

June 26, 2006

Representative Pryor Gibson
419A Legislative Office Building
Raleigh, NC 27603-5925

Dear Representative Gibson:

It is my understanding that the North Carolina General Assembly is about to consider legislation (HB 2843) that would remove the requirement of listing and labeling by a Nationally Recognized Testing Laboratory (NRTL) for machine tools throughout the state of North Carolina, and instead, allow CE-marked machine tools. The American Council of Independent Laboratories (ACIL) encourages you to vote against this legislation.

ACIL was founded in 1937 as the national trade association representing independent scientific laboratory, testing, consulting, product certifying, and R&D firms; manufacturers' laboratories; and consultants and suppliers to the industry. ACIL defines an independent testing firm as a commercial entity engaged in analysis, testing, inspection, materials engineering, sampling, product certifying, research or development, and related consulting services for the public. An independent laboratory is not affiliated with any institution, company or trade group that might affect its ability to conduct investigations, render reports, or give professional counsel objectively and without bias. ACIL's 300 member companies, which include the majority of NRTLs, operate approximately 1,500 facilities across the U.S. and abroad. They range from the one-person specialty laboratories to multi-disciplined, international corporations employing thousands of analysts, risk management specialists, consultants, and support staff. ACIL committees carry out programs of broad member interest covering issues such as laboratory accreditation, government relations, and risk management.

You might be aware that the European Union CE mark is a mark applied by a manufacturer who self-declares that the applicable product meets relevant technical standards. The manufacturer has a financial interest in getting a product designed and introduced into the market as quickly as possible to meet the requirements of a sales transaction; however, most manufacturers do not use product safety engineers in product design. Because of the natural conflict between commercial interests and product safety, the Occupational Safety and Health Administration (OSHA) of the United States Department of Labor requires that electrical products used in the workplace be listed and labeled by an NRTL. The NRTL is independent of the manufacturer and is therefore not influenced by the requirements of a sales transaction. They employ product safety engineers who have extensive experience in applying the relevant technical standards to products, such as machine tools.

Machine tools are by their nature extremely dangerous. Improper use can cause severe injuries and even death. Eliminating the NRTL requirement for machine tools will make the products even more dangerous and will expose North Carolina workers to severe safety risks in the workplace.

The CE mark also has no legal standing in the United States. The vast majority of authorities having jurisdiction in the United States require electrical products to meet the requirements of the National Electrical Code (NEC), NFPA 70. Machine tools fall under the National Electrical Code. Should this legislation pass, the State of North Carolina could be in violation of federal law.

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Also, products that are CE-marked do not meet specific electrical safety requirements in the United States. In addition, where CE marking is allowed (Europe), numerous compliance problems have been documented.

Perhaps the best source of information for ongoing compliance problems in the Europe is RAPEX, a rapid alert system for dangerous products circulating in the EU. The system is sponsored by the European Commission and is available at the following link:
http://europa.eu.int/comm/dgs/health_consumer/dyna/rapex/rapex_en.cfm.

Another major problem for manufacturers under an SDoC system is counterfeiting. Counterfeiting is estimated to be more than a \$500 billion per year business and is now impacting all kinds of products and businesses from automotive parts, prescription drugs, food additives as well as many products covered under the NRTL program. With the globalization of manufacturing into many developing countries, counterfeit safety products that fall under the NRTL program are now appearing in the marketplace. In addition to the manufacturers and distributors of these products, the NRTL's are an integral part of the efforts to combat this growing problem. NRTL's have developed close relationships with law enforcement agencies around the world and work closely to take action against the counterfeiters. They are also seen as a group that is tackling this problem not because of the commercial impact but because of the impact on safety to the public. Legitimate manufacturers, responsible retailers and NRTL organizations all form part of the arsenal to combat this problem. If the third party marks are dropped, the counterfeit products have one less deterrent.

For these reasons ACIL encourages you to vote against HB 2843. Please call me at (202) 887-5872 with any questions you might have.

Sincerely,



Joan Walsh Cassedy, CAE
Executive Director