

container, or to both, at the time of its sale to the ultimate purchaser or whether such notice shall be given to the prospective user in some other manner, (2) the form of the notice, and (3) the methods and units of measurement to be used. Section 4905(c)(2) of this title shall apply to the prescribing of any regulation under this section.

**(c) State regulation of product labeling**

This section does not prevent any State or political subdivision thereof from regulating product labeling or information respecting products in any way not in conflict with regulations prescribed by the Administrator under this section.

(Pub. L. 92-574, § 8, Oct. 27, 1972, 86 Stat. 1241.)

**§ 4908. Imports**

The Secretary of the Treasury shall, in consultation with the Administrator, issue regulations to carry out the provisions of this chapter with respect to new products imported or offered for importation.

(Pub. L. 92-574, § 9, Oct. 27, 1972, 86 Stat. 1242.)

**§ 4909. Prohibited acts**

(a) Except as otherwise provided in subsection (b) of this section, the following acts or the causing thereof are prohibited:

(1) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 4905 of this title which is applicable to such product, except in conformity with such regulation.

(2)(A) The removal or rendering inoperative by any person, other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any product in compliance with regulations under section 4905 of this title, prior to its sale or delivery to the ultimate purchaser or while it is in use, or (B) the use of a product after such device or element of design has been removed or rendered inoperative by any person.

(3) In the case of a manufacturer, to distribute in commerce any new product manufactured after the effective date of a regulation prescribed under section 4907(b) of this title (requiring information respecting noise) which is applicable to such product, except in conformity with such regulation.

(4) The removal by any person of any notice affixed to a product or container pursuant to regulations prescribed under section 4907(b) of this title, prior to sale of the product to the ultimate purchaser.

(5) The importation into the United States by any person of any new product in violation of a regulation prescribed under section 4908 of this title which is applicable to such product.

(6) The failure or refusal by any person to comply with any requirement of section 4910(d) or 4912(a) of this title or regulations prescribed under section 4912(a), 4916, or 4917 of this title.

(b)(1) For the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security, the Adminis-

trator may exempt for a specified period of time any product, or class thereof, from paragraphs (1), (2), (3), and (5) of subsection (a) of this section, upon such terms and conditions as he may find necessary to protect the public health or welfare.

(2) Paragraphs (1), (2), (3), and (4) of subsection (a) of this section shall not apply with respect to any product which is manufactured solely for use outside any State and which (and the container of which) is labeled or otherwise marked to show that it is manufactured solely for use outside any State; except that such paragraphs shall apply to such product if it is in fact distributed in commerce for use in any State.

(Pub. L. 92-574, § 10, Oct. 27, 1972, 86 Stat. 1242.)

**§ 4910. Enforcement**

**(a) Criminal penalties**

(1) Any person who willfully or knowingly violates paragraph (1), (3), (5), or (6) of subsection (a) of section 4909 of this title shall be punished by a fine of not more than \$25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this subsection, punishment shall be by a fine of not more than \$50,000 per day of violation, or by imprisonment for not more than two years, or by both.

(2) Any person who violates paragraph (1), (3), (5), or (6) of subsection (a) of section 4909 of this title shall be subject to a civil penalty not to exceed \$10,000 per day of such violation.

**(b) Separate violations**

For the purpose of this section, each day of violation of any paragraph of section 4909(a) of this title shall constitute a separate violation of that section.

**(c) Actions to restrain violations**

The district courts of the United States shall have jurisdiction of actions brought by and in the name of the United States to restrain any violations of section 4909(a) of this title.

**(d) Orders issued to protect public health and welfare; notice; opportunity for hearing**

(1) Whenever any person is in violation of section 4909(a) of this title, the Administrator may issue an order specifying such relief as he determines is necessary to protect the public health and welfare.

(2) Any order under this subsection shall be issued only after notice and opportunity for a hearing in accordance with section 554 of title 5.

**(e) "Person" defined**

The term "person," as used in this section, does not include a department, agency, or instrumentality of the United States.

(Pub. L. 92-574, § 11, Oct. 27, 1972, 86 Stat. 1242; Pub. L. 95-609, § 4, Nov. 8, 1978, 92 Stat. 3081.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-609 redesignated existing provisions as par. (1) and added par. (2).

**§ 4911. Citizen suits**

**(a) Authority to commence suits**

Except as provided in subsection (b) of this section, any person (other than the United