

(June 25, 1938, ch. 675, §913, as added Pub. L. 111-31, div. A, title I, § 101(b)(3), June 22, 2009, 123 Stat. 1820.)

§ 387n. Jurisdiction of and coordination with the Federal Trade Commission

(a) Jurisdiction

(1) In general

Except where expressly provided in this subchapter, nothing in this subchapter shall be construed as limiting or diminishing the authority of the Federal Trade Commission to enforce the laws under its jurisdiction with respect to the advertising, sale, or distribution of tobacco products.

(2) Enforcement

Any advertising that violates this subchapter or a provision of the regulations referred to in section 387a-1 of this title, is an unfair or deceptive act or practice under section 45(a) of title 15 and shall be considered a violation of a rule promulgated under section 57a of title 15.

(b) Coordination

With respect to the requirements of section 4 of the Federal Cigarette Labeling and Advertising Act [15 U.S.C. 1333] and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 [15 U.S.C. 4402]—

(1) the Chairman of the Federal Trade Commission shall coordinate with the Secretary concerning the enforcement of such Act as such enforcement relates to unfair or deceptive acts or practices in the advertising of cigarettes or smokeless tobacco; and

(2) the Secretary shall consult with the Chairman of such Commission in revising the label statements and requirements under such sections.

(June 25, 1938, ch. 675, §914, as added Pub. L. 111-31, div. A, title I, § 101(b)(3), June 22, 2009, 123 Stat. 1820.)

Editorial Notes

REFERENCES IN TEXT

The Federal Cigarette Labeling and Advertising Act, referred to in subsec. (b), is Pub. L. 89-92, July 27, 1965, 79 Stat. 282, which is classified generally to chapter 36 (§1331 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 15 and Tables.

The Comprehensive Smokeless Tobacco Health Education Act of 1986, referred to in subsec. (b), is Pub. L. 99-252, Feb. 27, 1986, 100 Stat. 30, which is classified principally to chapter 70 (§4401 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 4401 of Title 15 and Tables.

§ 387o. Regulation requirement

(a) Testing, reporting, and disclosure

Not later than 36 months after June 22, 2009, the Secretary shall promulgate regulations under this chapter that meet the requirements of subsection (b).

(b) Contents of rules

The regulations promulgated under subsection (a)—

(1) shall require testing and reporting of tobacco product constituents, ingredients, and additives, including smoke constituents, by brand and subbrand that the Secretary determines should be tested to protect the public health, provided that, for purposes of the testing requirements of this paragraph, tobacco products manufactured and sold by a single tobacco product manufacturer that are identical in all respects except the labels, packaging design, logo, trade dress, trademark, brand name, or any combination thereof, shall be considered as a single brand; and

(2) may require that tobacco product manufacturers, packagers, or importers make disclosures relating to the results of the testing of tar and nicotine through labels or advertising or other appropriate means, and make disclosures regarding the results of the testing of other constituents, including smoke constituents, ingredients, or additives, that the Secretary determines should be disclosed to the public to protect the public health and will not mislead consumers about the risk of tobacco-related disease.

(c) Authority

The Secretary shall have the authority under this subchapter to conduct or to require the testing, reporting, or disclosure of tobacco product constituents, including smoke constituents.

(d) Small tobacco product manufacturers

(1) First compliance date

The initial regulations promulgated under subsection (a) shall not impose requirements on small tobacco product manufacturers before the later of—

(A) the end of the 2-year period following the final promulgation of such regulations; and

(B) the initial date set by the Secretary for compliance with such regulations by manufacturers that are not small tobacco product manufacturers.

(2) Testing and reporting initial compliance period

(A) 4-year period

The initial regulations promulgated under subsection (a) shall give each small tobacco product manufacturer a 4-year period over which to conduct testing and reporting for all of its tobacco products. Subject to paragraph (1), the end of the first year of such 4-year period shall coincide with the initial date of compliance under this section set by the Secretary with respect to manufacturers that are not small tobacco product manufacturers or the end of the 2-year period following the final promulgation of such regulations, as described in paragraph (1)(A). A small tobacco product manufacturer shall be required—

(i) to conduct such testing and reporting for 25 percent of its tobacco products during each year of such 4-year period; and

(ii) to conduct such testing and reporting for its largest-selling tobacco products (as determined by the Secretary) before its other tobacco products, or in such other