

include, as the Secretary determines appropriate—

(i) improvements to facilities, such as upgrades or renovations, and support for the maintenance of existing import facilities and sites to improve coordination between Federal agencies;

(ii) improvements in equipment and information technology enhancement to identify unapproved, counterfeit, or other unlawful controlled substances for destruction;

(iii) the construction of, or upgrades to, laboratory capacity for purposes of detection and testing of imported goods;

(iv) upgrades to the security of import facilities; and

(v) innovative technology and equipment to facilitate improved and near-real-time information sharing between the Food and Drug Administration, the Department of Homeland Security, and the United States Postal Service; and

(B) innovative technology, including controlled substance detection and testing equipment and other applicable technology, in order to collaborate with the U.S. Customs and Border Protection to share near-real-time information, including information about test results, as appropriate.

(2) Innovative technology

Any technology used in accordance with paragraph (1)(B) shall be interoperable with technology used by other relevant Federal agencies, including the U.S. Customs and Border Protection, as the Secretary determines appropriate and practicable.

(c) Report

Not later than 6 months after October 24, 2018, the Secretary, in consultation with the Secretary of Homeland Security and the Postmaster General of the United States Postal Service, shall report to the Committee on Energy and Commerce and the Committee on Homeland Security of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Homeland Security and Governmental Affairs of the Senate on the implementation of this section, including a summary of progress made toward near-real-time information sharing and the interoperability of such technologies.

(Pub. L. 115–271, title III, §3014, Oct. 24, 2018, 132 Stat. 3937.)

Statutory Notes and Related Subsidiaries

CODIFICATION

Section was enacted as part of the Stop Counterfeit Drugs by Regulating and Enhancing Enforcement Now Act, also known as the SCREEN Act, and also as part of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act, also known as the SUPPORT for Patients and Communities Act, and not as part of the Federal Food, Drug, and Cosmetic Act which comprises this chapter.

§ 384g. Restricting entrance of illicit drugs

(a) Food and Drug Administration and U.S. Customs and Border Protection cooperation

(1) In general

The Secretary of Health and Human Services (referred to in this section as the “Secretary”), acting through the Commissioner of Food and Drugs and in consultation with the U.S. Customs and Border Protection, shall develop and periodically update a mutually agreed upon list of the controlled substances that the Secretary will refer to U.S. Customs and Border Protection, unless the Secretary and U.S. Customs and Border Protection agree otherwise, when such substances are offered for import via international mail and appear to violate the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), or any other applicable law. The Secretary shall transfer controlled substances on such list to the U.S. Customs and Border Protection. If the Secretary identifies additional packages that appear to be the same as such package containing a controlled substance, such additional packages may also be transferred to U.S. Customs and Border Protection. The U.S. Customs and Border Protection shall receive such packages consistent with the requirements of the Controlled Substances Act (21 U.S.C. 801 et seq.).

(2) Report

Not later than 9 months after October 24, 2018, the Secretary, acting through the Commissioner of Food and Drugs and in consultation with the Secretary of Homeland Security, shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate on the implementation of this section.

(Pub. L. 115–271, title III, §3022(a), Oct. 24, 2018, 132 Stat. 3938.)

Editorial Notes

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (a)(1), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

The Controlled Substances Import and Export Act, referred to in subsec. (a)(1), is title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285, which is classified principally to subchapter II (§951 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 951 of this title and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (a)(1), is act June 25, 1938, ch. 675, 52 Stat. 1040, which is classified generally to this chapter. For complete classification of this Act to the Code, see section 301 of this title and Tables.

Statutory Notes and Related Subsidiaries

CODIFICATION

Section was enacted as part of the Stop Counterfeit Drugs by Regulating and Enhancing Enforcement Now

Act, also known as the SCREEN Act, and also as part of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act, also known as the SUPPORT for Patients and Communities Act, and not as part of the Federal Food, Drug, and Cosmetic Act which comprises this chapter.

SUBCHAPTER IX—TOBACCO PRODUCTS

Editorial Notes

PRIOR PROVISIONS

A prior subchapter IX of this chapter, consisting of sections 391 to 399a of this title, was redesignated subchapter X by Pub. L. 111-31, div. A, title I, §101(b)(1), June 22, 2009, 123 Stat. 1784.

§ 387. Definitions

In this subchapter:

(1) Additive

The term “additive” means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristic of any tobacco product (including any substances intended for use as a flavoring or coloring or in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding), except that such term does not include tobacco or a pesticide chemical residue in or on raw tobacco or a pesticide chemical.

(2) Brand

The term “brand” means a variety of tobacco product distinguished by the tobacco used, tar content, nicotine content, flavoring used, size, filtration, packaging, logo, registered trademark, brand name, identifiable pattern of colors, or any combination of such attributes.

(3) Cigarette

The term “cigarette”—

(A) means a product that—

- (i) is a tobacco product; and
- (ii) meets the definition of the term “cigarette” in section 1332(1) of title 15; and

(B) includes tobacco, in any form, that is functional in the product, 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 or as roll-your-own tobacco.

(4) Cigarette tobacco

The term “cigarette tobacco” means any product that consists of loose tobacco that is intended for use by consumers in a cigarette. Unless otherwise stated, the requirements applicable to cigarettes under this subchapter shall also apply to cigarette tobacco.

(5) Commerce

The term “commerce” has the meaning given that term by section 1332(2) of title 15.

(6) Counterfeit tobacco product

The term “counterfeit tobacco product” means a tobacco product (or the container or

labeling of such a product) that, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device, or any likeness thereof, of a tobacco product listed in a registration under section 387e(i)(1) of this title.

(7) Distributor

The term “distributor” as regards a tobacco product means any person who furthers the distribution of a tobacco product, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Common carriers are not considered distributors for purposes of this subchapter.

(8) Illicit trade

The term “illicit trade” means any practice or conduct prohibited by law which relates to production, shipment, receipt, possession, distribution, sale, or purchase of tobacco products including any practice or conduct intended to facilitate such activity.

(9) Indian country

The term “Indian country” has the meaning given such term in section 1151 of title 18.

(10) Indian tribe

The term “Indian tribe” has the meaning given such term in section 5304(e) of title 25.

(11) Little cigar

The term “little cigar” means a product that—

(A) is a tobacco product; and

(B) meets the definition of the term “little cigar” in section 1332(7) of title 15.

(12) Nicotine

The term “nicotine” means the chemical substance named 3-(1-Methyl-2-pyrrolidiny) pyridine or C[10]H[14]N[2], including any salt or complex of nicotine.

(13) Package

The term “package” means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane), in which a tobacco product is offered for sale, sold, or otherwise distributed to consumers.

(14) Retailer

The term “retailer” means any person, government, or entity who sells tobacco products to individuals for personal consumption, or who operates a facility where self-service displays of tobacco products are permitted.

(15) Roll-your-own tobacco

The term “roll-your-own tobacco” means any tobacco product which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

(16) Small tobacco product manufacturer

The term “small tobacco product manufacturer” means a tobacco product manufacturer that employs fewer than 350 employees. For