Product Liability Insurance

Product liability insurance is important for anyone involved in bringing a product to the market, from the design process to the retail outlet that displays the finished product. When something goes wrong, as perceived by the consumer, companies at each stage in the lifecycle can be targeted for expensive and time-consuming lawsuits.

This legal concept, known as "stream of commerce," governs product liability law in most states. Any business that has been involved in placing a product into this commercial stream could be liable for a defect and exposed to the risk of paying damages.

If successful in a lawsuit, the consumer may be awarded compensatory and punitive damages, medical expenses, and often attorneys fees. Claims generally center on these main issues:

- **Manufacturing/production flaws:** This involves claims that a product is defective as a result of the production process, rendering it unsafe.

- **Design defects:** In this case, the problem originates on the drafting board, not on the assembly line. Automobile manufacturers commonly face this type of claim.

- **Defective warnings or instructions:** If you've ever wondered why an iron may come with a warning, such as "Do not iron clothing while wearing," the legal risks inherent in not sufficiently pointing out potential dangers to the consumer are the reason.

Layered atop these issues will be the legal concepts of negligence, strict liability, breach of warranty, and claims based on consumer-protection laws. Even a company that took all reasonable precautions but nevertheless produced a product that harmed a consumer or damaged property could be legally responsible.

In each of these types of cases, the insurance carrier has a duty to defend the policyholder in court, cover the costs of an investigation, and pay out a judgment or settlement according to the policy limits. It is often possible to purchase broader coverage that could also protect against claims arising from product guarantees or warranties, recalls, and instances of product tampering.

Unlike comprehensive general liability insurance, most product liability policies are offered on an "occurrence" basis, rather than a "claims made" basis. That means coverage is based on when the alleged defect or flaw happened, rather than when a claim is filed. The consumer may file a claim months or years after the product was created, so it's important to have coverage that was in effect at the time of production.

Variables affecting premiums for product liability insurance can include product type, sales volume, and the policyholder's role in the production or marketing of the product.