)(G) of the Consumer Product Safety Act excludes boats from the definition of "consumer product". The Consumer Product Safety Commission has no jurisdiction over boats and boat equipment which could be subject to safety regulation under the Federal Boat Safety Act of 1971 (46 U.S.C. 1451) administered by the Coast Guard, a division of the Department of Transportation.

This office was informed by an official of the Standards Division, U.S. Coast Guard, that the Coast Guard has jurisdiction over paddle boats if the boats are operated on "waters subject to the jurisidction of the United States [or] on the high seas ..." (46 U.S.C. 1543). In other words, if the paddle boats are operated on a small pond or man-made lake within state boundaries, the Coast Guard has no authority to regulate the operation of the boat. Therefore, a paddle boat in an amusement park is not likely to fall within the jurisdiction of the Federal Boat Safety Act.

If a paddle boat does not fall within the purview of the Federal Boat Safety Act because of the nature and location of the body of water on which it operates, then the Consumer Product Safety Commission can exercise jurisdiction over the paddle boat. The Commission has authority to regulate all consumer products not specifically excluded by the Consumer Product Safety Act, that "affect" interstate commerce (a consumer product need not cross state lines in order to affect interstate commerce).

Even though the Consumer Product Safety Commission has authority to regulate the safety of paddle boats, the problem

ADVISORY OPINION

in this case could probably best be solved by state or local authorities. We therefore suggest, as recommended by the official at the Coast Guard, that the problem of lack of life preservers on a paddle boat in an amusement park be brought to the attention of the state safe boat law administrator.

cc:
OFC

JMICHAEL:rmb:10/21/75
cc: JMICHAEL
GC Chron
GC File
GC Reading

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Margaret Freeston, OGC

DATE: 9-9-75

FROM : Harold A Pellerite, CPSC-Rochester

SUBJECT: CPSC Jurisdiction Over Boats

This office has recently received a complaint regarding an amusement park ride. At a local amusement park, one may take a paddle boat ride on a small pond. The boat was described as the type that "one sits on a bench and operates the boat by using his feet to turn pedals." The main complaint stemmed from the fact that no life preservers were on the boat nor were any offered at the time the complaintant got on the boat.

The complaintant stated that she and her 5 year old son went on the ride together. After she was in the middle of the pond (approx. 7 feet in depth), she realized that she could not swim and neither could her son. She was concerned that is either one of them fell off, there was nothing or nobody to help them.

As I was not sure whether boats or amusement rides were covered by the CPSA, I contacted Alan Shakin, OGC. Mr. Shakin instructed me to send OGC the details so they may decide whether CPSC has any jurisdiction over this problem.

If any further information is necessary, please call, 716-338-5470.