

(8) The term “brand style” means a variety of cigarettes distinguished by the tobacco used, tar and nicotine content, flavoring used, size of the cigarette, filtration on the cigarette, or packaging.

(9) The term “Secretary” means the Secretary of Health and Human Services.

(Pub. L. 89-92, § 3, July 27, 1965, 79 Stat. 282; Pub. L. 91-222, § 2, Apr. 1, 1970, 84 Stat. 88; Pub. L. 93-109, § 2, Sept. 21, 1973, 87 Stat. 352; Pub. L. 98-474, § 6(b), Oct. 12, 1984, 98 Stat. 2204; Pub. L. 99-92, § 11(b), Aug. 16, 1985, 99 Stat. 403.)

AMENDMENTS

1985—Pars. (8), (9). Pub. L. 99-92 added par. (8) and redesignated former par. (8) as (9).

1984—Par. (8). Pub. L. 98-474 added par. (8).

1973—Subsec. (7). Pub. L. 93-109 added subsec. (7).

1970—Subsec. (3). Pub. L. 91-222 inserted provisions defining “State”.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 4 of Pub. L. 93-109 provided that: “The amendment made by this Act [amending this section and section 1335 of this title] shall become effective thirty days after the date of enactment [Sept. 21, 1973].”

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-222 effective Jan. 1, 1970, except where otherwise specified, see section 3 of Pub. L. 91-222, set out in part as a note under section 1331 of this title.

§ 1333. Labeling; requirements; conspicuous statement

(a) Required warnings; packages; advertisements; billboards

(1) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy.

SURGEON GENERAL'S WARNING: Quitting Smoking Now Greatly Reduces Serious Risks to Your Health.

SURGEON GENERAL'S WARNING: Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth, And Low Birth Weight.

SURGEON GENERAL'S WARNING: Cigarette Smoke Contains Carbon Monoxide.

(2) It shall be unlawful for any manufacturer or importer of cigarettes to advertise or cause to be advertised (other than through the use of outdoor billboards) within the United States any cigarette unless the advertising bears, in accordance with the requirements of this section, one of the following labels:

SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy.

SURGEON GENERAL'S WARNING: Quitting Smoking Now Greatly Reduces Serious Risks to Your Health.

SURGEON GENERAL'S WARNING: Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth, And Low Birth Weight.

SURGEON GENERAL'S WARNING: Cigarette Smoke Contains Carbon Monoxide.

(3) It shall be unlawful for any manufacturer or importer of cigarettes to advertise or cause to be advertised within the United States through the use of outdoor billboards any cigarette unless the advertising bears, in accordance with the requirements of this section, one of the following labels:

SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, And Emphysema.

SURGEON GENERAL'S WARNING: Quitting Smoking Now Greatly Reduces Serious Health Risks.

SURGEON GENERAL'S WARNING: Pregnant Women Who Smoke Risk Fetal Injury And Premature Birth.

SURGEON GENERAL'S WARNING: Cigarette Smoke Contains Carbon Monoxide.

(b) Conspicuous statement; label statement format; outdoor billboard statement format

(1) Each label statement required by paragraph (1) of subsection (a) of this section shall be located in the place label statements were placed on cigarette packages as of October 12, 1984. The phrase “Surgeon General's Warning” shall appear in capital letters and the size of all other letters in the label shall be the same as the size of such letters as of October 12, 1984. All the letters in the label shall appear in conspicuous and legible type in contrast by typography, layout, or color with all other printed material on the package.

(2) The format of each label statement required by paragraph (2) of subsection (a) of this section shall be the format required for label statements in cigarette advertising as of October 12, 1984, except that the phrase “Surgeon General's Warning” shall appear in capital letters, the area of the rectangle enclosing the label shall be 50 per centum larger in size with a corresponding increase in the size of the type in the label, the width of the rule forming the border around the label shall be twice that in effect on October 12, 1984, and the label may be placed at a distance from the outer edge of the advertisement which is one-half the distance permitted on October 12, 1984. Each label statement shall appear in conspicuous and legible type in contrast by typography, layout, or color with all other printed material in the advertisement.

(3) The format and type style of each label statement required by paragraph (3) of subsection (a) of this section shall be the format and type style required in outdoor billboard advertising as of October 12, 1984. Each such label statement shall be printed in capital letters of the height of the tallest letter in a label statement on outdoor advertising of the same dimension on October 12, 1984. Each such label statement shall be enclosed by a black border which is located within the perimeter of the format required in outdoor billboard advertising of the same dimension on October 12, 1984, and the width of which is twice the width of the vertical element of any letter in the label statement within the border.

(c) Rotation of label statement; plan; submission to Federal Trade Commission

(1) Except as provided in paragraph (2), the label statements specified in paragraphs (1), (2), and (3) of subsection (a) of this section shall be rotated by each manufacturer or importer of cigarettes quarterly in alternating sequence on packages of each brand of cigarettes manufactured by the manufacturer or importer and in the advertisements for each such brand of cigarettes in accordance with a plan submitted by the manufacturer or importer and approved by the Federal Trade Commission. The Federal Trade Commission shall approve a plan submitted by a manufacturer or importer of cigarettes which will provide the rotation required by this subsection and which assures that all of the labels required by paragraphs (1), (2), and (3) will be displayed by the manufacturer or importer at the same time.

(2)(A) A manufacturer or importer of cigarettes may apply to the Federal Trade Commission to have the label rotation described in subparagraph (C) apply with respect to a brand style of cigarettes manufactured or imported by such manufacturer or importer if—

(i) the number of cigarettes of such brand style sold in the fiscal year of the manufacturer or importer preceding the submission of the application is less than one-fourth of 1 percent of all the cigarettes sold in the United States in such year, and

(ii) more than one-half of the cigarettes manufactured or imported by such manufacturer or importer for sale in the United States are packaged into brand styles which meet the requirements of clause (i).

If an application is approved by the Commission, the label rotation described in subparagraph (C) shall apply with respect to the applicant during the one-year period beginning on the date of the application approval.

(B) An applicant under subparagraph (A) shall include in its application a plan under which the label statements specified in paragraph (1) of subsection (a) of this section will be rotated by the applicant manufacturer or importer in accordance with the label rotation described in subparagraph (C).

(C) Under the label rotation which a manufacturer or importer with an approved application may put into effect each of the labels specified in paragraph (1) of subsection (a) of this section shall appear on the packages of each brand style of cigarettes with respect to which the application was approved an equal number of times within the twelve-month period beginning on the date of the approval by the Commission of the application.

(d) Application; distributors; retailers

Subsection (a) of this section does not apply to a distributor or a retailer of cigarettes who does not manufacture, package, or import cigarettes for sale or distribution within the United States.

(Pub. L. 89-92, § 4, July 27, 1965, 79 Stat. 283; Pub. L. 91-222, § 2, Apr. 1, 1970, 84 Stat. 88; Pub. L. 98-474, § 4(a), Oct. 12, 1984, 98 Stat. 2201; Pub. L. 99-92, § 11[(a)], Aug. 16, 1985, 99 Stat. 402; Pub. L. 99-117, § 11(d), Oct. 7, 1985, 99 Stat. 495.)

AMENDMENTS

1985—Subsec. (c). Pub. L. 99-92 designated existing provisions as par. (1), substituted “Except as provided in paragraph (2), the” for “The label”, and added par. (2).

Subsec. (c)(2)(A). Pub. L. 99-117 substituted “brand style” for “brand” in provisions preceding cl. (i).

1984—Pub. L. 98-474 amended section generally, designating existing provisions as subsec. (a), expanding choice of warnings to be placed on cigarette packaging and further expanding scope of places that must contain warnings to include advertisements and outdoor billboards, and adding subsecs. (b) to (d).

1970—Pub. L. 91-222 substituted “Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health” for “Caution: Cigarette Smoking May Be Hazardous to Your Health.”

EFFECTIVE DATE OF 1985 AMENDMENT

Section 11(c) of Pub. L. 99-92 provided that:

“(1) The amendments made by subsection (a) [probably refers to undesignated par. preceding subsec. (b), amending this section] shall take effect October 12, 1985, except that—

“(A) on and after the date of the enactment of this Act [Aug. 16, 1985] a manufacturer or importer of cigarettes may apply to the Federal Trade Commission to have the label rotation specified in section 4(c)(2) of the Federal Cigarette Labeling and Advertising Act [subsec. (c)(2) of this section], as amended by subsection (a), apply to its brand styles of cigarettes and the Commission may take action on such an application, and

“(B) a manufacturer or importer of cigarettes may elect to have the amendments apply at an earlier date or dates selected by the manufacturer or importer.

“(2) The Federal Trade Commission may, upon application of a manufacturer or importer of cigarettes with an approved application under section 4(c)(2) of the Federal Cigarette Labeling and Advertising Act [subsec. (c)(2) of this section], as amended by subsection (a), extend the effective date specified in paragraph (1) to January 11, 1986. The Commission may approve an application for such an extension only if the Commission determines that the effective date specified in such paragraph (1) would cause unreasonable economic hardship to the applicant. Section 4 of the Federal Cigarette Labeling and Advertising Act [this section], as in effect before October 12, 1985, shall apply with respect to a manufacturer or importer with an application approved under this paragraph.”

EFFECTIVE DATE OF 1984 AMENDMENT

Section 4(b) of Pub. L. 98-474 provided that: “The amendment made by subsection (a) [amending this section] shall take effect upon the expiration of a one-year period beginning on the date of the enactment of this Act [Oct. 12, 1984].”

EFFECTIVE DATE OF 1970 AMENDMENT

Section 3 of Pub. L. 91-222 provided in part that: “Section 4 of the amendment made by this Act [amending this section] shall take effect on the first day of the seventh calendar month which begins after the date of the enactment of this Act [Apr. 1, 1970].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1334, 1336 of this title.

§ 1334. Preemption

(a) Additional statements

No statement relating to smoking and health, other than the statement required by section 1333 of this title, shall be required on any cigarette package.