

# TOY VERSUS EDUCATIONAL DEVICE

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- Consider the General physical characteristics
- Consider channels of trace
- Environment of sale
- Expectation of the ultimate purchaser
- If the purpose of the 'toy' is competition and/or winning, the 'toy' is probably classifiable under toys in chapter 95
- Amusement must be the essential character in order for a 'toy' to be classified under chapter 95
- "when amusement and utility become locked in controversy, the question becomes one of determining whether the amusement is incidental to the utilitarian purpose, or the utility purposes is incidental to the amusement."
- 'Limited use' items would be considered toys ('toy' chemistry sets, sewing sets etc) that are put up in a form clearly indicating their use as toys.