

(II) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted.

(b) Relevant factors in determining amount of penalty

In determining the amount of any penalty to be sought upon commencing an action seeking to assess a penalty for a violation of section 2068(a) of this title, the Commission shall consider the nature of the product defect, the severity of the risk of injury, the occurrence or absence of injury, the number of defective products distributed, and the appropriateness of such penalty in relation to the size of the business of the person charged.

(c) Compromise of penalty; deductions from penalty

Any civil penalty under this section may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated and in what amount, the Commission shall consider the appropriateness of such penalty to the size of the business of the person charged, the nature of the product defect, the severity of the risk of injury, the occurrence or absence of injury, and the number of defective products distributed. The amount of such penalty when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

(d) “Knowingly” defined

As used in the first sentence of subsection (a)(1) of this section, the term “knowingly” means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

(Pub. L. 92-573, § 20, Oct. 27, 1972, 86 Stat. 1225; Pub. L. 94-284, § 13(b), May 11, 1976, 90 Stat. 509; Pub. L. 95-631, § 6(c), Nov. 10, 1978, 92 Stat. 3745; Pub. L. 97-35, title XII, § 1211(c), Aug. 13, 1981, 95 Stat. 721; Pub. L. 101-608, title I, §§ 112(e), 115(a), Nov. 16, 1990, 104 Stat. 3117, 3118.)

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101-608, §§ 112(e), 115(a)(1), (2), substituted “\$5,000” for “\$2,000”, and “(10), or (11)” for “or (10)”, and substituted “\$1,250,000” for “\$500,000” in two places.

Subsec. (a)(3). Pub. L. 101-608, § 115(a)(3), added par. (3).

1981—Subsecs. (b) to (d). Pub. L. 97-35 added subsec. (b), redesignated former subsec. (b) as (c), substituted “the Commission shall consider the appropriateness of such penalty to the size of the business of the person charged, the nature of the product defect, the severity of the risk of injury, the occurrence or absence of injury, and the number of defective products distributed” for “the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered”, and redesignated subsec. (c) as (d).

1978—Subsec. (a)(1). Pub. L. 95-631 made violation of section 2068(a)(10) of this title a separate offense.

1976—Subsec. (a)(1). Pub. L. 94-284 inserted reference to pars. (8) and (9).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1215 of Pub. L. 97-35, set out as a note under section 2052 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2055 of this title.

§ 2070. Criminal penalties

(a) Any person who knowingly and willfully violates section 2068 of this title after having received notice of noncompliance from the Commission shall be fined not more than \$50,000 or be imprisoned not more than one year, or both.

(b) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of section 2068 of this title, and who has knowledge of notice of noncompliance received by the corporation from the Commission, shall be subject to penalties under this section without regard to any penalties to which that corporation may be subject under subsection (a) of this section.

(Pub. L. 92-573, § 21, Oct. 27, 1972, 86 Stat. 1225.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2055 of this title.

§ 2071. Injunctive enforcement and seizure

(a) Jurisdiction

The United States district courts shall have jurisdiction to take the following action:

(1) Restrain any violation of section 2068 of this title.

(2) Restrain any person from manufacturing for sale, offering for sale, distributing in commerce, or importing into the United States a product in violation of an order in effect under section 2064(d) of this title.

(3) Restrain any person from distributing in commerce a product which does not comply with a consumer product safety rule.

Such actions may be brought by the Commission (without regard to section 2076(b)(7)(A) of this title) or by the Attorney General in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section process may be served on a defendant in any other district in which the defendant resides or may be found.

(b) Products liable to proceeding

Any consumer product—

(1) which fails to conform with an applicable consumer product safety rule, or

(2) the manufacture for sale, offering for sale, distribution in commerce, or the importation into the United States of which has been prohibited by an order in effect under section 2064(d) of this title,

when introduced into or while in commerce or while held for sale after shipment in commerce shall be liable to be proceeded against on libel of information and condemned in any district