

consumer product safety rule, or any other rule or order issued by the Commission may sue any person who knowingly (including willfully) violated any such rule or order in any district court of the United States in the district in which the defendant resides or is found or has an agent, shall recover damages sustained and may, if the court determines it to be in the interest of justice, recover the costs of suit, including reasonable attorneys' fees (determined in accordance with section 2060(f) of this title) and reasonable expert witnesses' fees: *Provided*, That the matter in controversy exceeds the sum or value of \$10,000, exclusive of interest and cost, unless such action is brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity.

**(b) Denial and imposition of costs**

Except when express provision is made in a statute of the United States, in any case in which the plaintiff is finally adjudged to be entitled to recover less than the sum or value of \$10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interests and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.

**(c) Remedies available**

The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by common law or under Federal or State law.

(Pub. L. 92-573, §23, Oct. 27, 1972, 86 Stat. 1226; Pub. L. 94-284, §10(c), May 11, 1976, 90 Stat. 507; Pub. L. 96-486, §3, Dec. 1, 1980, 94 Stat. 2369; Pub. L. 97-35, title XII, §1211(h)(3)(B), Aug. 13, 1981, 95 Stat. 723.)

AMENDMENTS

1981—Subsec. (a). Pub. L. 97-35 substituted "section 2060(f) of this title" for "section 2059(e)(4) of this title".

1980—Subsec. (a). Pub. L. 96-486, §3(a), struck out provision subjecting actions under this section to section 1331 of title 28 as to the amount in controversy and inserted proviso establishing minimum amount in controversy and excepting actions brought against the United States, or agencies, officers, or employees thereof.

Subsecs. (b), (c). Pub. L. 96-486, §3(b), added subsec. (b) and redesignated former subsec. (b) as (c).

1976—Subsec. (a). Pub. L. 94-284 substituted "shall" for "and shall" and provision permitting the court to award costs in the interest of justice for a prior provision which permitted the court to award costs in its discretion.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1215 of Pub. L. 97-35, set out as a note under section 2052 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT; APPLICABILITY

For effective date and applicability of amendment by Pub. L. 96-486, see section 4 of Pub. L. 96-486, set out as an Effective Date of 1980 Amendment note under section 1331 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92-573, set out as a note under section 2051 of this title.

**§ 2073. Additional enforcement of product safety rules and section 2064 orders**

**(a) In general**

Any interested person (including any individual or nonprofit, business, or other entity) may bring an action in any United States district court for the district in which the defendant is found or transacts business to enforce a consumer product safety rule or an order under section 2064 of this title, and to obtain appropriate injunctive relief. Not less than thirty days prior to the commencement of such action, such interested person shall give notice by registered mail to the Commission, to the Attorney General, and to the person against whom such action is directed. Such notice shall state the nature of the alleged violation of any such standard or order, the relief to be requested, and the court in which the action will be brought. No separate suit shall be brought under this section if at the time the suit is brought the same alleged violation is the subject of a pending civil or criminal action by the United States under this chapter. In any action under this section the court may in the interest of justice award the costs of suit, including reasonable attorneys' fees (determined in accordance with section 2060(f) of this title) and reasonable expert witnesses' fees.

**(b) State Attorney General enforcement**

**(1) Right of action**

Except as provided in paragraph (5), the attorney general of a State, or other authorized State officer, alleging a violation of section 2068(a)(1), (2), (5), (6), (7), (9), or (12) of this title that affects or may affect such State or its residents may bring an action on behalf of the residents of the State in any United States district court for the district in which the defendant is found or transacts business to obtain appropriate injunctive relief.

**(2) Initiation of civil action**

**(A) Notice to Commission required in all cases**

A State shall provide written notice to the Commission regarding any civil action under paragraph (1). Except when proceeding under subparagraph (C), the State shall provide the notice at least 30 days before the date on which the State intends to initiate the civil action by filing a complaint.

**(B) Filing of complaint**

A State may initiate the civil action by filing a complaint—

(i) at any time after the date on which the 30-day period ends; or

(ii) earlier than such date if the Commission consents to an earlier initiation of the civil action by the State.

**(C) Actions involving substantial product hazard**

Notwithstanding subparagraph (B), a State may initiate a civil action under paragraph (1) by filing a complaint immediately after notifying the Commission of the State's determination that such immediate action is necessary to protect the residents of the

State from a substantial product hazard (as defined in section 2064(a) of this title).

**(D) Form of notice**

The written notice required by this paragraph may be provided by electronic mail, facsimile machine, or any other means of communication accepted by the Commission.

**(E) Copy of complaint**

A State shall provide a copy of the complaint to the Commission upon filing the complaint or as soon as possible thereafter.

**(3) Intervention by the Commission**

The Commission may intervene in such civil action and upon intervening—

(A) be heard on all matters arising in such civil action; and

(B) file petitions for appeal of a decision in such civil action.

**(4) Construction**

Nothing in this section, section 1264(d) of this title, section 1477 of this title, or section 1194(a) of this title shall be construed—

(A) to prevent the attorney general of a State, or other authorized State officer, from exercising the powers conferred on the attorney general, or other authorized State officer, by the laws of such State; or

(B) to prohibit the attorney general of a State, or other authorized State officer, from proceeding in State or Federal court on the basis of an alleged violation of any civil or criminal statute of that State.

**(5) Limitation**

No separate suit shall be brought under this subsection (other than a suit alleging a violation of paragraph (1) or (2) of section 2068(a) of this title) if, at the time the suit is brought, the same alleged violation is the subject of a pending civil or criminal action by the United States under this chapter.

**(6) Restrictions on private counsel**

If private counsel is retained to assist in any civil action under paragraph (1), the private counsel retained to assist the State may not—

(A) share with participants in other private civil actions that arise out of the same operative facts any information that is—

(i) subject to attorney-client or work product privilege; and

(ii) was obtained during discovery in the action under paragraph (1); or

(B) use any information that is subject to attorney-client or work product privilege that was obtained while assisting the State in the action under paragraph (1) in any other private civil actions that arise out of the same operative facts.

(Pub. L. 92-573, §24, Oct. 27, 1972, 86 Stat. 1226; Pub. L. 94-284, §10(d), May 11, 1976, 90 Stat. 507; Pub. L. 97-35, title XII, §1211(a), (h)(3)(C), Aug. 13, 1981, 95 Stat. 721, 723; Pub. L. 110-314, title II, §218(a), Aug. 14, 2008, 122 Stat. 3060.)

AMENDMENTS

2008—Pub. L. 110-314 substituted “Additional” for “Private” in section catchline, designated existing pro-

visions as subsec. (a), inserted subsec. heading, and added subsec. (b).

1981—Pub. L. 97-35 substituted “Any interested person (including any individual or nonprofit, business, or other entity)” for “Any interested person”, and “section 2060(f) of this title” for “2059(e)(4) of this title”.

1976—Pub. L. 94-284 substituted provision permitting the court to award costs in the interest of justice for the provision which permitted costs to be demanded as part of the complaint and the court to award them to the prevailing party.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1215 of Pub. L. 97-35, set out as a note under section 2052 of this title.

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92-573, set out as a note under section 2051 of this title.

**§ 2074. Private remedies**

**(a) Liability at common law or under State statute not relieved by compliance**

Compliance with consumer product safety rules or other rules or orders under this chapter shall not relieve any person from liability at common law or under State statutory law to any other person.

**(b) Evidence of Commission’s inaction inadmissible in actions relating to consumer products**

The failure of the Commission to take any action or commence a proceeding with respect to the safety of a consumer product shall not be admissible in evidence in litigation at common law or under State statutory law relating to such consumer product.

**(c) Public information**

Subject to sections 2055(a)(2) and 2055(b) of this title but notwithstanding section 2055(a)(1) of this title, (1) any accident or investigation report made under this chapter by an officer or employee of the Commission shall be made available to the public in a manner which will not identify any injured person or any person treating him, without the consent of the person so identified, and (2) all reports on research projects, demonstration projects, and other related activities shall be public information.

(Pub. L. 92-573, §25, Oct. 27, 1972, 86 Stat. 1227.)

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92-573, set out as a note under section 2051 of this title.

PREEMPTION

The provisions of this section establishing the extent to which the Consumer Product Safety Act [15 U.S.C. 2051 et seq.] preempts, limits, or otherwise affects any other Federal, State, or local law, any rule, procedure, or regulation, or any cause of action under State or local law not to be expanded or contracted in scope, or limited, modified or extended in application, by any rule or regulation under the Consumer Product Safety Act, or by reference in any preamble, statement of policy, executive branch statements, or other matter associated with the publication of any such rule or regulation, see section 231 of Pub. L. 110-314, set out as a note under section 2051 of this title.