

(2) Imminent danger of death or serious bodily injury

(A) In general

Any person who knowingly and willfully violates any provision of section 2614 or 2689 of this title, and who knows at the time of the violation that the violation places an individual in imminent danger of death or serious bodily injury, shall be subject on conviction to a fine of not more than \$250,000, or imprisonment for not more than 15 years, or both.

(B) Organizations

Notwithstanding the penalties described in subparagraph (A), an organization that commits a knowing violation described in subparagraph (A) shall be subject on conviction to a fine of not more than \$1,000,000 for each violation.

(C) Incorporation of corresponding provisions

Subparagraphs (B) through (F) of section 7413(c)(5) of title 42 shall apply to the prosecution of a violation under this paragraph.

(Pub. L. 94-469, title I, §16, Oct. 11, 1976, 90 Stat. 2037; renumbered title I, Pub. L. 99-519, §3(c)(1), Oct. 22, 1986, 100 Stat. 2989; amended Pub. L. 102-550, title X, §1021(b)(5), Oct. 28, 1992, 106 Stat. 3923; Pub. L. 114-182, title I, §12, June 22, 2016, 130 Stat. 492.)

AMENDMENTS

2016—Subsec. (a)(1). Pub. L. 114-182, §12(1), substituted “\$37,500” for “\$25,000”.

Subsec. (b). Pub. L. 114-182, §12(2), designated existing provisions as par. (1), inserted heading, substituted “\$50,000” for “\$25,000”, and added par. (2).

1992—Subsecs. (a)(1), (2)(A), (b). Pub. L. 102-550 substituted “section 2614 or 2689 of this title” for “section 2614 of this title” wherever appearing.

EFFECTIVE DATE

Section effective Jan. 1, 1977, see section 31 of Pub. L. 94-469, set out as a note under section 2601 of this title.

§ 2616. Specific enforcement and seizure

(a) Specific enforcement

(1) The district courts of the United States shall have jurisdiction over civil actions to—

(A) restrain any violation of section 2614 or 2689 of this title,

(B) restrain any person from taking any action prohibited by section 2604 of this title, 2605 of this title, or subchapter IV, or by a rule or order under section 2604 of this title, 2605 of this title, or subchapter IV,

(C) compel the taking of any action required by or under this chapter, or

(D) direct any manufacturer or processor of a chemical substance, mixture, or product subject to subchapter IV manufactured or processed in violation of section 2604 of this title, 2605 of this title, or subchapter IV, or a rule or order under section 2604 of this title, 2605 of this title, or subchapter IV, and distributed in commerce, (i) to give notice of such fact to distributors in commerce of such substance, mixture, or product and, to the extent reasonably ascertainable, to other persons in possession

of such substance, mixture, or product or exposed to such substance, mixture, or product, (ii) to give public notice of such risk of injury, and (iii) to either replace or repurchase such substance, mixture, or product, whichever the person to which the requirement is directed elects.

(2) A civil action described in paragraph (1) may be brought—

(A) in the case of a civil action described in subparagraph (A) of such paragraph, in the United States district court for the judicial district wherein any act, omission, or transaction constituting a violation of section 2614 of this title occurred or wherein the defendant is found or transacts business, or

(B) in the case of any other civil action described in such paragraph, in the United States district court for the judicial district wherein the defendant is found or transacts business.

In any such civil action process may be served on a defendant in any judicial district in which a defendant resides or may be found. Subpoenas requiring attendance of witnesses in any such action may be served in any judicial district.

(b) Seizure

Any chemical substance, mixture, or product subject to subchapter IV which was manufactured, processed, or distributed in commerce in violation of this chapter or any rule promulgated or order issued under this chapter or any article containing such a substance or mixture shall be liable to be proceeded against, by process of libel, for the seizure and condemnation of such substance, mixture, product, or article, in any district court of the United States within the jurisdiction of which such substance, mixture, product, or article is found. Such proceedings shall conform as nearly as possible to proceedings in rem in admiralty.

(Pub. L. 94-469, title I, §17, Oct. 11, 1976, 90 Stat. 2037; renumbered title I, Pub. L. 99-519, §3(c)(1), Oct. 22, 1986, 100 Stat. 2989; amended Pub. L. 102-550, title X, §1021(b)(6), (7), Oct. 28, 1992, 106 Stat. 3923.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-550, §1021(b)(6), which directed that subsec. (a) be amended “to read as follows” and then set out the subsec. (a) designation and heading, followed by the par. (1) designation and text, without any restatement of par. (2), was executed as a general amendment of par. (1) only, to reflect the probable intent of Congress. Prior to amendment, par. (1) read as follows: “The district courts of the United States shall have jurisdiction over civil actions to—

“(A) restrain any violation of section 2614 of this title,

“(B) restrain any person from taking any action prohibited by section 2604 or 2605 of this title or by a rule or order under section 2604 or 2605 of this title,

“(C) compel the taking of any action required by or under this chapter, or

“(D) direct any manufacturer or processor of a chemical substance or mixture manufactured or processed in violation of section 2604 or 2605 of this title or a rule or order under section 2604 or 2605 of this title and distributed in commerce, (i) to give notice of such fact to distributors in commerce of such substance or mixture and, to the extent reasonably ascertainable, to other persons in possession of such

substance or mixture or exposed to such substance or mixture, (ii) to give public notice of such risk of injury, and (iii) to either replace or repurchase such substance or mixture, whichever the person to which the requirement is directed elects.”

Subsec. (b). Pub. L. 102-550, §1021(b)(7), in first sentence substituted “substance, mixture, or product subject to subchapter IV” for “substance or mixture” and inserted “product,” before “or article” in two places.

EFFECTIVE DATE

Section effective Jan. 1, 1977, see section 31 of Pub. L. 94-469, set out as a note under section 2601 of this title.

§ 2617. Preemption

(a) In general

(1) Establishment or enforcement

Except as otherwise provided in subsections (c), (d), (e), (f), and (g), and subject to paragraph (2), no State or political subdivision of a State may establish or continue to enforce any of the following:

(A) Development of information

A statute or administrative action to require the development of information about a chemical substance or category of chemical substances that is reasonably likely to produce the same information required under section 2603, 2604, or 2605 of this title in—

- (i) a rule promulgated by the Administrator;
- (ii) a consent agreement entered into by the Administrator; or
- (iii) an order issued by the Administrator.

(B) Chemical substances found not to present an unreasonable risk or restricted

A statute, criminal penalty, or administrative action to prohibit or otherwise restrict the manufacture, processing, or distribution in commerce or use of a chemical substance—

- (i) for which the determination described in section 2605(i)(1) of this title is made, consistent with the scope of the risk evaluation under section 2605(b)(4)(D)¹ of this title; or
- (ii) for which a final rule is promulgated under section 2605(a) of this title, after the effective date of the rule issued under section 2605(a) of this title for the chemical substance, consistent with the scope of the risk evaluation under section 2605(b)(4)(D)¹ of this title.

(C) Significant new use

A statute or administrative action requiring the notification of a use of a chemical substance that the Administrator has specified as a significant new use and for which the Administrator has required notification pursuant to a rule promulgated under section 2604 of this title.

(2) Effective date of preemption

Under this subsection, Federal preemption of statutes and administrative actions applica-

ble to specific chemical substances shall not occur until the effective date of the applicable action described in paragraph (1) taken by the Administrator.

(b) New statutes, criminal penalties, or administrative actions creating prohibitions or other restrictions

(1) In general

Except as provided in subsections (c), (d), (e), (f), and (g), beginning on the date on which the Administrator defines the scope of a risk evaluation for a chemical substance under section 2605(b)(4)(D) of this title and ending on the date on which the deadline established pursuant to section 2605(b)(4)(G) of this title for completion of the risk evaluation expires, or on the date on which the Administrator publishes the risk evaluation under section 2605(b)(4)(C) of this title, whichever is earlier, no State or political subdivision of a State may establish a statute, criminal penalty, or administrative action prohibiting or otherwise restricting the manufacture, processing, distribution in commerce, or use of such chemical substance that is a high-priority substance designated under section 2605(b)(1)(B)(i) of this title.

(2) Effect of subsection

This subsection does not restrict the authority of a State or political subdivision of a State to continue to enforce any statute enacted, criminal penalty assessed, or administrative action taken, prior to the date on which the Administrator defines and publishes the scope of a risk evaluation under section 2605(b)(4)(D) of this title.

(c) Scope of preemption

Federal preemption under subsections (a) and (b) of statutes, criminal penalties, and administrative actions applicable to specific chemical substances shall apply only to—

- (1) with respect to subsection (a)(1)(A), the chemical substances or category of chemical substances subject to a rule, order, or consent agreement under section 2603, 2604, or 2605 of this title;
- (2) with respect to subsection (b), the hazards, exposures, risks, and uses or conditions of use of such chemical substances included in the scope of the risk evaluation pursuant to section 2605(b)(4)(D) of this title;
- (3) with respect to subsection (a)(1)(B), the hazards, exposures, risks, and uses or conditions of use of such chemical substances included in any final action the Administrator takes pursuant to section 2605(a) or 2605(i)(1) of this title; or
- (4) with respect to subsection (a)(1)(C), the uses of such chemical substances that the Administrator has specified as significant new uses and for which the Administrator has required notification pursuant to a rule promulgated under section 2604 of this title.

(d) Exceptions

(1) No preemption of statutes and administrative actions

(A) In general

Nothing in this chapter, nor any amendment made by the Frank R. Lautenberg

¹ See References in Text note below.