

The Role of Product Liability Law on the Mechanism of Food Safety System in Thailand

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Abstract—Food industry is the most important industry in Thailand. It plays as a core competency industry and always a top 5 rank to invest in research and development. For this reason, Thailand has a mechanism to control food manufacturing and protect domestic consumer. Government agency plays a significant role in the food safety mechanism by using food relevant legislations. Thailand product liability law called “the Unsafe Goods Act” is the important one and it has been promoted and posed an impact to all part of Thailand communities. This act rolled in a mechanism of Thailand food safety in term of a consumer protection and make all partis in food safety mechanism need to adapt to be ready for change.

Index Terms—Product liability, Thailand product liability, food safety, food safety system.

I. INTRODUCTION

Food is the most important for human live. Environmental change, production limitation in each country is a cause of the food resource movement makes food becomes more global [1]. The food manufacturing plays the significant role in the international food market because they can be preserved for a long time food in large quantities that can affect in a huge number if the food is contaminated. As a result, every country tries to control the food manufacturing in a variety way such as regulations and voluntary standards [2], [3]. However, the damage can also occur, despite in the number of protection in the food safety system. After the damage occurs, the product liability law is a tool to solve the problem. It plays as one of the popular tools in the world and marks as a world trend [4]-[10]. In Thailand, the product liability law is a law for consumer. It increased duties especially for the importer to take responsibilities with their product [11], [12].

Thailand's food industry is important in term of an industry that brings money into the country more than 700,000 million baht in the year 2009-2010 [13] and expected to reach 855,000 million baht in the year 2011 [13]. Thailand is the largest food exporter country in Asia, the 5th in the world food trade surplus and the 12th of the food exporter in the world [13]. At the end of the year 2010, there are 7,517 registered foods manufacturing in Thailand [14], value of investment is approximately 409,739.64 million baht and employment about 469,800 people [14]. Moreover, the study

from the research and development survey in manufacturing sector by Thailand National Science and Technology Development Agency (NSTDA) and Thailand National Science Technology and Innovation Policy office (NSSTI) revealed that food and beverage industries have been invested in research and development throughout in the Top 5 ranks [15] as show in Table I. Especially in 2004 is a highest year that invests in research and development of food and beverage industry, amount of 1,652 million baht [15], [16].which demonstrates clearly for the important of food industry in Thailand.

TABLE I: THAILAND RESEARCH AND DEVELOPMENT EXPENDITURES CLASSIFIED BY TYPE OF INDUSTRY 1999-2008

Rank Year	1 st	2 nd	3 rd	4 th	5 th
1999	Basic Metals	Petroleum	Textiles	Food and Beverage	Paper
2001	Paper	Food and Beverage	Petroleum	Basic Metals	non-metal mineral and glass
2002	Chemical	Food and Beverage	Rubber and Plastic	Radio, television and communication	Petroleum
2003	Automotive	Food and Beverage	Rubber and Plastic	Machinery	Chemical
2004	Food and Beverage	Machinery	Chemical	Petroleum	Radio, television and communication
2005	Machinery	Food and Beverage	Chemical	Radio, television and communication	Bleaching and dyeing
2006	Food and Beverage	Chemical	Rubber and Plastic	Petroleum	Radio, television and communication
2008	Petroleum	Automotive	Chemical	Food and Beverage	Machinery

For this reason, Thailand has a mechanism to control food manufacturing and protect domestic consumer with the continuous improvement. The GMP is the samples of the continuous improvement in Thailand food safety system, from voluntary standard to be a regulation [17]. There are several laws to provide a mechanism to monitor the safety of the food in Thailand. This, the “Unsafe Goods Act B.E. 2551” [18] becomes an essential role in such mechanisms.

II. THE ROLE OF PRODUCT LIABILITY LAW ON THE MECHANISM OF FOOD SAFETY SYSTEM IN THAILAND

A. Objectives of the Study

There are 3 objectives of the study as follows;

Manuscript received September 18, 2012; revised November 2, 2012.

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- 1) Study on the mechanistic of food surveillance and the mechanisms.
- 2) Study the role of the “Unsafe Goods Act B.E. 2551” on the mechanism of Thailand food safety.
- 3) Study on the agencies that responsible for assist consumer lawsuits of the “Unsafe Goods Act B.E. 2551”.
- 4) Analyze the impact of the unsafe goods act and the preparations in view of producers and consumers.

B. Methodology

This study uses 2 methods to gather data as follow:

- 1) Literature review, the papers in this study uses the documents during the year 1991 to 2012.
- 2) In-depth interview the private and state agency related in food industry in Thailand.

III. RESEARCH RESULTS

A. The Mechanistic of Food Surveillance and the Mechanisms

Government Agency plays a significant role in a mechanism in Thailand food safety system by using the authority of 22 state agencies, under the authority of 9 ministries and more than 39 relevant legislations to monitoring and to be a mechanism in Thailand food safety through the food supply chain and present in Fig. 1.

The 9 ministries and the 22 state agencies are:

- 1) Ministry of Agriculture
- Department Agriculture

- Department Agricultural Extension
 - Department of Livestock Development
 - Department of Fisheries
 - National Bureau of Agricultural Commodity and Food Standards
- 2) Ministry of Commerce
 - Department of Foreign Trade
 - Department of Internal Trade
 - 3) Ministry of Finance
 - The Customs Department
 - 4) Ministry of Industry
 - Department of Industrial Works
 - Thai Industrial Standards Institute
 - National Food Institute
 - 5) Ministry of Interior
 - Local Government Agency
 - 6) Ministry of Justice
 - Civil Court
 - Office of the Attorney General
 - 7) Ministry of Public Health
 - Department of Disease Control
 - Department of Health
 - Department of Medical Sciences
 - Food And Drug Administration
 - The Provincial Health Office
 - 8) Ministry of Transport
 - Department of Land Transport
 - Marine Department
 - 9) Office of the Prime Minister
 - Office of the Consumer Protection Board

Duration	Preventing								Remedy	
Food Supply Chain	Primary Product		Processing		Distribution	Catering & Retailing	Domestic Food Handling & Preparing	Control	Complain	Litigation
	Produce	Import	Primary	2nd						
Authorize Ministry	Ministry of Public Health									
	Ministry of Agriculture				Ministry of Agriculture			Ministry of Agriculture		
		Ministry of Commerce			Ministry of Commerce			Ministry of Commerce		
			Ministry of Industry							
			Ministry of Interior			Ministry of Interior				
					Ministry of Transport					
					Ministry of Finance					
										Ministry of Justice
						Office of the Prime Minister				
	Number of related agency	6	9	12	6	10	5	6	4	5
Number of related Acts	6	20	7	6	9	7	4	5	4	3

Fig. 1. Food supply chain and mechanism of food safety system in Thailand

The study found that the government agencies are using the authority by the 39 relevant laws and most of the laws in the food safety system are a preventive law to control all step in the food supply chain. Because of many agencies involve

that affect to the problem of redundancy. Entrepreneur may require contact and get permission from various authorities then it would be gab for low quality food to get into the market.

Therefore, to protect the consumer rights, Thailand has enacted 2 essential laws; “Unsafe Goods Act B.E. 2551” [18] to preserve consumer from a defective product and “Consumer Court Procedure Act B.E.2551” [19] to establish rules and procedures of consumer lawsuit. Both of laws aim to specify the easy way to consumer to bring a case to court such as decreasing step and burden of prove, exempting the court charge etc.

B. The Role of the “Unsafe Goods Act B.E.2551” on the Mechanism of Thailand Food Safety

The “Unsafe Goods Act B.E. 2551” has improved consumer protection on the following point

- 1) According to section 4, the act recognizes the right of victims to litigation if it is damaged as a result of the use or consumption and the privacy of contract is not a necessary point.
- 2) Decreases a burden of prove of plaintiff. To bring a lawsuit, plaintiff has duties to prove 2 issues:
 - The damage occurred; and
 - The damage is caused by defective product.
- 3) Determine longer period of litigation which will cover any damage that uses the duration of symptoms. Section 12 identifies the prescription as follows:
 - Within 3 years since the plaintiff knows the damage and entrepreneur who has liability
 - Within 10 years since the date of product sale
 - Within 10 years since the plaintiff knows the damage in case of the extraordinary circumstances damage

And for food product, there are 3 hazards in food such as physical hazard, biological hazard, and chemical hazard. So some food hazards take a long time to show a symptom. That means the entrepreneur has a long time for liability or timeless liability.

Both laws also determine entrepreneur’s liability. Pursuant to section 5 it defines that the liability person means all entrepreneurs in the value chain where section 4 defines the meaning of entrepreneur as follows:

Entrepreneur means

- Manufacturer and employer
- Importer
- Supplier who cannot define manufacturer, employer or importer.
- Person who uses the brand name, trademarks, symbol, text or action in any way in a manner, cause of people apprehended to be a manufacturer, employer or importer.

Once the case occurs, entrepreneur has a duty to prove as follows;

- The product is not a defective product.
- Plaintiff has known that the product is a defective product.
- The damage occurs because consumers do not follow the instructions that the operator has determined that it is accurate and clear.

C. The Agencies that Responsible for Assist Consumer Lawsuits of the “Unsafe Goods Act B.E. 2551”

According to enact of the “Unsafe Goods Act B.E. 2551”, there are 7 organizations were established for help consumer to demand justice as follow:

- 1) Food and Drug Administration
- 2) Office of the Consumer Protection Board
- 3) Foundation for Consumers
- 4) The Consumer Protection office of Civil Court
- 5) Office of the Executive Director on Consumer Protection
- 6) Lawyers Council of Thailand under the Royal Patronage
- 7) Consumer Protection Police Division

However, Thai consumers are conversant to deal with the organization no.2), 3) and 4).

Present situation in Thailand, there are few cases of food with the “Unsafe Goods Act B.E. 2551” and that is the same way as the situation in USA, Japan and other country in the world [20], [21]. Generally, there are a few cases within few years after announcement of the product liability law, and then the cases will increase dramatically. The international situation, the statistic showed an increase in the rate of prosecution under the Act, liability for damages arising from unsafe products is very high in the last 20 years [22]. Moreover, entrepreneur in food industry normally compromises and willing to pay for damages before the court [20]. However, it is the adjustment time for Thai consumers to understand and become familiar with their rights under the product liability law. Then the litigation under the Act will be more and entrepreneur is necessary to be prepared to deal with such situations.

In term of the government agency and other related organizations, the study found that the government agency especially the justice organization such as the attorney general and court of justice have prepared staff for giving consultant and helping consumers for lawsuit. However, other agencies and organizations do not have the implementation and no lawsuit filed by any independent right under the product liability law.

IV. CONCLUSION

The “Unsafe Goods Act B.E. 2551” is affecting to consumers and producers. This provides more efficiency in term of mechanism in Thailand food safety system. In term of consumer view point, this act would be recognized the rights of plaintiff and change the way of prosecution to be easy than ever. On the other side, this law has increased obligations and responsibilities to the manufacturers, consequently the manufacturers have to establish various measures for this change. However, there are a few cases prosecuted under the Unsafe Goods Act which are similar to the situation in other countries in the world. Normally, there are a few cases within few years after announcement of the product liability law and then the cases will increase dramatically and play a significant role in term of the consumer protection law. Therefore, manufacturing and every party should prepare themselves for sustainability of business and entirely mechanism in Thailand food safety system.

ACKNOWLEDGMENT

I would like to acknowledge Associate Professor Damrong Thawesangsakulthai, who is not only my advisor but also my inspiration for this study. Professor Dr.Sakda Thanitcul, Professor Susom Suphanit, Associate Professor Dr.Supawan

Tantayanon, Associate Professor Dr.Suwimon Keeratipibul, Assistant Professor Dr.Pongpun Anuntavoranich, and Associate Professor Dr.Kanchit Malaiwongs, who refine presence and incubate the body of knowledge to get me accomplish this work. My dad and mom, who give me a life and always encourage me. My sister and my brother; Kanyanut, Pantira and Prateep, who are always beside me. Manussanun, my niece, who often cheers me up. My husband's family, who care for me. Special thanks for my husband, Sansiri Yomna, who takes care of my life and try to do everything for me. All my friends for the moral support.

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