

Subsec. (i)(2). Pub. L. 114-94, §24109(c)(3), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “This subsection does not prohibit a dealer from offering for sale or lease the vehicle or equipment.”

Subsec. (i)(3). Pub. L. 114-94, §24109(c)(4), added par. (3).

2012—Subsec. (a)(1)(B). Pub. L. 112-141, §31311(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “if replacement equipment, by repairing the equipment or replacing the equipment with identical or reasonably equivalent equipment.”

Subsec. (i). Pub. L. 112-141, §31311(2), inserted “of New Vehicles or Equipment” after “Lease” in heading.

Subsec. (j). Pub. L. 112-141, §31311(3), which directed substitution of “REPLACEMENT” for “REPLACED” in heading, was executed by substituting “REPLACEMENT” for “REPLACED”, to reflect the probable intent of Congress.

2000—Subsec. (c)(3). Pub. L. 106-414, §6(a), added par. (3).

Subsec. (d). Pub. L. 106-414, §7, inserted at end “In the case of a remedy program involving the replacement of tires, the manufacturer shall include a plan addressing how to prevent, to the extent reasonably within the control of the manufacturer, replaced tires from being resold for installation on a motor vehicle, and how to limit, to the extent reasonably within the control of the manufacturer, the disposal of replaced tires in landfills, particularly through shredding, crumbling, recycling, recovery, and other alternative beneficial non-vehicular uses. The manufacturer shall include information about the implementation of such plan with each quarterly report to the Secretary regarding the progress of any notification or remedy campaigns.”

Pub. L. 106-414, §6(b), inserted at end “A manufacturer’s remedy program shall include a plan for reimbursing an owner or purchaser who incurred the cost of the remedy within a reasonable time in advance of the manufacturer’s notification under subsection (b) or (c) of section 30118. The Secretary may prescribe regulations establishing what constitutes a reasonable time for purposes of the preceding sentence and other reasonable conditions for the reimbursement plan.”

Subsec. (g)(1). Pub. L. 106-414, §4, substituted “10 calendar years” for “8 calendar years” and “5 calendar years” for “3 calendar years”.

Subsec. (j). Pub. L. 106-414, §8, added subsec. (j).

1998—Subsec. (i)(1). Pub. L. 105-178 inserted “(including retailers of motor vehicle equipment)” after “provided to a dealer” in introductory provisions.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by section 24109(c) of Pub. L. 114-94 effective on the date that is 180 days after Dec. 4, 2015, see section 24109(k) of Pub. L. 114-94, set out as a note under section 30102 of this title.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§ 30120A. Recall obligations and bankruptcy of a manufacturer

A manufacturer’s filing of a petition in bankruptcy under chapter 7 or chapter 11 of title 11 does not negate the manufacturer’s duty to comply with section 30112 or sections 30115 through 30120 of this title. In any bankruptcy proceeding, the manufacturer’s obligations under such sections shall be treated as a claim of the United States Government against such manufacturer, subject to subchapter II of chapter 37 of title 31, United States Code, and given priority pursuant to section 3713(a)(1)(A) of such chapter, notwith-

standing section 3713(a)(2), to ensure that consumers are adequately protected from any safety defect or noncompliance determined to exist in the manufacturer’s products. This section shall apply equally to actions of a manufacturer taken before or after the filing of a petition in bankruptcy.

(Added Pub. L. 112-141, div. C, title I, §31312(a), July 6, 2012, 126 Stat. 772; amended Pub. L. 114-94, div. B, title XXIV, §24106, Dec. 4, 2015, 129 Stat. 1705.)

AMENDMENTS

2015—Pub. L. 114-94 substituted “chapter 7 or chapter 11 of title 11” for “chapter 11 of title 11”.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§ 30121. Provisional notification and civil actions to enforce

(a) PROVISIONAL NOTIFICATION.—(1) The Secretary of Transportation may order a manufacturer to issue a provisional notification if a civil action about an order issued under section 30118(b) of this title has been brought under section 30163 of this title. The provisional notification shall contain—

(A) a statement that the Secretary has decided that a defect related to motor vehicle safety or noncompliance with a motor vehicle safety standard prescribed under this chapter exists and that the manufacturer is contesting the decision in a civil action in a United States district court;

(B) a clear description of the Secretary’s stated basis for the decision;

(C) the Secretary’s evaluation of the risk to motor vehicle safety reasonably related to the defect or noncompliance;

(D) measures the Secretary considers necessary to avoid an unreasonable risk to motor vehicle safety resulting from the defect or noncompliance;

(E) a statement that the manufacturer will remedy the defect or noncompliance without charge under section 30120 of this title, but that the requirement to remedy without charge is conditioned on the outcome of the civil action; and

(F) other information the Secretary prescribes by regulation or includes in the order requiring the notice.

(2) A notification under this subsection does not relieve a manufacturer of liability for not giving notification required by an order under section 30118(b) of this title.

(b) CIVIL ACTIONS FOR NOT NOTIFYING.—(1) A manufacturer that does not notify owners and purchasers under section 30119(c) and (d) of this title is liable to the United States Government for a civil penalty, unless the manufacturer prevails in a civil action referred to in subsection (a) of this section or the court in that action enjoins enforcement of the order. Enforcement may be enjoined only if the court decides that the failure to notify is reasonable and that the