

ATTORNEY GENERAL OF THE STATE OF NEW YORK
WESTCHESTER REGIONAL OFFICE

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In the matter of the Investigation by LETITIA JAMES, Assurance No. 25-014
Attorney General of the State of New York, of

WALMART INC.,

Respondent.

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ASSURANCE OF DISCONTINUANCE

Pursuant to New York Executive Law § 63(12) and New York General Business Law (GBL) § 873 and New York City Administrative Code, § 10-131(g), the Office of the Attorney General of the State of New York (OAG) investigated the importation, manufacture, sale, holding for sale or distribution within the state of imitation weapons in violation of GBL § 872.

This Assurance of Discontinuance (Assurance) contains the findings of OAG's investigation, and the relief agreed to by OAG and the Respondent collectively (Parties).

FINDINGS:

1. Walmart Inc., is a Delaware corporation. Walmart.com USA, LLC, is a subsidiary of Walmart Inc. Both entities are authorized to conduct business in New

York State. Collectively, Walmart Inc. and its subsidiaries are referred to herein as Walmart or Respondent. Walmart has its headquarters in Bentonville, Arkansas.

2. Respondent operates the website www.walmart.com, through which consumers in New York may buy consumer goods.

3. Walmart's compliance with GBL §§ 870-873 has been investigated previously. The most recent investigation led the parties to enter into a consent order and judgment in *People v. Wal-Mart Stores, Inc.*, Index No. 2015/8710 (Sup. Ct. Monroe County).

4. OAG has continued to investigate the importation, manufacture, sale, holding for sale or distribution into the state of imitation weapons by Walmart.

5. The current OAG investigation revealed that, between March 2020 and November 2023, at least 46 imitation weapons that violate the GBL § 872 were purchased by consumers in New York State through the walmart.com platform. At least nine of these items reached consumers through Walmart Fulfillment Services.

PROSPECTIVE RELIEF:

WHEREAS, Respondent neither admits nor denies OAG's Findings (1)-(5) above, and neither admits nor denies any violation of law.

WHEREAS, Walmart and OAG desire to protect the community, especially children from the dangers posed by imitation weapons, as reflected in New York's statement

of policy codified in GBL § 870, as defined in GBL § 871, and the importation, manufacture, sale, holding for sale or distribution of which are prohibited by GBL § 872;

WHEREAS, the New York City Administrative Code, § 10-131(g), contains provisions designed to penalize the sales, offers for sale, possessions, uses, or attempts to use or give away, toy or imitation firearms that substantially duplicate or can reasonably be perceived to be an actual firearm;

WHEREAS, Walmart and OAG have the goal to prevent the sale of imitation weapons on its platform to New Yorkers, and whereas Walmart acknowledges the sale of imitation weapons can lead to tragic outcomes;

WHEREAS, in *People v. Wal-Mart Stores, Inc.*, Index No. 2015/8710 (Sup. Ct. Monroe County), the Court entered a consent order and judgment in a special proceeding between Wal-Mart Stores, Inc. and the Attorney General pertaining to imitation weapons;

WHEREAS, the OAG and Walmart have agreed that additional measures will be taken by Walmart in connection with the importation, manufacture, sale, holding for sale or distribution imitation weapons;

WHEREAS, nothing in this Assurance shall impact Walmart's continued obligation to comply with New York GBL §§ 870-73.

WHEREAS, OAG is willing to accept the terms of this Assurance pursuant to New York Executive Law § 63(15).

NOW, THEREFORE, IT IS AGREED BETWEEN THE PARTIES THAT:

1. Respondent shall comply with the terms of this Assurance.
2. To the extent any third party uses Walmart.com to offer for sale, expose for sale, or to sell, items to consumers:

(a) Walmart shall prohibit such third parties from offering for sale, exposing for sale, or selling, any Prohibited Items¹ for shipments to New York.

(b) Walmart shall employ procedures reasonably designed to prevent such third parties from violating subsection (a).

(1) Such procedures shall include, but not be limited to, written notice and progressive discipline based on the number and type of violations, up to and including termination.

(2) Walmart shall terminate the ability of a third party² from being able to list and sell toy guns and imitation weapons on Walmart.com when it has determined that a third party has

¹ The term “Prohibited Item(s)” refers to imitation weapons as defined in GBL § 871(2).

² The term “third party” refers to a person or entity that is not a subsidiary of, under common ownership with, or under the control of, Walmart.

engaged in conduct violative of subsection (a) on three separate occasions. Walmart may terminate a merchant's ability to list and sell toy guns and imitation weapons on Walmart.com if it determines that a third party has engaged in a single, severe violation of subsection (a).

(c) Walmart shall implement and maintain policies and procedures reasonably designed to prevent such third parties from offering for sale, exposing for sale, or selling Prohibited Items on Walmart.com for importation, holding for sale, or distribution to New York.

(1) Such procedures shall include, but not be limited to, procedures reasonably designed to (A) identify and prevent Prohibited Items from being posted on Walmart.com for shipment to New York, (B) remove shipment to New York for any Prohibited Item posted on Walmart.com *as soon as practicable*, but not to exceed 24 hours after discovering the Prohibited Item is posted on Walmart.com; and (C) ensure that a Prohibited Item is not posted on Walmart.com for shipment to New York again.

(2) Walmart shall review these procedures on a continuous basis, and update as necessary, including upon any changes to N.Y.

GBL § 872 and/or New York City Administrative Code, § 10-131(g). In addition, if Walmart identifies any Prohibited Item as having been received by a consumer in New York, it shall review and make appropriate improvements to its procedures to address any gap associated with that issue.

(3) Walmart shall furnish a written copy of the procedures to the OAG upon execution of this Assurance. To the extent the applicable policies and procedures are updated or improved, Walmart shall make them available to the OAG for inspection, upon written request.

3. OAG will provide Walmart with notice of any intent to bring an enforcement proceeding consistent with New York Executive Law § 63(12).

(a) During the Notice Period, as defined below, and except in instances of (a) potential criminal conduct or (b) violations posing an imminent or immediate threat to human health or safety, the OAG shall request a Meet-and-Confer with Walmart at least five business days prior to bringing an action to enforce this Assurance against Walmart. Either Party may request a Meet-and-Confer meeting to discuss developments relevant to

the subject matter of this Assurance. Each of the Parties reserves all rights, privileges, and legal defenses with respect to the Meet-and Confer process.

4. Walmart shall cooperate with any investigation by OAG into a third party's sale of imitation weapons to New York Consumers using the walmart.com platform, including by providing a list of all third parties to the OAG.
5. This Assurance shall be operative for a period of five years (Assurance Period) unless Walmart violates any term of this Assurance during the Assurance Period, in which case the Assurance may be extended up to, but no more than, an additional 24 months.
6. It is Further Agreed that Respondent will pay a civil penalty assessment upon execution of this Assurance in the Amount of \$14,000 and costs of the OAG investigation in the amount of \$2,000. The payment shall be made payable to the "State of New York" by certified check and delivered to: State of New York, c/o Andy Aujla, Assistant Attorney General-in-Charge, New York State Office of the Attorney General, Westchester Regional Office, 44 South Broadway, White Plains, NY 10601

MISCELLANEOUS

7. OAG has agreed to the terms of this Assurance based on, among other things, the representations made to OAG by the Respondent and their counsel and OAG's own factual investigation as set forth in Findings (1)-(5) above. To the extent that any material representations are later found to be inaccurate or misleading, this Assurance is voidable by the OAG in its sole discretion.
8. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by the Respondent in agreeing to this Assurance.
9. The Respondent represents and warrants, through the signatures below, that the terms and conditions of this Assurance are duly approved, and execution of this Assurance is duly authorized. The Respondent shall not take any action or make any statement denying, directly or indirectly, the propriety of this Assurance or expressing the view that this Assurance is without factual basis. Nothing in this paragraph affects the Respondent's (i) testimonial obligations or (ii) right to take legal or factual positions in

defense of litigation or other legal proceedings to which OAG is not a party.

10. This Assurance may not be amended except by an instrument in writing signed on behalf of all the parties to this Assurance.
11. This Assurance shall be binding on and inure to the benefit of the parties to this Assurance and their respective successors and assigns, provided that no party, other than OAG, may assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of OAG.
12. The parties retain the right to argue and for a court to decide the scope of any applicable laws in any future proceeding.
13. In the event that any one or more of the provisions contained in this Assurance shall for any reason be held to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the OAG such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.

14. To the extent not already provided under this Assurance, the Respondent shall, upon request by OAG, provide all documentation and information necessary for OAG to verify compliance with this Assurance.
15. All notices, reports, requests, and other communications to any party pursuant to this Assurance shall be in writing and shall be directed as follows:

If to the Respondent, to:

Joe Beemsterboer
Vice President
GOVT Enforcement & Legal Investigations
Joe.beemsterboer@walmart.com
Ext_AG_Inquiry@walmart.com
(479) 502-3036

If to the OAG, to:

Andy Aujla
Assistant Attorney General-in-Charge
New York State Office of the Attorney General
Westchester Regional Office
44 South Broadway
White Plains, NY 10601
Andy.Aujla@ag.ny.gov
(914) 422-8755

16. Acceptance of this Assurance by OAG shall not be deemed approval by OAG of any of the practices or procedures referenced herein, and the Respondent shall make no representation to the contrary.
17. Pursuant to Executive Law § 63(15), evidence of a violation of this Assurance shall constitute prima facie proof of violation of the applicable laws.
18. If a court of competent jurisdiction determines that the Respondent has breached this Assurance, the Respondent shall pay to OAG the cost, if any, of such determination and of enforcing this Assurance, including without limitation legal fees, expenses, and court costs.
19. The OAG finds the relief and agreements contained in this Assurance appropriate and in the public interest. The OAG is willing to accept this Assurance pursuant to Executive Law § 63(15), in lieu of commencing a statutory proceeding. This Assurance shall be governed by the laws of the State of New York without regard to any conflict of laws principles.
20. Nothing contained herein shall be construed as to deprive any person of any private right under the law.

IN WITNESS WHEREOF, this Assurance is executed by the parties hereto on latest date signed below

Dated: White Plains, NY
May 13, 2025

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