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Kenneth M. Kaplan, Esquire
Paul, Hastings, Janofsky & Walker
Twenty-second Floor
555 South Flower Street
Los Angeles, California 90071

Dear Mr. Kaplan:

This is in reply to your letter of December 20, 1973, in which you requested an interpretive opinion concerning the applicability of Consumer Product Safety Commission flammability standards FF 1-70, FF 2-70 and FF 4-72, to carpets and rugs, small carpets and rugs, and mattresses when installed new in various open road vehicles.

These Flammability Standards were promulgated under the Flammable Fabrics Act, 15 U.S.C. 1191 et seq. Functions under the Flammable Fabrics Act were transferred to the Consumer Product Safety Commission on May 14, 1973, by section 30(b) of the Consumer Product Safety Act (15 U.S.C. 2079)b)).

The Consumer Product Safety Act limits the Consumer Product Safety Commission's jurisdiction under that Act to "consumer products" as that term is defined in section 3 of the Act, and specifically excludes motor vehicles and motor vehicle equipment from the Commission's jurisdiction. However, this limitation does not apply to regulations issued under the Flammable Fabrics Act. Section 3 (15 U.S.C. 1192) of the Flammable Fabrics Act gives the Commission jurisdiction over "any product, fabric, or related material." "Product" is defined in section 2(h) of the Flammable Fabrics Act (15 U.S.C. 1191(h)) as "any article of wearing apparel or interior furnishing"; and "interior furnishing" is defined in section 2(e) as "any type of furnishing made in whole or in part of fabric or related material and intended for use or which may reasonably be expected to be used, in homes, offices, or other places of assembly or accommodation" (15 U.S.C. 1191(e)).

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ADVISORY OPINION

Thus, the fact that a product is not a consumer product as defined in the Consumer Product Safety Act does not preclude the Commission from regulating that product under the Flammable Fabrics Act. With this background, your specific questions with our answers are set forth below:

1. Are travel trailers, 5th wheelers and/or slide-in camper units sold independently of the truck upon which the unit is ultimately transported (hereinafter "products") deemed "homes" or "other places of assembly or accommodation" as such terms are used in 15 U.S.C. section 1191(c)?

It is the view of this office that travel trailers, 5th wheelers, and slide-in camper units are homes or "other places of accommodation" as those terms are used in Section 2(c) of the Flammable Fabrics Act (15 U.S.C. 1191(c)), since each product listed is capable of housing or accommodating people.

2. Does the Consumer Product Safety Commission consider the products (travel trailers, 5th wheelers, slide-in campers) to be "motor vehicles" as that term is defined in 15 U.S.C. section 1391(3) and/or "consumer products" as defined in 15 U.S.C. section 2052(a)(1)(C)?

It is our view that the products referred to are motor vehicles or motor vehicle equipment as defined in 15 U.S.C. 1391(3)(4) and are not consumer products as that term is defined in the Consumer Product Safety Act.

3. Does the Consumer Product Safety Commission consider regulated items (mattresses, carpets & rugs, small carpets & rugs) installed in the products (travel trailers, 5th wheelers and/or slide-in campers) to be "motor vehicle equipment" as that term is defined in 15 U.S.C. section 1391(4) and/or "consumer products" as defined in 15 U.S.C. section 2052(a)(1)(C)?

It is our opinion that carpets and rugs, small carpets and rugs, and mattresses (regulated items) installed <u>exclusively</u> in travel trailers, 5th wheelers and slide-in campers are "motor vehicle equipment," if they fall within the meaning of that term as defined in the National Traffic and Motor Vehicle Safety Act of 1966. Pursuant to section 3 (a)(1)(C) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)(C), they are exempt from regulation under the

the Consumer Product Safety Act. However, if these same products are also produced or distributed for sale to a consumer for use in or around a household, a school, in recreation, or otherwise, or for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation or otherwise, they would also be consumer products and subject to regulation by the Commission under the Consumer Product Safety Act, as well as by the National Highway Traffic Safety Administration. Care must be taken, however, not to confuse regulations issued under the Consumer Product Safety Act, with those issued pursuant to the Flammable Fabrics Act.

4. Are the Consumer Product Safety Commission Flammability Standards listed above [FF 1-70, FF 2-70, FF 4-72] applicable to regulated items [carpets and rugs, small carpets and rugs, and mattresses] which are installed in the products (travel trailers, 5th wheelers, and slide-in camper units)?

Since it is our view that travel trailers, 5th wheelers and slide-in campers fall within the meaning of "homes" or "other places of accommodation" as those terms are use in the Flammable Fabrics Act , the flammability standards issued under that Act are applicable to mattresses, carpets and rugs and small carpets and rugs (FF 1-70, FF 2-70, and FF 4-72) when installed in travel trailers, 5th wheelers and slide-in campers.

5. Are motor homes "motor vehicles" as defined in 15 U.S.C. section 1391(3) and/or "consumer products" as defined in 15 U.S.C. section 2052(a)(1)(C)?

Motor homes in our opinion are motor vehicles as defined in the NHTSA, 15 U.S.C. 1391(3) and are not consumer products.

6. Are the regulated items [mattresses, carpets and rugs, small carpets and rugs] which are installed in motor homes deemed "motor vehicle equipment" as defined in 15 U.S.C. section 1391(4) and/or "consumer products" as defined in 15 U.S.C. 2052(a)(1)(C)?

Regulated items installed in motor homes may be both motor vehicle equipment and consumer products. The explanation provided in question "3" is also applicable to this question.

7. Are the Consumer Product Safety Commission flammability standards applicable to the regulated items [mattresses, carpets and rugs, small carpets and rugs] which are installed in motor homes?

The answer provided to question number 4 is also applicable to this question.

Please let me know if I can be of further assistance.

Sincerely,
Original signed by
Michael A. Brown

Michael A. Brown
General Counsel

AHSchoem:mli:4/3/74

cc: AHSchoem
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