

fare” 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.

#### AMENDMENTS

1968—Subsec. (b)(3). Pub. L. 90-628 struck out reference to the Act of August 31, 1916, and the Act of May 21, 1928.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-628 effective 60 days after Oct. 22, 1968, see section 3 of Pub. L. 90-628, set out as a note under section 251 of this title.

#### § 1460. Savings provisions

Nothing contained in this chapter shall be construed to repeal, invalidate, or supersede—

(a) the Federal Trade Commission Act [15 U.S.C. 41 et seq.] or any statute defined therein as an antitrust Act;

(b) the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.]; or

(c) the Federal Hazardous Substances Labeling Act [15 U.S.C. 1261 et seq.].

(Pub. L. 89-755, § 11, Nov. 3, 1966, 80 Stat. 1302.)

#### REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in text, is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amend-

ed, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in text, 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 Hazardous Substances Labeling Act, referred to in text, 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.

#### § 1461. Effect upon State law

It is hereby declared that it is the express intent of Congress to supersede any and all laws of the States or political subdivisions thereof insofar as they may now or hereafter provide for the labeling of the net quantity of contents of the package of any consumer commodity covered by this chapter which are less stringent than or require information different from the requirements of section 1453 of this title or regulations promulgated pursuant thereto.

(Pub. L. 89-755, §12, Nov. 3, 1966, 80 Stat. 1302.)

### CHAPTER 39A—SPECIAL PACKAGING OF HOUSEHOLD SUBSTANCES FOR PROTECTION OF CHILDREN

Sec.	
1471.	Definitions.
1472.	Special packaging standards.
1473.	Conventional packages, marketing.
1474.	Regulations for special packaging standards.
1475.	Repealed.
1476.	Preemption of Federal standards.
1477.	Enforcement by State Attorneys General.

#### § 1471. Definitions

For the purpose of this Act—

(1) The term “Commission” means the Consumer Product Safety Commission.

(2) The term “household substance” means any substance which is customarily produced or distributed for sale for consumption or use, or customarily stored, by individuals in or about the household and which is—

(A) a hazardous substance as that term is defined in section 1261(f) of this title;

(B) a food, drug, or cosmetic as those terms are defined in section 321 of title 21; or

(C) a substance intended for use as fuel when stored in a portable container and used in the heating, cooking, or refrigeration system of a house.

(3) The term “package” means the immediate container or wrapping in which any household substance is contained for consumption, use, or storage by individuals in or about the household, and, for purposes of section 1473(a)(2) of this title, also means any outer container or wrapping used in the retail display of any such substance to consumers. Such term does not include—

(A) any shipping container or wrapping used solely for the transportation of any household substance in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof, or

(B) any shipping container or outer wrapping used by retailers to ship or deliver any household substance to consumers unless it is the only such container or wrapping.

(4) The term “special packaging” means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

(5) The term “labeling” means all labels and other written, printed, or graphic matter (A) upon any household substance or its package, or (B) accompanying such substance.

(Pub. L. 91-601, §2, Dec. 30, 1970, 84 Stat. 1670; Pub. L. 92-516, §3(2), Oct. 21, 1972, 86 Stat. 998; Pub. L. 92-573, §30(a), Oct. 27, 1972, 86 Stat. 1231; Pub. L. 94-284, §3(a), May 11, 1976, 90 Stat. 503.)

#### REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 91-601 which enacted this chapter, section 136(z)(2)(i) of Title 7, Agriculture, and sections 343(n), 352(p), and 362(f) of Title 21, Food and Drugs, amended section 1261(p) of this title and section 353(b)(2) of Title 21, and enacted provisions set out as a note under this section. For complete classification of this Act to the Code, see Short Title note below and Tables.

#### AMENDMENTS

1976—Par. (2). Pub. L. 94-284 struck out subpar. (B) which included pesticide as defined in section 136(u) of Title 7 within meaning of “household substance”, and redesignated subpars. (C) and (D) as (B) and (C), respectively.

1972—Par. (2)(B). Pub. L. 92-516 substituted “a pesticide” for “an economic poison”.

#### EFFECTIVE DATE OF 1972 AMENDMENT

For effective date of amendment by Pub. L. 92-516, see section 4 of Pub. L. 92-516, set out as an Effective Date note under section 136 of Title 7, Agriculture.

#### EFFECTIVE DATE

Pub. L. 91-601, §8, formerly §9, Dec. 30, 1970, 84 Stat. 1674, as amended by Pub. L. 92-573, §30(a), Oct. 27, 1972, 86 Stat. 1231, and renumbered by Pub. L. 97-35, title XII, §1205(c), Aug. 13, 1981, 95 Stat. 716, provided that: “This Act [see Short Title note set out below] shall take effect on the date of its enactment [Dec. 30, 1970]. Each regulation establishing a special packaging standard shall specify the date such standard is to take effect which date shall not be sooner than one hundred and eighty days or later than one year from the date such regulation is final, unless the Commission, for good cause found, determines that an earlier effective date is in the public interest and publishes in the Federal Register his reason for such finding, in which case such earlier date shall apply. No such standard shall be effective as to household substances subject to this Act packaged prior to the effective date of such final regulation.”

#### SHORT TITLE

Pub. L. 91-601, §1, Dec. 30, 1970, 84 Stat. 1670, provided that: “This Act [enacting this chapter, section 135(z)(2)(i) of Title 7, Agriculture, and sections 343(n), 352(p), and 362(f) of Title 21, Food and Drugs, amending section 1261(p) of this title and section 353(b)(2) of Title 21, and enacting provisions set out as a note under this section] may be cited as the ‘Poison Prevention Packaging Act of 1970.’”