EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–329 effective Feb. 14, 1994, but with such amendment to have no effect on the sale or distribution of products whose labels have been printed before such date, no application to unit pricing, advertising, recipe programs, nutrition labeling, or other general pricing information, and no construction requiring changes in package size or affecting in any way the size of packages, see section 2 of Pub. L. 102–329, set out as a note under section 1453 of this title.

§ 1455. Procedure for promulgation of regulations

(a) Hearings by Secretary of Health and Human Services

Regulations promulgated by the Secretary under section 1453 or 1454 of this title shall be promulgated, and shall be subject to judicial review, pursuant to the provisions of subsections (e), (f), and (g) of section 371 of title 21. Hearings authorized or required for the promulgation of any such regulations by the Secretary shall be conducted by the Secretary or by such officer or employees of the Department of Health and Human Services as he may designate for that purpose.

(b) Judicial review; hearings by Federal Trade Commission

Regulations promulgated by the Commission under section 1453 or 1454 of this title shall be promulgated, and shall be subject to judicial review, by proceedings taken in conformity with the provisions of subsections (e), (f), and (g) of section 371 of title 21 in the same manner, and with the same effect, as if such proceedings were taken by the Secretary pursuant to subsection (a) of this section. Hearings authorized or required for the promulgation of any such regulations by the Commission shall be conducted by the Commission or by such officer or employee of the Commission as the Commission may designate for that purpose.

(c) Cooperation with other departments and agencies

In carrying into effect the provisions of this chapter, the Secretary and the Commission are authorized to cooperate with any department or agency of the United States, with any State, Commonwealth, or possession of the United States, and with any department, agency, or political subdivision of any such State, Commonwealth, or possession.

(d) Returnable or reusable glass containers for beverages

No regulation adopted under this chapter shall preclude the continued use of returnable or reusable glass containers for beverages in inventory or with the trade as of the effective date of this Act, nor shall any regulation under this chapter preclude the orderly disposal of packages in inventory or with the trade as of the effective date of such regulation.

(Pub. L. 89–755, § 6, Nov. 3, 1966, 80 Stat. 1299; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

REFERENCES IN TEXT

The effective date of this Act, referred to in subsec. (d), refers to the effective date of Pub. L. 89–755 which enacted this chapter to take effect July 1, 1967. See Effective Date note set out under section 1451 of this title.

CHANGE OF NAME

''Department of Health and Human Services'' substituted for ''Department of Health, Education, and Welfare'' in subsec. (a), pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

§ 1456. Enforcement

(a) Misbranded consumer commodities

Any consumer commodity which is a food, drug, device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), and which is introduced or delivered for introduction into commerce in violation of any of the provisions of this chapter, or the regulations issued pursuant to this chapter, shall be deemed to be misbranded within the meaning of chapter III of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 331 et seq.], but the provisions of section 303 of that Act (21 U.S.C. 333) shall have no application to any violation of section 1452 of this title.

(b) Unfair or deceptive acts or practices in commerce

Any violation of any of the provisions of this chapter, or the regulations issued pursuant to this chapter, with respect to any consumer commodity which is not a food, drug, device, or cosmetic, shall constitute an unfair or deceptive act or practice in commerce in violation of section 45(a) of this title and shall be subject to enforcement under section 45(b) of this title.

(c) Imports

In the case of any imports into the United States of any consumer commodity covered by this chapter, the provisions of sections 1453 and 1454 of this title shall be enforced by the Secretary of the Treasury pursuant to section 801(a) and (b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381).

(Pub. L. 89–755, § 7, Nov. 3, 1966, 80 Stat. 1300.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsecs. (a) and (c), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended. Chapter III of the Act is classified generally to subchapter III (§ 331 et seq.) of chapter 9 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

§ 1457. Omitted

CODIFICATION

Section, Pub. L. 89–755, § 8, Nov. 3, 1966, 80 Stat. 1300; Pub. L. 93–608, § 3(2), Jan. 2, 1975, 88 Stat. 1972; Pub. L. 97–375, title II, §§ 202(d), 206(b), Dec. 21, 1982, 96 Stat. 1822, 1823, which required officers and agencies required or authorized by this chapter to promulgate regulations, to transmit an annual report to Congress describing activities carried out for the administration and enforcement of this chapter, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, pages 54, 92, and 172 of House Document No. 103–7.

§ 1458. Cooperation with State authorities; transmittal of regulations to States; noninterference with existing programs

(a) A copy of each regulation promulgated under this chapter shall be transmitted promptly to the Secretary of Commerce, who shall (1) transmit copies thereof to all appropriate State officers and agencies, and (2) furnish to such State officers and agencies information and assistance to promote to the greatest practicable extent uniformity in State and Federal regulation of the labeling of consumer commodities.

(b) Nothing contained in this section shall be construed to impair or otherwise interfere with any program carried into effect by the Secretary of Health and Human Services under other provisions of law in cooperation with State governments or agencies, instrumentalities, or political subdivisions thereof.

(Pub. L. 89–755, § 9, Nov. 3, 1966, 80 Stat. 1301; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in subsec. (b) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

§ 1459. Definitions

For the purpose of this chapter—

(a) The term ''consumer commodity'', except as otherwise specifically provided by this subsection, means any food, drug, device, or cosmetic (as those terms are defined by the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.]), and any other article, product, or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use. Such term does not include—

(1) any meat or meat product, poultry or poultry product, or tobacco or tobacco product;

(2) any commodity subject to packaging or labeling requirements imposed by the Secretary of Agriculture pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.], or the provisions of the eighth paragraph under the heading ''Bureau of Animal Industry'' of the Act of March 4, 1913 [21 U.S.C. 151 et seq.], commonly known as the Virus-Serum-Toxin Act;

(3) any drug subject to the provisions of section 503(b)(1) or 506 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 353(b)(1) and 356];

(4) any beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act [27 U.S.C. 201 et seq.]; or

(5) any commodity subject to the provisions of the Federal Seed Act [7 U.S.C. 1551 et seq.].

(b) The term ''package'' means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers, but does not include—

(1) shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof;

(2) shipping containers or outer wrappings used by retailers to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity; or

(3) containers subject to the provisions of the Act of August 3, 1912 (37 Stat. 250, as amended; 15 U.S.C. 231–233), or the Act of March 4, 1915 (38 Stat. 1186, as amended; 15 U.S.C. 234–236).

(c) The term ''label'' means any written, printed, or graphic matter affixed to any consumer commodity or affixed to or appearing upon a package containing any consumer commodity.

(d) The term ''person'' includes any firm, corporation, or association.

(e) The term ''commerce'' means (1) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, and any place outside thereof, and (2) commerce within the District of Columbia or within any territory or possession of the United States not organized with a legislative body, but shall not include exports to foreign countries.

(f) The term ''principal display panel'' means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

(Pub. L. 89–755, § 10, Nov. 3, 1966, 80 Stat. 1301; Pub. L. 90–628, § 2, Oct. 22, 1968, 82 Stat. 1320.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to subsec. (a), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in subsec. (a)(2), is act June 25, 1947, ch. 125, as amended generally by Pub. L. 92–516, Oct. 21, 1972, 86 Stat. 973, which is classified generally to subchapter II (§ 136 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 136 of Title 7 and Tables.

The Virus-Serum-Toxin Act, referred to in subsec. (a)(2), is the eighth paragraph under the heading ''Bureau of Animal Industry'' of act Mar. 4, 1913, ch. 145, 37 Stat. 832, as amended, which is classified generally to chapter 5 (§ 151 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 151 of Title 21 and Tables.

The Federal Alcohol Administration Act, referred to in subsec. (a)(4), is act Aug. 29, 1935, ch. 814, 49 Stat. 977, as amended, which is classified generally to chapter 8 (§ 201 et seq.) of Title 27, Intoxicating Liquors. For complete classification of this Act to the Code, see section 201 of Title 27 and Tables.

The Federal Seed Act, referred to in subsec. (a)(5), is act Aug. 9, 1939, ch. 615, 53 Stat. 1275, as amended, which is classified generally to chapter 37 (§ 1551 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1551 of Title 7 and Tables.