6(b) CLEARED: 3/15/84 RC
X No Mfrs Identified
Excepted
Mfrs Notified
Comments Processed

#238

U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

9 APR 1976

RECEIVED OFFICE OF SECRETARY APR 12 9 23 AM '76 CONSUMER PRODUCT SAFETY COMMISSION

Henry Y. Ota, Esquire
Mori and Katayama
700 South Flower Street
Suite 410
Los Angeles, California 90017

Dear Mr. Ota:

This is in response to your letter of December 22, 1975 which requested information on the meaning of "introduced into interstate commerce" as used in the bicycle regulation issued by the Commission (issued in final form on July 16, 1974 at 39 FR 26100, with amendments issued on November 13, 1975 at 40 FR 52832 and republished January 28, 1976, at 41 FR 4144, the republication is enclosed for your convenience).

This office considers that a bicycle manufactured outside of the United States is introduced into interstate commerce when it is first "brought within the limits of a United States port of entry" (see enclosed August 7, 1974 advisory opinion #131). In response to your particular question, then, foreign-made bicycles which enter a United States port before the effective date of the bicycle regulation need not comply with the regulation.

A bicycle manufactured in the United States would be considered to be introduced into interstate commerce for the purposes of 16 CFR 1500.18(a)(12), when it has been manufactured and subsequently either shipped or stored for shipment. For the purposes of this interpretation "manufacture" means the completion of those construction or assembly operations that are performed by the manufacturer before the bicycle is shipped from the manufacturer's place of production for sale to distributors, retailers, or consumers. A bicycle is considered to be shipped when it is manufactured and placed in the custody of a person

making delivery. A bicycle is considered to be stored for shipment when it is manufactured and placed in a specific location ready for shipment. This advisory opinion clarifies advisory opinion #6 dated July 6, 1973, which is enclosed.

Please note that the effective date of the bicycle regulation is now May 11, 1976 except for two provisions which will become effective on November 13, 1976.

The views expressed in this letter have been approved by the Commission.

Sincerely,

Michael A. Brown
General Counsel

enclosures

JUN MORI
ARTHUR S. KATAYAMA
HENRY Y. OTA
HENRY LEWIN
SHIGERU WATANABE
JOSEPH S. MUTO
MEAD I. GREENBERG

MORI AND KATAYAMA
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
700 SOUTH FLOWER STREET, SUITE 410
LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 624-7621

TELEX
67-3533 (W U)
CABLE ADDRESS
MORYAMA
FILE NO.

December 22, 1975

Mr. Michael Brown
General Counsel
Consumer Product Safety Commission
Washington, D. C. 20207

Dear Mr. Brown:

On December 18, 1975, this office contacted yours for guidance as to the meaning of the phrase "introduced into interstate commerce," as used in the bicycle regulations appearing in the Federal Register, of Thursday, November 13, 1975, at Page 52832. In particular, we are interested in learning what constitutes an introduction into interstate commerce for purposes of said regulations.

We were informed by Mr. Alan Shakin of your office that for bicycles manufactured outside of the United States, entry through a United States port would constitute an introduction into interstate commerce. As for bicycles manufactured in the United States, the issue is to be governed primarily by case law arising under the Hazardous Substances Act.

We also have a question which was not raised during our discussion with Mr. Shakin. According to the above-reference publication, the regulations do not go into effect until January 1, 1976. Does this mean that foreign-made bicycles entering the United States before that date will not have to comply with said regulations?

We would appreciate recieving a confirmation of the information we received on December 18, 1975, and a response to our remaining question. We would also appreciate any elaboration which you feel is appropriate.

Thank you for your attention to this matter, and for the courtesy shown us by Mr. Shakin.

Very truly yours,

HENRY Y. OTA

HYO:en