

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-284, §§ 11(b), 12(c)(1), designated existing provision as par. (1) and (3), added par. (2), and in provision following par. (3) substituted “(without regard to section 2076(b)(7)(A) of this title)” for “(with the concurrence of the Attorney General)”.

Subsec. (b). Pub. L. 94-284, § 12(c)(2), amended subsec. (b) generally, inserting provision designated as par. (2) which included within consumer products liable to proceedings, a product of which the manufacture for sale, offering for sale, distribution in commerce, or importation into the United States has been prohibited.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2055, 2066 of this title.

§ 2072. Suits for damages**(a) Persons injured; costs; amount in controversy**

Any person who shall sustain injury by reason of any knowing (including willful) violation of a consumer product safety rule, or any other rule or order issued by the Commission may sue any person who knowingly (including willfully) violated any such rule or order in any district court of the United States in the district in which the defendant resides or is found or has an agent, shall recover damages sustained and may, if the court determines it to be in the interest of justice, recover the costs of suit, including reasonable attorneys' fees (determined in accordance with section 2060(f) of this title) and reasonable expert witnesses' fees: *Provided*, That the matter in controversy exceeds the sum or value of \$10,000, exclusive of interest and cost, unless such action is brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity.

(b) Denial and imposition of costs

Except when express provision is made in a statute of the United States, in any case in which the plaintiff is finally adjudged to be entitled to recover less than the sum or value of \$10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interests and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.

(c) Remedies available

The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by common law or under Federal or State law.

(Pub. L. 92-573, § 23, Oct. 27, 1972, 86 Stat. 1226; Pub. L. 94-284, § 10(c), May 11, 1976, 90 Stat. 507; Pub. L. 96-486, § 3, Dec. 1, 1980, 94 Stat. 2369; Pub. L. 97-35, title XII, § 1211(h)(3)(B), Aug. 13, 1981, 95 Stat. 723.)

AMENDMENTS

1981—Subsec. (a). Pub. L. 97-35 substituted “section 2060(f) of this title” for “section 2059(e)(4) of this title”.

1980—Subsec. (a). Pub. L. 96-486, § 3(a), struck out provision subjecting actions under this section to section 1331 of title 28 as to the amount in controversy and inserted proviso establishing minimum amount in controversy and excepting actions brought against the United States, or agencies, officers, or employees thereof.

Subsecs. (b), (c). Pub. L. 96-486, § 3(b), added subsec. (b) and redesignated former subsec. (b) as (c).

1976—Subsec. (a). Pub. L. 94-284 substituted “shall” for “and shall” and provision permitting the court to award costs in the interest of justice for a prior provision which permitted the court to award costs in its discretion.

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.

EFFECTIVE DATE OF 1980 AMENDMENT; APPLICABILITY

For effective date and applicability of amendment by Pub. L. 96-486, see section 4 of Pub. L. 96-486, set out as an Effective Date of 1980 Amendment note under section 1331 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2060 of this title.

§ 2073. Private enforcement

Any interested person (including any individual or nonprofit, business, or other entity) may bring an action in any United States district court for the district in which the defendant is found or transacts business to enforce a consumer product safety rule or an order under section 2064 of this title, and to obtain appropriate injunctive relief. Not less than thirty days prior to the commencement of such action, such interested persons shall give notice by registered mail to the Commission, to the Attorney General, and to the person against whom such action is directed. Such notice shall state the nature of the alleged violation of any such standard or order, the relief to be requested, and the court in which the action will be brought. No separate suit shall be brought under this section if at the time the suit is brought the same alleged violation is the subject of a pending civil or criminal action by the United States under this chapter. In any action under this section the court may in the interest of justice award the costs of suit, including reasonable attorneys' fees (determined in accordance with section 2060(f) of this title) and reasonable expert witnesses' fees.

(Pub. L. 92-573, § 24, Oct. 27, 1972, 86 Stat. 1226; Pub. L. 94-284, § 10(d), May 11, 1976, 90 Stat. 507; Pub. L. 97-35, title XII, § 1211(a), (h)(3)(C), Aug. 13, 1981, 95 Stat. 721, 723.)

AMENDMENTS

1981—Pub. L. 97-35 substituted “Any interested person (including any individual or nonprofit, business, or other entity)” for “Any interested person”, and “section 2060(f) of this title” for “2059(e)(4) of this title”.

1976—Pub. L. 94-284 substituted provision permitting the court to award costs in the interest of justice for the provision which permitted costs to be demanded as part of the complaint and the court to award them to the prevailing party.

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 sections 1194, 1264, 2060 of this title.

§ 2074. Private remedies**(a) Liability at common law or under State statute not relieved by compliance**

Compliance with consumer product safety rules or other rules or orders under this chapter shall not relieve any person from liability at common law or under State statutory law to any other person.

(b) Evidence of Commission's inaction inadmissible in actions relating to consumer products

The failure of the Commission to take any action or commence a proceeding with respect to the safety of a consumer product shall not be admissible in evidence in litigation at common law or under State statutory law relating to such consumer product.

(c) Public information

Subject to sections 2055(a)(2) and 2055(b) of this title but notwithstanding section 2055(a)(1) of this title, (1) any accident or investigation report made under this chapter by an officer or employee of the Commission shall be made available to the public in a manner which will not identify any injured person or any person treating him, without the consent of the person so identified, and (2) all reports on research projects, demonstration projects, and other related activities shall be public information.

(Pub. L. 92-573, §25, Oct. 27, 1972, 86 Stat. 1227.)

§ 2075. State standards**(a) State compliance to Federal standards**

Whenever a consumer product safety standard under this chapter is in effect and applies to a risk of injury associated with a consumer product, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same risk of injury associated with such consumer product, unless such requirements are identical to the requirements of the Federal standard.

(b) Consumer product safety requirements which impose performance standards more stringent than Federal standards

Subsection (a) of this section does not prevent the Federal Government or the government of any State or political subdivision of a State from establishing or continuing in effect a safety requirement applicable to a consumer product for its own use which requirement is designed to protect against a risk of injury associated with the product and which is not identical to the consumer product safety standard applicable to the product under this chapter if the Federal, State, or political subdivision requirement provides a higher degree of protection from such risk of injury than the standard applicable under this chapter.

(c) Exemptions

Upon application of a State or political subdivision of a State, the Commission may by

rule, after notice and opportunity for oral presentation of views, exempt from the provisions of subsection (a) of this section (under such conditions as it may impose in the rule) any proposed safety standard or regulation which is described in such application and which is designed to protect against a risk of injury associated with a consumer product subject to a consumer product safety standard under this chapter if the State or political subdivision standard or regulation—

(1) provides a significantly higher degree of protection from such risk of injury than the consumer product safety standard under this chapter, and

(2) does not unduly burden interstate commerce.

In determining the burden, if any, of a State or political subdivision standard or regulation on interstate commerce, the Commission shall consider and make appropriate (as determined by the Commission in its discretion) findings on the technological and economic feasibility of complying with such standard or regulation, the cost of complying with such standard or regulation, the geographic distribution of the consumer product to which the standard or regulation would apply, the probability of other States or political subdivisions applying for an exemption under this subsection for a similar standard or regulation, and the need for a national, uniform standard under this chapter for such consumer product.

(Pub. L. 92-573, §26, Oct. 27, 1972, 86 Stat. 1227; Pub. L. 94-284, §17(d), May 11, 1976, 90 Stat. 514.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-284 substituted provision that a standard provide a significantly higher degree of protection from the risk of injury for the provision that the standard impose a higher level of performance.

Subsec. (c). Pub. L. 94-284 substituted requirement that a State standard provide a significantly higher degree of protection from the risk of injury than the standard under this chapter for the requirement that the State standard impose a higher level of performance, eliminated the requirement of a compelling local condition, and inserted the requirement that the Commission make specific findings in determining the burden on interstate commerce.

§ 2076. Additional functions of Consumer Product Safety Commission**(a) Authority to conduct hearings or other inquiries**

The Commission may, by one or more of its members or by such agents or agency as it may designate, conduct any hearing or other inquiry necessary or appropriate to its functions anywhere in the United States. A Commissioner who participates in such a hearing or other inquiry shall not be disqualified solely by reason of such participation from subsequently participating in a decision of the Commission in the same manner. The Commission shall publish notice of any proposed hearing in the Federal Register and shall afford a reasonable opportunity for interested persons to present relevant testimony and data.

(b) Commission powers; orders

The Commission shall also have the power—