

Unit Product Sales - Liability Risk

Units that sell goods purchased from manufacturers, distributors or even individuals may be subject to product liability lawsuits for claims arising from product defects, including manufacturing and design defects, errors or deficiencies in a product's warning labels, and other product failures.

Units are not immune just because they do not actually manufacture goods. Simply selling products—for example, as a fundraiser—exposes a re-seller to risk. Product liability risk varies by the nature, type, quality and condition of the goods. For example, food products present a higher level of risk than cotton t-shirts.

Generally, units can mitigate their product liability risk by following these guidelines:

1. Perform due diligence before making a purchase or awarding a contract to any supplier.
2. Be sure any contract or agreement requires the supplier to:
 - a. Provide indemnification and defense against third-party claims.
 - b. Maintain product liability insurance. Product liability insurance is designed to protect a product seller against claims of personal injury or property damage caused by the seller's products. The BSA carries product liability insurance covering goods it sells; however, the BSA's product liability insurance does not extend to goods units obtain directly from their own suppliers. (Goods manufactured or distributed by Official Licensees of the BSA (i.e. Trails End Popcorn) are covered by product liability insurance carried by the manufacturer or distributor, per its license agreement with the BSA.)
 - c. Provide adequate warranties. Warranties are promises or guarantees made by a seller that its products will operate or perform in a certain way or possess certain characteristics.
3. Buy your own product liability insurance if you sell or distribute "locally sourced" products that do not come with adequate protection. If you are selling goods at trading posts or as fundraisers that are not obtained from the BSA (e.g., through Supply Group) or an Official Licensee of the BSA (i.e. Trails End Popcorn), then consider obtaining product liability insurance. The terms of the policy should protect the council in the event a third party, such as a customer or end user, makes a claim against the council alleging the product sold or distributed by the council was defective or caused injury or damage.
4. Be especially careful with homemade and locally-sourced goods. There are many scenarios by which a unit could be deemed a reseller or seller of goods, including through labeling, point of sale signage, and even by authorizing a unit to conduct a fundraiser.
5. Always comply with the BSA's Bylaws and Rules & Regulations. Specifically, BSA's Bylaws require that all fundraising products bearing any name, logo, emblem, brand, or other trademark associated with the BSA, such the Fleur-de-lis logo, depictions of BSA uniforms, or the words "SCOUT" or "SCOUTING", must be produced by a manufacturer licensed by the BSA National Council. The BSA's license agreement with the manufacture allocates product liability risks to the manufacturer to protect the BSA as well as the councils and units selling the products. The National Council has the sole right to authorize the use of BSA marks on products. For further information, please see the BSA's Commercialism Policy, found in Article II of the BSA's Rules & Regulations.
6. Unit product sale fundraisers must be approved with a [Unit Money-Earned Application](#), through the Council Service Center.

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