

thorize an officer or employee of the government of any of the several States to exercise authority under the preceding sentence on Indian country without the express written consent of the Indian tribe involved.

(d) Knowledge of illegal transaction

(1) Notification

If the manufacturer or distributor of a tobacco product has knowledge which reasonably supports the conclusion that a tobacco product manufactured or distributed by such manufacturer or distributor that has left the control of such person may be or has been—

(A) imported, exported, distributed, or offered for sale in interstate commerce by a person without paying duties or taxes required by law; or

(B) imported, exported, distributed, or diverted for possible illicit marketing,

the manufacturer or distributor shall promptly notify the Attorney General and the Secretary of the Treasury of such knowledge.

(2) Knowledge defined

For purposes of this subsection, the term “knowledge” as applied to a manufacturer or distributor means—

(A) the actual knowledge that the manufacturer or distributor had; or

(B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.

(e) Consultation

In carrying out this section, the Secretary shall consult with the Attorney General of the United States and the Secretary of the Treasury, as appropriate.

(June 25, 1938, ch. 675, §920, as added Pub. L. 111-31, div. A, title III, §301, June 22, 2009, 123 Stat. 1850.)

REFERENCES IN TEXT

Section 201 of the Family Smoking Prevention and Tobacco Control Act, referred to in subsec. (a)(1), is section 201 of div. A of Pub. L. 111-31.

§ 387u. Studies of progress and effectiveness

(a) FDA report

Not later than 3 years after June 22, 2009, and not less than every 2 years thereafter, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report concerning—

(1) the progress of the Food and Drug Administration in implementing this division, including major accomplishments, objective measurements of progress, and the identification of any areas that have not been fully implemented;

(2) impediments identified by the Food and Drug Administration to progress in implementing this division and to meeting statutory timeframes;

(3) data on the number of new product applications received under section 387j of this title

and modified risk product applications received under section 387k of this title, and the number of applications acted on under each category; and

(4) data on the number of full time equivalents engaged in implementing this division.

(b) GAO report

Not later than 5 years after June 22, 2009, the Comptroller General of the United States shall conduct a study of, and submit to the Committees described in subsection (a) a report concerning—

(1) the adequacy of the authority and resources provided to the Secretary of Health and Human Services for this division to carry out its goals and purposes; and

(2) any recommendations for strengthening that authority to more effectively protect the public health with respect to the manufacture, marketing, and distribution of tobacco products.

(c) Public availability

The Secretary of Health and Human Services and the Comptroller General of the United States, respectively, shall make the reports required under subsection¹ (a) and (b) available to the public, including by posting such reports on the respective Internet websites of the Food and Drug Administration and the Government Accountability Office.

(Pub. L. 111-31, div. A, title I, § 106, June 22, 2009, 123 Stat. 1841.)

REFERENCES IN TEXT

This division, referred to in subsecs. (a)(1), (2), (4) and (b)(1), is div. A of Pub. L. 111-31, June 22, 2009, 123 Stat. 1776, known as Family Smoking Prevention and Tobacco Control Act. For complete classification of division A to the Code, see Short Title of 2009 Amendment note set out under section 301 of this title and Tables.

CODIFICATION

Section was enacted as part of the Family Smoking Prevention and Tobacco Control Act, and not as part of the Federal Food, Drug, and Cosmetic Act which comprises this chapter.

MODIFICATION OF DEADLINES FOR SECRETARIAL ACTION

With respect to any time periods specified in div. A of Pub. L. 111-31 that begin on June 22, 2009, within which the Secretary of Health and Human Services is required to carry out and complete specified activities, with certain limitations, the calculation of such time periods shall commence on the first day of the first fiscal quarter following the initial 2 consecutive fiscal quarters of fiscal year 2010 for which the Secretary has collected fees under section 387s of this title, and the Secretary may extend or reduce the duration of one or more such time periods, except that no such period shall be extended for more than 90 days, see section 6 of Pub. L. 111-31, set out as a note under section 387 of this title.

SUBCHAPTER X—MISCELLANEOUS

CODIFICATION

Former subchapter IX of this chapter was redesignated as this subchapter.

§ 391. Separability clause

If any provision of this chapter is declared unconstitutional, or the applicability thereof to

¹ So in original. Probably should be plural.