

tion of paragraph (1) or (2) of section 2068(a) of this title) 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.

**(6) Restrictions on private counsel**

If private counsel is retained to assist in any civil action under paragraph (1), the private counsel retained to assist the State may not—

(A) share with participants in other private civil actions that arise out of the same operative facts any information that is—

- (i) subject to attorney-client or work product privilege; and
- (ii) was obtained during discovery in the action under paragraph (1); or

(B) use any information that is subject to attorney-client or work product privilege that was obtained while assisting the State in the action under paragraph (1) in any other private civil actions that arise out of the same operative facts.

(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; Pub. L. 110-314, title II, §218(a), Aug. 14, 2008, 122 Stat. 3060.)

AMENDMENTS

2008—Pub. L. 110-314 substituted “Additional” for “Private” in section catchline, designated existing provisions as subsec. (a), inserted subsec. heading, and added subsec. (b).

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.

**§ 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 re-

port 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.)

PREEMPTION

The provisions of this section establishing the extent to which the Consumer Product Safety Act [15 U.S.C. 2051 et seq.] preempts, limits, or otherwise affects any other Federal, State, or local law, any rule, procedure, or regulation, or any cause of action under State or local law not to be expanded or contracted in scope, or limited, modified or extended in application, by any rule or regulation under the Consumer Product Safety Act, or by reference in any preamble, statement of policy, executive branch statements, or other matter associated with the publication of any such rule or regulation, see section 231 of Pub. L. 110-314, set out as a note under section 2051 of this title.

**§ 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.

#### PREEMPTION

The provisions of this section establishing the extent to which the Consumer Product Safety Act [15 U.S.C. 2051 et seq.] preempts, limits, or otherwise affects any other Federal, State, or local law, any rule, procedure, or regulation, or any cause of action under State or local law not to be expanded or contracted in scope, or limited, modified or extended in application, by any rule or regulation under the Consumer Product Safety Act, or by reference in any preamble, statement of policy, executive branch statements, or other matter associated with the publication of any such rule or regulation, see section 231 of Pub. L. 110-314, set out as a note under section 2051 of this title.

### § 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—

(1) to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe to carry out a specific regulatory or enforcement function of the Commission; and such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpoena the attendance and testimony of witnesses and the production of all documentary and physical evidence relating to the execution of its duties;

(4) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection;

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

(6) to accept gifts and voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31;

(7) to—

(A) initiate, prosecute, defend, or appeal (other than to the Supreme Court of the United States), through its own legal representative and in the name of the Commission, any civil action if the Commission makes a written request to the Attorney General for representation in such civil action and the Attorney General does not within the 45-day period beginning on the date such request was made notify the Commission in writing that the Attorney General will represent the Commission in such civil action, and

(B) initiate, prosecute, or appeal, through its own legal representative, with the concurrence of the Attorney General or through the Attorney General, any criminal action,

for the purpose of enforcing the laws subject to its jurisdiction;

(8) to lease buildings or parts of buildings in the District of Columbia, without regard to section 8141 of title 40, for the use of the Commission;

(9) to delegate to the general counsel of the Commission the authority to issue subpoenas solely to Federal, State, or local government agencies for evidence described in paragraph (3); and

(10) to delegate any of its functions or powers, other than the power to issue subpoenas under paragraph (3) (except as provided in paragraph (9)), to any officer or employee of the Commission.

An order issued under paragraph (1) shall contain a complete statement of the reason the Commission requires the report or answers specified in the order to carry out a specific regulatory or enforcement function of the Commission. Such an order shall be designed to place the least burden on the person subject to the