

issued under this section, which violation also constitutes a violation of this chapter, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(Pub. L. 86-613, §8, July 12, 1960, 74 Stat. 378.)

TRANSFER OF FUNCTIONS

Functions of Secretary of Health, Education, and Welfare under this chapter transferred to Consumer Product Safety Commission, see section 2079 of this title.

§ 1268. Proceedings in name of United States; subpoenas

All criminal proceedings and all libel or injunction proceedings for the enforcement, or to restrain violations, of this chapter shall be by and in the name of the United States. Subpoenas for witnesses who are required to attend a court of the United States in any district may run into any other district in any such proceeding.

(Pub. L. 86-613, §9, July 12, 1960, 74 Stat. 378.)

TRANSFER OF FUNCTIONS

Functions of Secretary of Health, Education, and Welfare under this chapter transferred to Consumer Product Safety Commission, see section 2079 of this title.

§ 1269. Regulations

(a) Authority

The authority to promulgate regulations for the efficient enforcement of this chapter, except as otherwise provided in this section, is vested in the Commission.

(b) Joint regulations

The Secretary of the Treasury and the Commission shall jointly prescribe regulations for the efficient enforcement of the provisions of section 1273 of this title, except as otherwise provided therein. Such regulations shall be promulgated in such manner and take effect at such time, after due notice, as the Commission shall determine.

(Pub. L. 86-613, §10, July 12, 1960, 74 Stat. 378; Pub. L. 110-314, title II, §204(b)(4)(B), (E), Aug. 14, 2008, 122 Stat. 3041, 3042.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-314, §204(b)(4)(B), substituted “Commission” for “Secretary”.

Subsec. (b). Pub. L. 110-314, §204(b)(4)(E), substituted “Commission” for “Secretary of Health, Education, and Welfare” in two places.

§ 1270. Examinations and investigations

(a) Authority to conduct

The Commission is authorized to conduct examinations, inspections, and investigations for the purposes of this chapter through officers and employees of the Commission or through any health officer or employee of any State, territory, or political subdivision thereof, duly commissioned by the Commission as an officer of the Commission.

(b) Inspection; notice; samples

For purposes of enforcement of this chapter, officers or employees duly designated by the Commission, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment in which hazardous substances are manufactured, processed, packed, or held for introduction into interstate commerce or are held after such introduction, or to enter any vehicle being used to transport or hold such hazardous substances in interstate commerce; (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle, and all pertinent equipment, finished and unfinished materials, and labeling therein; and (3) to obtain samples of such materials or packages thereof, or of such labeling. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

(c) Receipt for sample; results of analysis

If the officer or employee obtains any sample, prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained. If an analysis is made of such sample, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

(Pub. L. 86-613, §11, July 12, 1960, 74 Stat. 378; Pub. L. 110-314, title II, §204(b)(4)(B), (C), Aug. 14, 2008, 122 Stat. 3041, 3042.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-314, §204(b)(4)(B), (C), substituted “Commission is authorized” for “Secretary is authorized”, “employees of the Commission” for “employees of the Department”, “commissioned by the Commission” for “commissioned by the Secretary”, and “officer of the Commission” for “officer of the Department”.

Subsec. (b). Pub. L. 110-314, §204(b)(4)(B), substituted “Commission” for “Secretary”.

§ 1271. Records of interstate shipment

For the purpose of enforcing the provisions of this chapter, carriers engaged in interstate commerce, and persons receiving hazardous substances in interstate commerce or holding such hazardous substances so received shall, upon the request of an officer or employee duly designated by the Commission, permit such officer or employee, at reasonable times, to have access to and to copy all records showing the movement in interstate commerce of any such hazardous substance, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof; and it shall be unlawful for any such carrier or person to fail to permit such access to and copying of any record so requested when such request is accompanied by a statement in writing specifying the nature or kind of such hazardous substance to which such request relates: *Provided*, That evidence obtained under this section, or any evidence which is directly or indirectly derived from such evi-

dence, shall not be used in a criminal prosecution of the person from whom obtained: *Provided further*, That carriers shall not be subject to the other provisions of this chapter by reason of their receipt, carriage, holding, or delivery of hazardous substances in the usual course of business as carriers.

(Pub. L. 86-613, §12, July 12, 1960, 74 Stat. 379; Pub. L. 91-452, title II, §219, Oct. 15, 1970, 84 Stat. 929; Pub. L. 110-314, title II, §204(b)(4)(B), Aug. 14, 2008, 122 Stat. 3041.)

AMENDMENTS

2008—Pub. L. 110-314 substituted “Commission” for “Secretary”.

1970—Pub. L. 91-452 inserted “, or any evidence which is directly or indirectly derived from such evidence,” after “under this section”.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

§ 1272. Publicity; reports; dissemination of information

(a) Summaries of judgments, decrees, orders

The Commission may cause to be published from time to time reports summarizing any judgments, decrees, or court orders which have been rendered under this chapter, including the nature of the charge and the disposition thereof.

(b) Information as to health dangers and investigations

The Commission may also cause to be disseminated information regarding hazardous substances in situations involving, in the opinion of the Commission, imminent danger to health. Nothing in this section shall be construed to prohibit the Commission from collecting, reporting, and illustrating the results of the investigations of the Commission.

(Pub. L. 86-613, §13, July 12, 1960, 74 Stat. 379; Pub. L. 110-314, title II, §204(b)(4)(B), (C), Aug. 14, 2008, 122 Stat. 3041, 3042.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-314, §204(b)(4)(B), substituted “Commission” for “Secretary”.

Subsec. (b). Pub. L. 110-314, §204(b)(4)(B), (C), substituted “Commission” for “Department” after “investigations of the” and for “Secretary” wherever appearing.

§ 1273. Imports

(a) Delivery of samples to Commission; examination; refusal of admission

The Secretary of the Treasury shall deliver to the Commission, upon its request, samples of hazardous substances which are being imported or offered for import into the United States, giving notice thereof to the owner or consignee, who may appear before the Commission and have the right to introduce testimony. If it appears from the examination of such samples or

otherwise that such hazardous substance is a misbranded hazardous substance or banned hazardous substance or in violation of section 1263(f) of this title, then such hazardous substance shall be refused admission, except as provided in subsection (b) of this section. The Secretary of the Treasury shall cause the destruction of any such hazardous substance refused admission unless such hazardous substance is exported, under regulations prescribed by the Secretary of the Treasury, within ninety days of the date of notice of such refusal or within such additional time as may be permitted pursuant to such regulations.

(b) Disposition of refused articles

Pending decision as to the admission of a hazardous substance being imported or offered for import, the Secretary of the Treasury may authorize delivery of such hazardous substance to the owner or consignee upon the execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury. If it appears to the Commission that the hazardous substance can, by relabeling or other action, be brought into compliance with this chapter, final determination as to admission of such hazardous substance may be deferred and, upon filing of timely written application by the owner or consignee and the execution by him of a bond as provided in the preceding provisions of this subsection, the Secretary¹ may, in accordance with regulations, authorize the applicant to perform such relabeling or other action specified in such authorization (including destruction or export of rejected hazardous substances or portions thereof, as may be specified in the Secretary's² authorization). All such relabeling or other action pursuant to such authorization shall, in accordance with regulations, be under the supervision of an officer or employee of the Commission designated by the Secretary¹, or an officer or employee of the Department of the Treasury designated by the Secretary of the Treasury.

(c) Expenses in connection with refused articles

All expenses (including travel, per diem, or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in subsection (a) of this section and the supervision of the relabeling or other action authorized under the provisions of subsection (b) of this section, the amount of such expenses to be determined in accordance with regulations, and all expenses in connection with the storage, cartage, or labor with respect to any hazardous substance refused admission under subsection (a) of this section, shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any future importations made by such owner or consignee.

(d) Statement of exportation: filing period, information; notification of foreign country; petition for minimum filing period: good cause

Not less than thirty days before any person exports to a foreign country any misbranded haz-

¹ So in original. Probably should be “Commission”.

² So in original. Probably should be “Commission's”.