

Department of Justice pursuant to subsection (c) of this section) which has not passed into the control of any court, grand jury, or agency through the introduction thereof into the record of such case or proceeding.

(f) Appointment of successor custodians

In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced under any demand issued pursuant to this chapter, or the official relief of such custodian from responsibility for the custody and control of such material, answers, or transcripts, the Assistant Attorney General in charge of the Antitrust Division shall promptly (1) designate another antitrust investigator to serve as custodian of such material, answers, or transcripts, and (2) transmit in writing to the person who produced such material, answers, or testimony notice as to the identity and address of the successor so designated. Any successor designated under this subsection shall have with regard to such material, answers, or transcripts all duties and responsibilities imposed by this chapter upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred prior to his designation.

(Pub. L. 87-664, §4, Sept. 19, 1962, 76 Stat. 549; Pub. L. 94-435, title I, §103, Sept. 30, 1976, 90 Stat. 1387; Pub. L. 96-349, §§2(b)(4), 7(a)(2), Sept. 12, 1980, 94 Stat. 1155, 1158.)

REFERENCES IN TEXT

Section 1314(d) of this title, referred to in subsec. (b), was redesignated section 1314(e) of this title by Pub. L. 96-349.

This chapter, referred to in subsecs. (c), (e), and (f), was in the original "this Act", meaning Pub. L. 87-664, known as the Antitrust Civil Process Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1311 of this title and Tables.

AMENDMENTS

1980—Subsec. (c)(2). Pub. L. 96-349, §7(a)(2), provided for use of copies of documentary material by agents of the Department of Justice, including use by such agents in connection with the taking of oral testimony.

Subsec. (c)(3). Pub. L. 96-349, §2(b)(4), 7(a)(2), inserted ", and, in the case of any product of discovery produced pursuant to an express demand for such material, of the person from whom the discovery was obtained" before ", by any individual" and reference to "agent" of the Department of Justice.

1976—Subsec. (a). Pub. L. 94-435 substituted "custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this chapter" for "antitrust documentary custodian".

Subsec. (b). Pub. L. 94-435 struck out "issued" after "any demand", inserted "for the production of documentary material" before "has been duly served", and substituted "copies for originals of all or any part of such material" for "for copies of all or any part of such material originals thereof".

Subsec. (c). Pub. L. 94-435, among other changes, inserted provisions relating to answers to interrogatories and transcripts of oral testimony and, in par. (1), substituted "of documentary material" for "thereof", in par. (2), inserted "by any duly authorized official or employee of the Department of Justice" after "for official use", and inserted a provision relating to the use

of documentary material, answers to interrogatories, and transcripts in connection with the taking of oral testimony, in par. (3), inserted "Except as otherwise provided in this section" before "while in the possession", substituted "no documentary material" for "no material", "official" for "officer, member", and inserted provision relating to disclosure of information to Congress or authorized committees or subcommittees thereof, in par. (4), added cl. (B).

Subsec. (d). Pub. L. 94-435, among other changes, in par. (1), inserted provisions relating to answers to interrogatories and transcripts of oral testimony, substituted a provision that an attorney designated under this section be from the Department of Justice for a provision that a designated attorney be appearing on behalf of the United States, provided that such an attorney can make an appearance under this section before a Federal administrative or regulatory agency in addition to a court or grand jury, and added par. (2).

Subsec. (e). Pub. L. 94-435, among other changes, inserted provisions of subsec. (f) relating to the institution of a case or proceeding within a reasonable time after examination and analysis of any evidence assembled during the course of an investigation, and relating to written demand for the return of such material, and, in addition, provided that copies furnished the custodian pursuant to subsec. (b) of this section need not be returned by the custodian.

Subsecs. (f), (g). Pub. L. 94-435 redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e)(2).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-435 effective Sept. 30, 1976, see section 106 of Pub. L. 94-435, set out as a note under section 1311 of this title.

§ 1314. Judicial proceedings

(a) Petition for enforcement; venue

Whenever any person fails to comply with any civil investigative demand duly served upon him under section 1312 of this title or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the Attorney General, through such officers or attorneys as he may designate, may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this chapter.

(b) Petition for order modifying or setting aside demand; time for petition; suspension of time allowed for compliance with demand during pendency of petition; grounds for relief

(1) Within twenty days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any antitrust investigator named in the demand, such person may file and serve upon such antitrust investigator, and in the case of any express demand for any product of discovery upon the person from whom such discovery was obtained, a petition for an order modifying or setting aside such demand—

(A) in the district court of the United States for the judicial district within which such person resides, is found, or transacts business; or

(B) in the case of a petition addressed to an express demand for any product of discovery,

only in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending.

(2) The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court, except that such person shall comply with any portions of the demand not sought to be modified or set aside. Such petition shall specify each ground upon which the petitioner relies in seeking such relief and may be based upon any failure of such demand to comply with the provisions of this chapter, or upon any constitutional or other legal right or privilege of such person.

(c) Petition for order modifying or setting aside demand for production of product of discovery; grounds for relief; stay of compliance with demand and of running of time allowed for compliance with demand

Whenever any such demand is an express demand for any product of discovery, the person from whom such discovery was obtained may file, at any time prior to compliance with such express demand, in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending, and serve upon any antitrust investigator named in the demand and upon the recipient of the demand, a petition for an order of such court modifying or setting aside those portions of the demand requiring production of any such product of discovery. Such petition shall specify each ground upon which the petitioner relies in seeking such relief and may be based upon any failure of such portions of the demand to comply with the provisions of this chapter, or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of such petition, the court may stay, as it deems proper, compliance with the demand and the running of the time allowed for compliance with the demand.

(d) Petition for order requiring performance by custodian of duties; venue

At any time during which any custodian is in custody or control of any documentary material or answers to interrogatories delivered, or transcripts of oral testimony given by any person in compliance with any such demand, such person, and, in the case of an express demand for any product of discovery, the person from whom such discovery was obtained, may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this chapter.

(e) Jurisdiction; appeal; contempts

Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this chapter. Any final order so entered shall be subject to appeal pursuant to section 1291 of title 28. Any disob-

edience of any final order entered under this section by any court shall be punished as a contempt thereof.

(f) Applicability of Federal Rules of Civil Procedure

To the extent that such rules may have application and are not inconsistent with the provisions of this chapter, the Federal Rules of Civil Procedure shall apply to any petition under this chapter.

(g) Disclosure exemption

Any documentary material, answers to written interrogatories, or transcripts of oral testimony provided pursuant to any demand issued under this chapter shall be exempt from disclosure under section 552 of title 5.

(Pub. L. 87-664, § 5, Sept. 19, 1962, 76 Stat. 551; Pub. L. 94-435, title I, § 104, Sept. 30, 1976, 90 Stat. 1389; Pub. L. 96-349, § 2(b)(5), Sept. 12, 1980, 94 Stat. 1155.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87-664, known as the Antitrust Civil Process Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1311 of this title and Tables.

The Federal Rules of Civil Procedure, referred to in subsec. (f), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1980—Subsec. (b). Pub. L. 96-349, § 2(b)(5)(A), designated existing provisions as par. (1), provided for filing and serving a petition for an order modifying or setting aside a demand in the case of an express demand for any product of discovery upon the person from whom the discovery was obtained, incorporated existing provision in cl. (A), added cl. (B), and designated existing provisions as par. (2).

Subsecs. (c), (d). Pub. L. 96-349, § 2(b)(5)(B) to (D), added subsec. (c), redesignated former subsec. (c) as (d) and authorized petition, in the case of an express demand for any product of discovery, by the person from whom the discovery was obtained, for an order requiring performance by the custodian of his duties. Former subsec. (d) redesignated (e).

Subsecs. (e) to (g). Pub. L. 96-349, § 2(b)(5)(B), redesignated former subsecs. (d) to (f) as (e) to (g), respectively.

1976—Subsec. (a). Pub. L. 94-435, § 104(a), struck out provision which permitted a petition for an enforcement order to be filed in the judicial district where a person who had failed to comply with a demand and who transacted business in one or more districts, maintained his principal place of business, or in such other district, in which such person transacted business, as was agreed upon by the parties to the petition.

Subsec. (b). Pub. L. 94-435, § 104(b), (c), inserted "or within such period exceeding twenty days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any antitrust investigator named in the demand," after "whichever period is shorter", substituted "antitrust investigator" for "custodian" before "a petition for an order", and inserted proviso that petitioner should comply with portions of a contested demand which are not being challenged.

Subsec. (c). Pub. L. 94-435, § 104(d), substituted "or answers to interrogatories delivered, or transcripts of oral testimony given" for "delivered".

Subsec. (f). Pub. L. 94-435, § 104(e), added subsec. (f).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-435 effective Sept. 30, 1976, see section 106 of Pub. L. 94-435, set out as a note under section 1311 of this title.

CHAPTER 35—SEAT BELT REGULATION**§§ 1321 to 1323. Repealed. Pub. L. 89-563, title I, § 117(a), Sept. 9, 1966, 80 Stat. 727**

Sections, Pub. L. 88-201, §§1-3, Dec. 13, 1963, 77 Stat. 361, provided for the promulgation of standards for seat belts in motor vehicles and set the penalty for the unlawful sale, importation, or introduction into commerce of seat belts not meeting the published standards. For savings provision, see section 117(b) to (e) of Pub. L. 89-563, formerly set out as a note under section 1301 of this title.

CHAPTER 36—CIGARETTE LABELING AND ADVERTISING

Sec.	
1331.	Congressional declaration of policy and purpose.
1332.	Definitions.
1333.	Labeling.
1334.	Preemption.
1335.	Unlawful advertisements on medium of electronic communication.
1335a.	List of cigarette ingredients; annual submission to Secretary; transmittal to Congress; confidentiality.
1336.	Authority of Federal Trade Commission; unfair or deceptive acts or practices.
1337.	Omitted.
1338.	Criminal penalty.
1339.	Injunction proceedings.
1340.	Cigarettes for export.
1341.	Smoking, research, education and information.

§ 1331. Congressional declaration of policy and purpose

It is the policy of the Congress, and the purpose of this chapter, to establish a comprehensive Federal Program to deal with cigarette labeling and advertising with respect to any relationship between smoking and health, where—

(1) the public may be adequately informed about any adverse health effects of cigarette smoking by inclusion of warning notices on each package of cigarettes and in each advertisement of cigarettes; and

(2) commerce and the national economy may be (A) protected to the maximum extent consistent with this declared policy and (B) not impeded by diverse, nonuniform, and confusing cigarette labeling and advertising regulations with respect to any relationship between smoking and health.

(Pub. L. 89-92, § 2, July 27, 1965, 79 Stat. 282; Pub. L. 91-222, § 2, Apr. 1, 1970, 84 Stat. 87; Pub. L. 98-474, § 6(a), Oct. 12, 1984, 98 Stat. 2204.)

AMENDMENTS

1984—Par. (1). Pub. L. 98-474 substituted “about any adverse health effects of cigarette smoking by inclusion of warning notices on each package of cigarettes and in each advertisement;” for “that cigarette smoking may be hazardous to health by inclusion of a warning to that effect on each package of cigarettes;”.

1970—Pub. L. 91-222 reenacted section without change.

EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91-222, § 3, Apr. 1, 1970, 84 Stat. 90, provided in part that: “All other provisions of the amendment made by this Act [enacting section 1340 of this title, amending this section and sections 1332 and 1335 to 1339 of this title, and enacting provisions set out as notes under this section] except where otherwise specified shall take effect on January 1, 1970.”

EFFECTIVE DATE

Pub. L. 89-92, § 12, formerly § 11, July 27, 1965, 79 Stat. 284, as renumbered by Pub. L. 98-474, § 5(a), Oct. 12, 1984, 98 Stat. 2203, provided that: “This Act [this chapter] shall take effect on January 1, 1966.”

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-474, § 1, Oct. 12, 1984, 98 Stat. 2200, provided that: “This Act [enacting sections 1335a and 1341 of this title, amending this section and sections 1332, 1333, 1336, and 1337 of this title, and enacting provisions set out as notes under this section and sections 1333 and 1335a of this title] may be cited as the ‘Comprehensive Smoking Education Act.’”

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93-109, § 1, Sept. 21, 1973, 87 Stat. 352, provided: “That this Act [amending sections 1332 and 1335 of this title] may be cited as the ‘Little Cigar Act of 1973.’”

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91-222, § 1, Apr. 1, 1970, 84 Stat. 87, provided: “That this Act [enacting section 1340 of this title, amending this section and sections 1332 to 1339 of this title, and enacting provisions set out as notes under this section and sections 1333 and 1334 of this title] may be cited as the ‘Public Health Cigarette Smoking Act of 1969.’”

SHORT TITLE

Pub. L. 89-92, § 1, July 27, 1965, 79 Stat. 282, provided: “This Act [enacting this chapter] may be cited as the ‘Federal Cigarette Labeling and Advertising Act.’”

SEPARABILITY

Pub. L. 89-92, § 13, formerly § 12, as added by Pub. L. 91-222, § 2, Apr. 1, 1970, 84 Stat. 90, and renumbered Pub. L. 98-474, § 5(a), Oct. 12, 1984, 98 Stat. 2203, provided that: “If any provision of this Act [this chapter] or the application thereof to any person or circumstances is held invalid, the other provisions of this Act [this chapter] and the application of such provisions to other persons or circumstances shall not be affected thereby.”

CONGRESSIONAL STATEMENT OF PURPOSE

Pub. L. 98-474, § 2, Oct. 12, 1984, 98 Stat. 2200, provided that: “It is the purpose of this Act [see Short Title of 1984 Amendment note above] to provide a new strategy for making Americans more aware of any adverse health effects of smoking, to assure the timely and widespread dissemination of research findings and to enable individuals to make informed decisions about smoking.”

§ 1332. Definitions

As used in this chapter—

(1) The term “cigarette” means—

(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A).