

violates the requirements of this subsection shall be subject to dismissal or other appropriate disciplinary action consistent with procedures and requirements established by the Office of Personnel Management.

(Pub. L. 92-573, §6, Oct. 27, 1972, 86 Stat. 1212; Pub. L. 97-35, title XII, §1204, Aug. 13, 1981, 95 Stat. 713; Pub. L. 97-414, §9(j)(1), Jan. 4, 1983, 96 Stat. 2064; Pub. L. 101-608, title I, §§106, 112(c), Nov. 16, 1990, 104 Stat. 3111, 3116.)

REFERENCES IN TEXT

The Consumer Product Safety Act, referred to in subsec. (d)(1), is Pub. L. 92-573, Oct. 27, 1972, 86 Stat. 1207, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2051 of this title and Tables.

The Flammable Fabrics Act, referred to in subsec. (d)(1), is act June 30, 1953, ch. 164, 67 Stat. 111, as amended, which is classified generally to chapter 25 (§1191 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1191 of this title and Tables.

The Poison Prevention Packaging Act, referred to in subsec. (d)(1), probably means the Poison Prevention Packaging Act of 1970, Pub. L. 91-601, Dec. 30, 1970, 84 Stat. 1670, as amended, which is classified generally to chapter 39A (§1471 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1471 of this title and Tables.

The Federal Hazardous Substances Act, referred to in subsec. (d)(1), is Pub. L. 86-613, July 12, 1960, 74 Stat. 372, as amended, which is classified generally to chapter 30 (§1261 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1261 of this title and Tables.

AMENDMENTS

1990—Subsec. (a)(8). Pub. L. 101-608, §106, amended par. (8) generally. Prior to amendment, par. (8) read as follows: “The provisions of paragraphs (2) through (6) shall not prohibit the disclosure of information to other officers or employees concerned with carrying out this Act or when relevant in any administrative proceeding under this Act, or in judicial proceedings to which the Commission is a party. Any disclosure of relevant information in Commission administrative proceedings, or in judicial proceedings to which the Commission is a party, shall be governed by the rules of the Commission (including in camera review rules for confidential material) for such proceedings or by court rules or orders, except that the rules of the Commission shall not be amended in a manner inconsistent with the purposes of this section.”

Subsec. (e). Pub. L. 101-608, §112(c), added subsec. (e). 1983—Subsec. (b)(1). Pub. L. 97-414 substituted “paragraph (4)” for “paragraph (2)”.

1981—Subsec. (a)(1). Pub. L. 97-35 amended par. (1) generally, substituting “shall be construed” for “shall be deemed”.

Subsec. (a)(2). Pub. L. 97-35 amended par. (2) generally, substituting “title 18, or subject to section 552(b)(4) of title 5, shall be considered confidential and shall not be disclosed” for “title 18 shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this chapter shall authorize the withholding of information by the Commission or any officer or employee under its control from the duly authorized committees of the Congress”.

Subsec. (a)(3) to (8). Pub. L. 97-35 added pars. (3) to (8).

Subsec. (b)(1). Pub. L. 97-35 amended par. (1) generally, substituting “notice and publishes such a finding in the Federal Register,” for “notice),” and “In dis-

closing any information under this subsection, the Commission may, and upon the request of the manufacturer or private labeler shall, include with the disclosure any comments or other information or a summary thereof submitted by such manufacturer or private labeler to the extent permitted by and subject to the requirements of this section” for “If the Commission finds that, in the administration of this chapter, it has made public disclosure of inaccurate or misleading information which reflects adversely upon the safety of any consumer product, or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products, it shall, in a manner similar to that in which such disclosure was made, publish a retraction of such inaccurate or misleading information”.

Subsec. (b)(2) to (4). Pub. L. 97-35 added pars. (2) and (3), redesignated former par. (2) as (4) and substituted “Paragraphs (1) through (3) of this subsection” for “Paragraph (1) (except for the last sentence thereof)” and “a rulemaking proceeding (which shall commence upon the publication of an advance notice of proposed rulemaking or a notice of proposed rulemaking), an adjudicatory proceeding (which shall commence upon the issuance of a complaint) or other administrative or judicial proceeding under this chapter” for “any administrative or judicial proceeding under this chapter”.

Subsec. (b)(5) to (8). Pub. L. 97-35 added pars. (5) to (8).

Subsecs. (c), (d). Pub. L. 97-35 reenacted subsec. (c) without change and added subsec. (d).

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

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.

CONFIDENTIALITY PROTECTIONS FOR INFORMATION REPORTED ON INCIDENTS OF CHILDREN CHOKING

For purposes of subsection (b)(5) of this section, information reported to Consumer Product Safety Commission on incidents of children choking on a marble, small ball, latex balloon, or other small part contained in a toy or game, to be treated as information submitted pursuant to section 2064(b) of this title, see section 102 of Pub. L. 103-267, set out as a Reporting Requirements note under section 2064 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2074, 2077, 2078 of this title.

§ 2056. Consumer product safety standards

(a) Types of requirements

The Commission may promulgate consumer product safety standards in accordance with the provisions of section 2058 of this title. A consumer product safety standard shall consist of one or more of any of the following types of requirements:

(1) Requirements expressed in terms of performance requirements.

(2) Requirements that a consumer product be marked with or accompanied by clear and

adequate warnings or instructions, or requirements respecting the form of warnings or instructions.

Any requirement of such a standard shall be reasonably necessary to prevent or reduce an unreasonable risk of injury associated with such product.

(b) Reliance of Commission upon voluntary standards

(1) The Commission shall rely upon voluntary consumer product safety standards rather than promulgate a consumer product safety standard prescribing requirements described in subsection (a) of this section whenever compliance with such voluntary standards would eliminate or adequately reduce the risk of injury addressed and it is likely that there will be substantial compliance with such voluntary standards.

(2) The Commission shall devise procedures to monitor compliance with any voluntary standards—

(A) upon which the Commission has relied under paragraph (1);

(B) which were developed with the participation of the Commission; or

(C) whose development the Commission has monitored.

(c) Contribution of Commission to development cost

If any person participates with the Commission in the development of a consumer product safety standard, the Commission may agree to contribute to the person's cost with respect to such participation, in any case in which the Commission determines that such contribution is likely to result in a more satisfactory standard than would be developed without such contribution, and that the person is financially responsible. Regulations of the Commission shall set forth the items of cost in which it may participate, and shall exclude any contribution to the acquisition of land or buildings. Payments under agreements entered into under this subsection may be made without regard to section 3324(a) and (b) of title 31.

(Pub. L. 92-573, §7, Oct. 27, 1972, 86 Stat. 1212; Pub. L. 94-284, §§6, 7, 8(a), May 11, 1976, 90 Stat. 505, 506; Pub. L. 95-631, §§3, 4(a)-(c), 5, Nov. 10, 1978, 92 Stat. 3742-3744; Pub. L. 97-35, title XII, §1202, Aug. 13, 1981, 95 Stat. 703; Pub. L. 101-608, title I, §107(a), Nov. 16, 1990, 104 Stat. 3111.)

CODIFICATION

In subsec. (c), “section 3324(a) and (b) of title 31” substituted for “section 3648 of the Revised Statutes of the United States (31 U.S.C. 529)” on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-608 designated existing provisions as par. (1) and added par. (2).

1981—Subsec. (a). Pub. L. 97-35 amended subsec. (a) generally, and in the requirements for consumer product safety standards, struck out reference to composition, contents, design, construction, finish, or packaging of consumer products, and struck out provision that the requirements of the standards other than requirements relating to labeling, warnings, or instructions, shall, whenever, feasible, be expressed in terms of performance requirements.

Subsec. (b). Pub. L. 97-35 amended subsec. (b) generally, substituting provisions relating to the reliance by the Commission upon voluntary standards for provisions prescribing procedure for development of consumer product safety standards.

Subsec. (c). Pub. L. 97-35 amended subsec. (c) generally, substituting provisions relating to contribution by the Commission to the development cost of consumer safety standards for provisions relating to publication of proposed safety rules developed from existing standards.

Subsec. (d). Pub. L. 97-35 struck out subsec. (d) which related to the acceptance of offers to develop proposed standards and the Commission's contribution to development costs.

Subsec. (e). Pub. L. 97-35 struck out subsec. (e) which related to development of proposed safety rules by the Commission.

Subsec. (f). Pub. L. 97-35 struck out subsec. (f) which provided for termination of rule-making proceedings and a statement relating to the reasons therefor.

1978—Subsec. (b). Pub. L. 95-631, §3, designated existing provision as par. (1), and in par. (1) as so redesignated, redesignated pars. (1) to (4) as subpars. (A) and (D), in subpar. (D) as so redesignated, inserted provision including as a means of commencing a proceeding, a publication in the Federal Register of a statement that the Commission intends to develop the proposed consumer product safety standard, added subpar. (E), struck out provision that the period specified within which the offeror of an accepted offer develops the proposed standard be a period ending 150 days after the date the offer was accepted unless the Commission for good cause found, and included such finding in the notice that a different period was appropriate, and added par. (2).

Subsec. (c). Pub. L. 95-631, §5, amended subsec. (c) generally, inserting provisions relating to subsec. (b)(1)(D) and striking out provisions for publication of a proposed consumer product safety rule, in lieu of acceptance of an offer under subsec. (d), where a standard had been issued or adopted by any Federal agency or by any other qualified agency, organization, or institution and the standard if promulgated under the chapter would eliminate or reduce the unreasonable risk of injury associated with the product.

Subsec. (d)(1). Pub. L. 95-631, §4(a)(1), inserted “subsection (b)(2) and by” after “as provided by” and substituted references to subsec. (b)(1)(D)(ii)(I) for (b)(4)(B) of this section and subsec. (b)(1)(E) for (b) of this section.

Subsec. (d)(2). Pub. L. 95-631, §4(a)(2)(A)-(C), inserted in first sentence “or if any person participates with the Commission in the development of a consumer product safety standard under subsection (b)(2)(A) or subsection (e) of this section” after “under this subsection”, “or the person's cost with respect to such participation” after “safety standards” and “or person” after “offeror”.

Subsec. (d)(4). Pub. L. 95-631, §4(a)(3), added par. (4).

Subsec. (e). Pub. L. 95-631, §4(b), amended provisions generally, and among other changes, substituted references to subsec. (b)(1)(D)(ii)(I) of this section for prior references to subsec. (b) of this section, and struck out par. (3) defining the development period, now covered in subsec. (b)(1)(E) of this section.

Subsec. (f). Pub. L. 95-631, §4(c), amended provisions generally, and among other changes, reduced the period within which to publish a proposed consumer product safety standard to forty-five days from 150 days and required the publication in the Federal Register of the reasons for not publishing the proposed standard, including a statement indicative of the taking of other approaches such as a voluntary consumer safety standard adopted by persons to be subject to the proposed standard.

1976—Subsec. (a). Pub. L. 94-284, §6, designated existing provision as par. (1), redesignated as subpars. (A) and (B) existing pars. (1) and (2), and added par. (2).

Subsec. (b). Pub. L. 94-284, §7(a), substituted “date the offer is accepted” for “publication of notice” in provision following par. (4)(B).

Subsec. (d)(2). Pub. L. 94-284, §8(a), inserted provision which permits the Commission to advance public monies without the need of authorized appropriations as required by section 529 of title 31.

Subsec. (e). Pub. L. 94-284, §7(b), permitted the Commission to develop and publish a proposed consumer safety product rule if the development period as specified in par. (3) ends.

Subsec. (f). Pub. L. 94-284, §7(c), provided that if within 60 days after publication of notice for a proceeding for the development of a consumer product safety standard (or longer if the Commission so prescribe), no offer is submitted or none is acceptable, the Commission terminate the proceeding or develop proposals of its own, which proposals be published as a rule within 150 days after the expiration of the 60 day period or the proceeding then terminated, and that if an offer is accepted within the 60 day period, then within 210 days after acceptance, the Commission must publish the proposal as a rule or terminate the proceeding.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 applicable with respect to regulations under this chapter and chapters 25 and 30 of this title for which notices of proposed rulemaking are issued after Aug. 14, 1981, see section 1215 of Pub. L. 97-35, set out as a note under section 2052 of this title.

AUTOMATIC GARAGE DOOR OPENERS

Section 203 of Pub. L. 101-608 provided that:

“(a) CONSUMER PRODUCT SAFETY RULE.—The provisions of subsection (b) shall be considered to be a consumer product safety rule issued by the Consumer Product Safety Commission under section 9 of the Consumer Product Safety Act [15 U.S.C. 2058].

“(b) REQUIREMENTS.—

“(1) Effective on and after January 1, 1991, each automatic residential garage door opener manufactured on or after that date for sale in the United States shall conform to the entrapment protection requirements of the American National Standards Institute Underwriters Laboratories, Inc. Standards for Safety—UL 325, third edition, as revised May 4, 1988.

“(2)(A) Effective on and after January 1, 1993, all residential automatic garage door openers manufactured on and after such date for sale in the United States shall conform to any additional entrapment protection requirements of the American National Standards Institute Underwriters Laboratories, Inc. Standards for Safety—UL 325, third edition, which were issued after the date of the enactment of this Act [Nov. 16, 1990] to become effective on or before January 1, 1993.

“(B) If, by June 1, 1992, the Underwriters Laboratories, Inc., has not issued a revision to the May 4, 1988, Standards for Safety—UL 325, third edition, to require an entrapment protection feature or device in addition to that required by the May 4, 1988, Standard, the Consumer Product Safety Commission shall begin a rulemaking proceeding, to be completed no later than October 31, 1992, to require an additional such feature or device on all automatic residential garage door openers manufactured on or after January 1, 1993, for sale in the United States. If such a revision is issued by the Underwriters Laboratories, Inc. after the rulemaking has commenced, the rulemaking shall be terminated and the revision shall be incorporated in the consumer product safety rule under subsection (a) unless the Commission has determined under subsection (c) that such revision does not carry out the purposes of subsection (b).

“(c) REVISION OF RULE.—If, after June 1, 1992, or the date of a revision described in subsection (b)(2)(B) if later, the Underwriters Laboratories, Inc. proposes to further revise the entrapment protection requirements of the American National Standards Institute Underwriters Laboratories, Inc. Standards for Safety—UL 325, third edition, the Laboratories shall notify the Consumer Product Safety Commission of the proposed

revision and the proposed revision shall be incorporated in the consumer product safety rule under subsection (a) unless, within 30 days of such notice, the Commission notifies the Laboratories that the Commission has determined that such revision does not carry out the purposes of subsection (b).

“(d) LABELING.—On and after January 1, 1991, a manufacturer selling or offering for sale in the United States an automatic residential garage door opener manufactured on or after January 1, 1991, shall clearly identify on any container of the system and on the system the month or week and year the system was manufactured and its conformance with the requirements of subsection (b). The display of the UL logo or listing mark, and compliance with the date marking requirements of UL 325, on both the container and the system, shall satisfy the requirements of this subsection.

“(e) NOTIFICATION.—Effective on and after July 1, 1991, all manufacturers of automatic residential garage door openers shall, in consultation with the Consumer Product Safety Commission, notify the public of the potential for entrapment by garage doors equipped with automatic garage door openers and advise the public to test their openers for the entrapment protection feature or device required by subsection (b).

“(f) PREEMPTION.—In applying section 26(a) of the Consumer Product Safety Act (15 U.S.C. 2075) [15 U.S.C. 2075(a)] with respect to the consumer product safety rule of the Consumer Product Safety Commission under subsection (a), only those provisions of laws of States or political subdivisions which relate to the labeling of automatic residential garage door openers and those provisions which do not provide at least the equivalent degree of protection from the risk of injury associated with automatic residential garage door openers as the consumer product safety rule provides shall be subject to such section.

“(g) REGULATIONS.—Section 553 of title 5, United States Code, shall apply with respect to the issuance of any regulations by the Consumer Product Safety Commission to implement the requirements of this section and sections 7 and 9 of the Consumer Product Safety Act [15 U.S.C. 2056, 2058] do not apply to such issuance. Any additional or revised requirement issued by the Commission shall provide an adequate degree of protection to the public.

“(h) CONSTRUCTION.—Nothing in this section shall affect or modify in any way the obligations or liabilities of any person under the common law or any Federal or State law.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2052, 2058, 2060, 6004 of this title.

§ 2057. Banned hazardous products

Whenever the Commission finds that—

(1) a consumer product is being, or will be, distributed in commerce and such consumer product presents an unreasonable risk of injury; and

(2) no feasible consumer product safety standard under this chapter would adequately protect the public from the unreasonable risk of injury associated with such product,

the Commission may, in accordance with section 2058 of this title, promulgate a rule declaring such product a banned hazardous product.

(Pub. L. 92-573, §8, Oct. 27, 1972, 86 Stat. 1215; Pub. L. 97-35, title XII, §1203(c), Aug. 13, 1981, 95 Stat. 713.)

AMENDMENTS

1981—Pub. L. 97-35 substituted “may, in accordance with” for “may propose and, in accordance with”.