

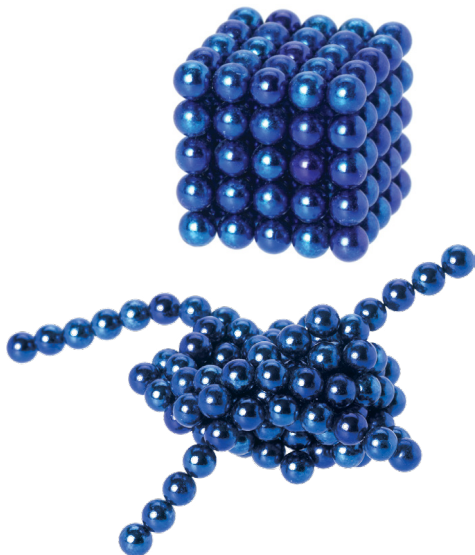


WHAT YOU NEED TO KNOW ABOUT:

Ban on small, high powered magnets

June 2013

This bulletin provides information about the permanent ban on certain small, high powered magnets.



This bulletin applies to you if you are a manufacturer, importer, wholesaler or retailer (whether online or shop front) in the business of supplying magnets, toys, jewellery, novelty goods or other products that consist of magnets.

What are small, high powered magnets?

The ban applies to separable or loose magnets that:

- are small enough to fit into the small parts cylinder used in the Australian Standard AS/NZS ISO 8124 for toys for children up to and including 36 months of age, and
- have a magnetic flux of $50 \text{ (kG)}^2 \text{ mm}^2$ or more, and
- are supplied for use as or marketed by the supplier as any of the following:
 - a toy, game or puzzle (including but not limited to an adult desk toy, an educational toy or game, a toy, game or puzzle for mental stimulation or stress relief)
 - a construction or modelling kit
 - jewellery to be worn in or around the mouth or nose.

Hazards

Small, high powered magnets can cause severe internal injuries if two or more are swallowed. The magnets can attract and stick to each other across internal tissue, which can cause tissue death and perforation, leading to infection, sepsis and death. These injuries have been likened to receiving a gunshot wound, but without an external entry or exit wound.

Since desk toys consisting of small, high powered magnets were introduced into the Australian market in early 2011, there have been 16 known severe injury cases in Australia—including one death—caused when infants, children and teenagers swallowed more than one magnet from one of these sets.

These products are particularly hazardous because:

- it is not generally known that they can cause injury if swallowed
- the majority of the cases are caused by unexpected circumstances—such as older children swallowing multiple magnets when mimicking tongue or facial piercings
- injuries can go untreated until they are very serious—the symptoms are common to many other illness such as a gastric bug, which can lead to a delay in identifying magnets as the cause of the injury.

What you need to know about: Ban on small, high powered magnets

Permanent ban on small, high powered magnets

The permanent ban on small, high powered magnets came into effect on 15 November 2012.

This ban was introduced to prohibit the sale of small, high powered magnets that can cause injuries if swallowed by children. Examples of products captured by this ban include magnet sets sold under names such as BuckyBalls, Nanodots, Neocubes, Zen Magnets and others. The ban also prohibits the sale of certain magnetic jewellery worn in and around the mouth.

This ban does not apply to magnets sold for commercial, industrial or research purposes.

For complete information about this ban, we strongly advise that you read the:

- Consumer Protection Notice No. 5 of 2012
- *Safety of toys—Part 1: Safety aspects related to mechanical and physical properties* (AS/NZS ISO 8124.1:2010), available from SAI Global.

Both documents are vital to ensuring that you and your business meet all requirements of this ban. You can access them at www.productsafety.gov.au.

There is also a mandatory standard for magnets in toys—please refer to information in the section below and visit www.productsafety.gov.au for more information.

Frequently asked questions

Are any fridge magnets covered by the ban on small, high powered magnets?

Many fridge magnets consist of a magnet which is embedded in another object such as plastic or a plaster mould. These fridge magnets are not subject to this ban. In addition, most fridge magnets are sold as singles rather than in multiples and would not satisfy the requirement that the product consist of at least two loose or separable magnets.

Finally, most fridge magnets are ferrous magnets, which are relatively weak and would be unlikely to reach the magnetic flux measurement specified in the ban.

I'm an importer of small high powered magnets. I supply these magnets to other companies. I don't ask what the magnets will be used for. What happens if a customer sells magnets purchased from me as a desk toy for consumers?

For the ban on small, high powered magnets, it is the use intended by the supplier and not the consumer which is relevant. Suppliers, whether they are retail or wholesale suppliers, are not obliged to enquire about the intentions of their customers.

I'm selling a toy with magnets which appears to be subject to both the ban and the mandatory standard relating to magnets. Is it banned or does it require a warning label?

If a product meets the definition in the ban, then it is banned and the mandatory standard does not apply. If a toy does not meet the definition in the ban, then it may still be subject to the mandatory standard on toys containing magnets.

The mandatory standard covers toys which contain at least one loose as-received small high powered magnet. It also covers toys with one or more magnetic component which comes loose after being subjected to tests designed to simulate structural damage that can result from typical actions young children take when playing.

Your responsibilities as a supplier

If you supply small, high powered magnets that meet the definition of this ban, you may be found guilty of a criminal offence. You may also receive heavy fines and be forced to recall your product.

Please note that if you are a wholesaler of small high powered magnets and do not sell the magnets for one of the banned purposes outlined above, you are not responsible if one of your business customers (such as a retailer) repackages and/or otherwise on-supplies your magnets to consumers for a purpose that is prohibited by this ban.

If you are a company based outside of Australia, it is illegal to sell banned goods directly to Australian consumers. This includes via online/internet sales where you mail the product to an Australian address. For more information on banned products within Australia, visit www.productsafety.gov.au/bans.

Your mandatory reporting responsibilities

As a supplier of consumer goods, you also need to meet your mandatory reporting obligations.

Under the ACL, suppliers of consumer goods—including wholesalers, retailers, hirers and service providers—are required to report where they become aware that consumer goods they supply are or have been associated with death, serious injury or illness of any person within two days of becoming aware of a reportable incident.

A supplier who fails to fulfil this mandatory requirement may be liable for a penalty of up to \$16 500 for a body corporate or \$3300 for a person other than a body corporate.

You can submit a mandatory report and find out more about your requirements via the Product Safety Australia website: www.productsafety.gov.au/mandatoryreporting.

Consumer guarantees

All Australian traders, whether online or running a bricks and mortar operation, must comply with Australian laws. This includes laws on consumer guarantees, which give consumers the right to a refund if a consumer good is unsafe. These laws are provided as part of the ACL (which forms Schedule 2 of the *Competition and Consumer Act 2010*).

For more information, visit www.accc.gov.au/consumerrights.

Recalls

If a consumer good is found to be hazardous, or non-compliant with a mandatory standard or ban, it may need to be recalled by the supplier. Recalls can be initiated voluntarily or in response to an order by the Commonwealth or a state and territory minister responsible for competition and consumer policy.

The purpose of a recall is to prevent injury by removing the source of the hazard and to offer affected consumers a remedy in the form of a repair, replacement or refund.

For more information, visit the Recalls Australia website at www.recalls.gov.au. You can register to receive automatic alerts from this site any time a new recall is listed.

This will help ensure you keep up-to-date with the latest product safety recall information.

You can also stay up-to-date with recalls by downloading the ACCC Recalls Australia iPhone or Android app.

Ensuring safe supply

Only buy/source goods that you know comply with the relevant regulations.

Ask your suppliers for evidence that their goods comply with the mandatory standard. This may come in the form of a test report from an accredited laboratory. For more information on testing and test reports visit www.productsafety.gov.au/producttesting.

Have a process that ensures your stock is checked for compliance. Pay particular attention to Australian-specific requirements.

It is illegal for anyone to supply any consumer good that does not comply with the law or is unsafe. Substantial penalties including fines of up to \$1.1 million apply to companies that fail to comply with provisions of the ACL. Consumer goods which are unsafe are subject to recalls.

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www.recalls.gov.au

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Australian Competition and Consumer Commission
23 Marcus Clarke Street, Canberra, Australian Capital Territory 2601

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