

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
30163(b)	15:1424(b) (related to injunctions).	Sept. 9, 1966, Pub. L. 89-563, § 204(b) (related to injunctions), 80 Stat. 729.
30163(c)	15:1399(a) (2d, last sentences).	
30163(d)	15:1399(c).	
30163(d)	15:1399(b).	Sept. 9, 1966, Pub. L. 89-563, § 110(b), (d) (related to § 110), 80 Stat. 723, 724.
30163(e)	15:1399(d) (related to 15:1399).	

In subsection (a), before clause (1), the text of 15:1424(b) (related to injunctions) is omitted because of the restatement. The words “The Attorney General may bring a civil action” are substituted for “upon petition by . . . the Attorney General” for consistency. The words “the appropriate United States attorney or . . . on behalf of the United States” are omitted as surplus. The words “for cause shown and subject to the provisions of rule 65(a) and (b) of the Federal Rules of Civil Procedure” are omitted as surplus. In clause (1), the words “a regulation prescribed or order issued under this chapter” are substituted for “(or rules, regulations or orders thereunder)” for clarity and consistency and because “rule” and “regulation” are synonymous. In clause (2), before subclause (A), the words “that the vehicle or equipment” are added for clarity. The words “of such vehicle” and “purposes” are omitted as surplus. In subclause (B), the words “does not comply with” are substituted for “is determined . . . not to conform to” for clarity and consistency.

In subsections (b), (c), and (e), the word “civil” is added because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (b), the words “comply with the applicable motor vehicle safety standard prescribed under this chapter” are substituted for “achieve compliance”, and the words “a court” are added, for clarity.

In subsection (c), the words “any act or transaction constituting the” are omitted as surplus. The word “resides” is substituted for “is an inhabitant” for consistency in the revised title. The words “the action” are substituted for “such cases” for consistency.

In subsection (d), the words “the defendant may demand a jury trial” are substituted for “trial shall be by the court, or, upon demand of the accused, by a jury” to eliminate unnecessary words and for consistency in the revised title.

In subsection (e), the words “who are required to attend a United States district court” are omitted as surplus. The words “be served in” are substituted for “run into” for clarity.

§ 30164. Service of process; conditions on importation of vehicles and equipment

(a) DESIGNATING AGENTS.—A manufacturer offering a motor vehicle or motor vehicle equipment for import shall designate an agent on whom service of notices and process in administrative and judicial proceedings may be made. The designation shall be in writing and filed with the Secretary of Transportation. The designation may be changed in the same way as originally made.

(b) SERVICE.—An agent may be served at the agent's office or usual place of residence. Service on the agent is deemed to be service on the manufacturer. If a manufacturer does not designate an agent, service may be made by posting the notice or process in the office of the Secretary.

(c) IDENTIFYING INFORMATION.—A manufacturer (including an importer) offering a motor vehicle or motor vehicle equipment for import

shall provide, upon request, such information that is necessary to identify and track the products as the Secretary, by rule, may specify, including—

(1) the product by name and the manufacturer's address; and

(2) each retailer or distributor to which the manufacturer directly supplied motor vehicles or motor vehicle equipment over which the Secretary has jurisdiction under this chapter.

(d) REGULATIONS ON THE IMPORT OF A MOTOR VEHICLE.—The Secretary may issue regulations that—

(1) condition the import of a motor vehicle or motor vehicle equipment on the manufacturer's compliance with—

(A) the requirements under this section;

(B) paragraph (1) or (3) of section 30112(a) with respect to such motor vehicle or motor vehicle equipment;

(C) the provision of reports and records required to be maintained with respect to such motor vehicle or motor vehicle equipment under this chapter;

(D) a request for inspection of premises, vehicle, or equipment under section 30166;

(E) an order or voluntary agreement to remedy such vehicle or equipment; or

(F) any rules implementing the requirements described in this subsection;

(2) provide an opportunity for the manufacturer to present information before the Secretary's determination as to whether the manufacturer's imports should be restricted; and

(3) establish a process by which a manufacturer may petition for reinstatement of its ability to import motor vehicles or motor vehicle equipment.

(e) EXCEPTION.—The requirements of subsections (c) and (d) shall not apply to original manufacturers (or wholly owned subsidiaries) of motor vehicles that, prior to the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012—

(1) have imported motor vehicles into the United States that are certified to comply with all applicable Federal motor vehicle safety standards;

(2) have submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and

(3) if applicable, have identified a current agent for service of process in accordance with part 551 of title 49, Code of Federal Regulations.

(f) RULEMAKING.—In issuing regulations under this section, the Secretary shall seek to reduce duplicative requirements by coordinating with the Department of Homeland Security.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 968; Pub. L. 112-141, div. C, title I, §31208(2), July 6, 2012, 126 Stat. 761.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
30164(a)	15:1399(e) (1st sentence).	Sept. 9, 1966, Pub. L. 89-563, § 110(e), 80 Stat. 724.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
30164(b)	15:1399(e) (last sentence).	

In subsection (a), the words “A manufacturer offering . . . shall” are substituted for “It shall be the duty of every manufacturer offering . . . to” to eliminate unnecessary words. The words “into the United States”, “all . . . orders, decisions and requirements”, and “for and on behalf of said manufacturer” are omitted as surplus. The words “The designation may be changed in the same way as originally made” are substituted for “which designation may from time to time be changed by like writing, similarly filed” for clarity.

In subsection (b), the words “An agent may be served” are substituted for “Service of all administrative and judicial processes, notices, orders, decisions and requirements may be made upon said manufacturer by service upon such designated agent” to eliminate unnecessary words. The words “Service on the agent is deemed to be service on the manufacturer” are substituted for “with like effects as if made personally upon said manufacturer”, and the words “If a manufacturer does not designate an agent” are substituted for “and in default of such designation of such agent”, for clarity. The words “of process, notice, order, requirement or decision in any proceeding before the Secretary or in any judicial proceeding for enforcement of this subchapter or any standards prescribed pursuant to this subchapter” and “order, requirement or decision” are omitted as surplus.

REFERENCES IN TEXT

The date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, referred to in subsec. (e), is the date of enactment of title I of div. C of Pub. L. 112-141, which was approved July 6, 2012.

AMENDMENTS

2012—Pub. L. 112-141, §31208(2)(A), inserted “; conditions on importation of vehicles and equipment” after “process” in section catchline.

Subsecs. (c) to (f). Pub. L. 112-141, §31208(2)(B), added subsecs. (c) to (f).

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.

§ 30165. Civil penalty

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—A person that violates any of section 30112, 30115, 30117 through 30122, 30123(a), 30125(c), 30127, 30141 through 30147, or 31137, or a regulation prescribed thereunder, is liable to the United States Government for a civil penalty of not more than \$21,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by any of those sections. The maximum penalty under this subsection for a related series of violations is \$105,000,000.

(2) SCHOOL BUSES.—

(A) IN GENERAL.—Notwithstanding paragraph (1), the maximum amount of a civil penalty under this paragraph shall be \$10,000 in the case of—

(i) the manufacture, sale, offer for sale, introduction or delivery for introduction

into interstate commerce, or importation of a school bus or school bus equipment (as those terms are defined in section 30125(a) of this title) in violation of section 30112(a)(1) of this title; or

(ii) a violation of section 30112(a)(2) of this title.

(B) RELATED SERIES OF VIOLATIONS.—A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by that section. The maximum penalty under this paragraph for a related series of violations is \$15,000,000.

(3) SECTION 30166.—Except as provided in paragraph (4), a person who violates section 30166 or a regulation prescribed under that section is liable to the United States Government for a civil penalty for failing or refusing to allow or perform an act required under that section or regulation. The maximum penalty under this paragraph is \$21,000 per violation per day. The maximum penalty under this paragraph for a related series of daily violations is \$105,000,000.

(4) FALSE OR MISLEADING REPORTS.—A person who knowingly and willfully submits materially false or misleading information to the Secretary, after certifying the same information as accurate under the certification process established pursuant to section 30166(o), shall be subject to a civil penalty of not more than \$5,000 per day. The maximum penalty under this paragraph for a related series of daily violations is \$1,000,000.

(b) COMPROMISE AND SETOFF.—(1) The Secretary of Transportation may compromise the amount of a civil penalty imposed under this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(c) RELEVANT FACTORS IN DETERMINING AMOUNT OF PENALTY OR COMPROMISE.—In determining the amount of a civil penalty or compromise under this section, the Secretary of Transportation shall consider the nature, circumstances, extent, and gravity of the violation. Such determination shall include, as appropriate—

- (1) the nature of the defect or noncompliance;
- (2) knowledge by the person charged of its obligations under this chapter;
- (3) the severity of the risk of injury;
- (4) the occurrence or absence of injury;
- (5) the number of motor vehicles or items of motor vehicle equipment distributed with the defect or noncompliance;
- (6) actions taken by the person charged to identify, investigate, or mitigate the condition;
- (7) the appropriateness of such penalty in relation to the size of the business of the person charged, including the potential for undue adverse economic impacts;
- (8) whether the person has been assessed civil penalties under this section during the most recent 5 years; and