

mability standard promulgated by the Consumer Product Safety Commission under section 4 of the Flammable Fabrics Act (15 U.S.C. 1193).

“(2) TESTING AND CERTIFICATION.—A fabric, related material, or product to which the California standard applies as a result of paragraph (1) shall not be subject to section 14(a) of the Consumer Product Safety Act (15 U.S.C. 2063(a)) with respect to that standard.

“(3) CERTIFICATION LABEL.—Each manufacturer of a product that is subject to the California standard as a result of paragraph (1) shall include the statement ‘Complies with U.S. CPSC requirements for upholstered furniture flammability’ on a permanent label located on the product, which shall be considered to be a certification that the product complies with that standard.

“(d) PREEMPTION.—

“(1) IN GENERAL.—Notwithstanding section 16 of the Flammable Fabrics Act (15 U.S.C. 1203) and section 231 of the Consumer Product Safety Improvement Act of 2008 [Pub. L. 110-314] (15 U.S.C. 2051 note), and except as provided in subparagraphs (B) and (C) of paragraph (2), no State or any political subdivision of a State may establish or continue in effect any provision of a flammability law, regulation, code, standard, or requirement that is designed to protect against the risk of occurrence of fire, or to slow or prevent the spread of fire, with respect to upholstered furniture.

“(2) PRESERVATION OF CERTAIN STATE LAW.—Nothing in this Act [probably means “this title”] or the Flammable Fabrics Act (15 U.S.C. 1191 et seq.) may be construed to preempt or otherwise affect—

“(A) any State or local law, regulation, code, standard, or requirement that—

“(i) concerns health risks associated with upholstered furniture; and

“(ii) is not designed to protect against the risk of occurrence of fire, or to slow or prevent the spread of fire, with respect to upholstered furniture;

“(B) sections 1374 through 1374.3 of title 4, California Code of Regulations (except for subsections (b) and (c) of section 1374 of that title), as in effect on the date of enactment of this Act [Dec. 27, 2020]; or

“(C) the California standard.”

HAZARDOUS SUBSTANCES

Federal Hazardous Substances Act as not modifying this chapter or regulations promulgated thereunder, see Pub. L. 86-613, § 18, (formerly § 17), July 12, 1960, 74 Stat. 380, as amended Pub. L. 89-756, § 4(a), Nov. 3, 1966, 80 Stat. 1305; renumbered and amended Pub. L. 91-113, § 4(a), (b)(1), Nov. 6, 1969, 83 Stat. 190, set out as a note under section 1261 of this title.

§ 1192. Prohibited transactions

(a) Nonconforming products

The manufacture for sale, the sale, or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported, in commerce, or the sale or delivery after a sale or shipment in commerce, of any product, fabric, or related material which fails to conform to an applicable standard or regulation issued or amended under the provisions of section 1193 of this title, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act [15 U.S.C. 41 et seq.].

(b) Nonconforming components

The manufacture for sale, the sale, or the offering for sale, of any product made of fabric or

related material which fails to conform to an applicable standard or regulation issued or amended under section 1193 of this title, and which has been shipped or received in commerce shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act [15 U.S.C. 41 et seq.].

(June 30, 1953, ch. 164, § 3, 67 Stat. 111; Pub. L. 90-189, § 2, Dec. 14, 1967, 81 Stat. 568.)

Editorial Notes

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in text, is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-189 substituted “or the sale or delivery after a sale or shipment in commerce, of any product, fabric, or related material which fails to conform to an applicable standard or regulation issued or amended under the provisions of section 1193 of this title” for “or for the purpose of sale or delivery after sale in commerce, of any article of wearing apparel which under the provisions of section 1193 of this title is so highly flammable as to be dangerous when worn by individuals”.

Subsecs. (b), (c). Pub. L. 90-189 struck out former subsec. (b) which made the sale or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any fabric which under the provisions of section 1193 of this title was so highly flammable as to be dangerous when worn by individuals unlawful and an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act, redesignated subsec. (c) as (b) and, in subsec. (b) as so redesignated, substituted “product made of fabric or related material which fails to conform to an applicable standard or regulation issued or amended under section 1193 of this title” for “article of wearing apparel made of fabric which under section 1193 of this title is so highly flammable as to be dangerous when worn by individuals”.

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

Functions of Secretary of Health, Education, and Welfare, Secretary of Commerce, and Federal Trade Commission under this chapter transferred to Consumer Product Safety Commission, along with functions of Federal Trade Commission under Federal Trade Commission Act, to extent such functions relate to administration and enforcement of this chapter, see section 2079 of this title.

§ 1193. Flammability standards or regulations

(a) Proceedings by Commission for determination

Whenever the Commission finds on the basis of the investigations or research conducted pursuant to section 1201 of this title that a new or amended flammability standard or other regulation, including labeling, for a fabric, related material, or product may be needed to protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury,