

SEPARABILITY

Section 13, formerly §12, of Pub. L. 89-92 as added by section 2 of Pub. L. 91-222, and renumbered Pub. L. 98-474, §5(a), Oct. 12, 1984, 98 Stat. 2203, provided that: "If any provision of this Act [this chapter] or the application thereof to any person or circumstances is held invalid, the other provisions of this Act [this chapter] and the application of such provisions to other persons or circumstances shall not be affected thereby."

CONGRESSIONAL STATEMENT OF PURPOSE

Section 2 of Pub. L. 98-474 provided that: "It is the purpose of this Act [see Short Title of 1984 Amendment note above] to provide a new strategy for making Americans more aware of any adverse health effects of smoking, to assure the timely and widespread dissemination of research findings and to enable individuals to make informed decisions about smoking."

§ 1332. Definitions

As used in this chapter—

(1) The term "cigarette" means—

(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A).

(2) The term "commerce" means (A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island and any place outside thereof; (B) commerce between points in any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island, but through any place outside thereof; or (C) commerce wholly within the District of Columbia, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island.

(3) The term "United States", when used in a geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, and Johnston Island. The term "State" includes any political division of any State.

(4) The term "package" means a pack, box, carton, or container of any kind in which cigarettes are offered for sale, sold, or otherwise distributed to consumers.

(5) The term "person" means an individual, partnership, corporation, or any other business or legal entity.

(6) The term "sale or distribution" includes sampling or any other distribution not for sale.

(7) The term "little cigar" means any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subsection (1)) and as to which one thousand units weigh not more than three pounds.

(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 per cent 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; title 19 section 1681a.

§ 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.

(b) State regulations

No requirement or prohibition based on smoking and health shall be imposed under State law with respect to the advertising or promotion of any cigarettes the packages of which are labeled in conformity with the provisions of this chapter.

(Pub. L. 89-92, § 5, July 27, 1965, 79 Stat. 283; Pub. L. 91-222, § 2, Apr. 1, 1970, 84 Stat. 88.)

AMENDMENTS

1970—Subsec. (b). Pub. L. 91-222 substituted provision that no requirement or prohibition based on smoking and health should be imposed under State law with respect to the advertising or promotion of any cigarettes which packages are labeled in conformity with the provisions of this chapter for provision that no statement relating to smoking and health should be required in the advertising of any cigarettes which packages are labeled in conformity with the provisions of this chapter.

Subsecs. (c), (d). Pub. L. 91-222 struck out subsecs. (c) and (d) relating to the authority of the Federal Trade Commission with respect to unfair or deceptive advertising acts or practices, and reports to Congress by the Secretary of Health, Education, and Welfare and the Federal Trade Commission. See sections 1336 and 1337 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 3 of Pub. L. 91-222 provided in part that: “Section 5 of the amendment made by this Act [amending this section] shall take effect as of July 1, 1969.”

§ 1335. Unlawful advertisements on medium of electronic communication

After January 1, 1971, it shall be unlawful to advertise cigarettes and little cigars on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission.

(Pub. L. 89-92, § 6, July 27, 1965, 79 Stat. 283; Pub. L. 91-222, § 2, Apr. 1, 1970, 84 Stat. 89; Pub. L. 93-109, § 3, Sept. 21, 1973, 87 Stat. 352.)

AMENDMENTS

1973—Pub. L. 93-109 extended prohibition against advertisements to little cigars.

1970—Pub. L. 91-222 substituted provision that after January 1, 1971, it shall be unlawful to advertise cigarettes on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission, for provision that a violation of this chapter should constitute misdemeanor and be punishable by fine. See, now, section 1338 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-109 effective thirty days after Sept. 21, 1973, see section 4 of Pub. L. 93-109, set out as a note under section 1332 of this title.

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.

§ 1335a. List of cigarette ingredients; annual submission to Secretary; transmittal to Congress; confidentiality

(a) Each person who manufactures, packages, or imports cigarettes shall annually provide the Secretary with a list of the ingredients added to