upon any household substance or its package, or (B) accompanying such substance.

(Pub. L. 91–601, §2, Dec. 30, 1970, 84 Stat. 1670; Pub. L. 92–516, §3(2), Oct. 21, 1972, 86 Stat. 998; Pub. L. 92–573, §30(a), Oct. 27, 1972, 86 Stat. 1231; Pub. L. 94–284, §3(a), May 11, 1976, 90 Stat. 503.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 91–601 which enacted this chapter, section 136(z)(2)(i) of Title 7, Agriculture, and sections 343(n), 352(p), and 362(f) of Title 21, Food and Drugs, amended section 1261(p) of this title and section 353(b)(2) of Title 21, and enacted provisions set out as a note under this section. For complete classification of this Act to the Code, see Short Title note below and Tables.

AMENDMENTS

1976—Par. (2). Pub. L. 94–284 struck out subpar. (B) which included pesticide as defined in section 136(u) of Title 7 within meaning of ''household substance'', and redesignated subpars. (C) and (D) as (B) and (C), respectively.

1972—Par. (2)(B). Pub. L. 92–516 substituted ''a pesticide'' for ''an economic poison''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1972 AMENDMENT

For effective date of amendment by Pub. L. 92–516, see section 4 of Pub. L. 92–516, set out as an Effective Date note under section 136 of Title 7, Agriculture.

EFFECTIVE DATE

Pub. L. 91–601, §8, formerly §9, Dec. 30, 1970, 84 Stat. 1674, as amended by Pub. L. 92–573, §30(a), Oct. 27, 1972, 86 Stat. 1231, and renumbered by Pub. L. 97–35, title XII, §1205(c), Aug. 13, 1981, 95 Stat. 716, provided that: ''This Act [see Short Title note set out below] shall take effect on the date of its enactment [Dec. 30, 1970]. Each regulation establishing a special packaging standard shall specify the date such standard is to take effect which date shall not be sooner than one hundred and eighty days or later than one year from the date such regulation is final, unless the Commission, for good cause found, determines that an earlier effective date is in the public interest and publishes in the Federal Register his reason for such finding, in which case such earlier date shall apply. No such standard shall be effective as to household substances subject to this Act packaged prior to the effective date of such final regulation.''

SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114–116, §1, Jan. 28, 2016, 130 Stat. 3, provided that: ''This Act [enacting section 1472a of this title and provisions set out as a note under section 1472a of this title] may be cited as the 'Child Nicotine Poisoning Prevention Act of 2015'.''

SHORT TITLE

Pub. L. 91–601, §1, Dec. 30, 1970, 84 Stat. 1670, provided that: ''This Act [enacting this chapter, section 135(z)(2)(i) of Title 7, Agriculture, and sections 343(n), 352(p), and 362(f) of Title 21, Food and Drugs, amending section 1261(p) of this title and section 353(b)(2) of Title 21, and enacting provisions set out as a note under this section] may be cited as the 'Poison Prevention Packaging Act of 1970'.''

TRANSFER OF FUNCTIONS

''Commission'' substituted for ''Secretary'' and ''Consumer Product Safety Commission'' substituted for ''Secretary of Health, Education, and Welfare'' in par. (1) pursuant to section 30(a) of Pub. L. 92–573, which is classified to section 2079(a) of this title and which transferred functions of Secretary of Health, Education, and Welfare under this chapter to Consumer Product Safety Commission.

§ 1472. Special packaging standards

(a) Establishment

The Commission,[1] may establish in accordance with the provisions of this Act, by regulation, standards for the special packaging of any household substance if it finds that—

(1) the degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance; and

(2) the special packaging to be required by such standard is technically feasible, practicable, and appropriate for such substance.

(b) Considerations

In establishing a standard under this section, the Commission shall consider—

(1) the reasonableness of such standard;

(2) available scientific, medical, and engineering data concerning special packaging and concerning childhood accidental ingestions, illness, and injury caused by household substances;

(3) the manufacturing practices of industries affected by this Act; and

(4) the nature and use of the household substance.

(c) Publication of findings, reasons, and citation of statutory authorizations

In carrying out this Act, the Commission shall publish its findings, its reasons therefor, and citation of the sections of statutes which authorize its action.

(d) Limitation

Nothing in this Act shall authorize the Commission to prescribe specific packaging designs, product content, package quantity, or, with the exception of authority granted in section 1473(a)(2) of this title, labeling. In this case of a household substance for which special packaging is required pursuant to a regulation under this section, the Commission may in such regulation prohibit the packaging of such substance in packages which it determines are unnecessarily attractive to children.

(e) Cost-benefit analysis not required

Nothing in this Act shall be construed to require the Consumer Product Safety Commission, in establishing a standard under this section, to prepare a comparison of the costs that would be incurred in complying with such standard with the benefits of such standard.

(Pub. L. 91–601, §3, Dec. 30, 1970, 84 Stat. 1670; Pub. L. 92–573, §30(a), Oct. 27, 1972, 86 Stat. 1231; Pub. L. 97–414, §9(k), Jan. 4, 1983, 96 Stat. 2065; Pub. L. 110–314, title II, §233, Aug. 14, 2008, 122 Stat. 3073.)

[1] Comma retained in amendment by Pub. L. 97–414.

Editorial Notes

REFERENCES IN TEXT

For classification to the Code of ''this Act'', referred to in text, see References in Text note set out under section 1471 of this title.

AMENDMENTS

2008—Subsec. (e). Pub. L. 110–314 added subsec. (e).

1983—Subsec. (a). Pub. L. 97–414 struck out '', after consultation with the technical advisory committee provided for in section 1475 of this title'' after ''The Commission''.

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

''Commission'' substituted for ''Secretary'', ''it'' substituted for ''he'', and ''its'' substituted for ''his'' wherever appearing in subsecs. (a) to (d) pursuant to section 30(a) of Pub. L. 92–573, which is classified to section 2079(a) of this title and which transferred functions of Secretary of Health, Education, and Welfare under this chapter to Consumer Product Safety Commission.

§ 1472a. Special packaging for liquid nicotine containers

(a) Requirement

Notwithstanding section 1261(f)(2) of this title and section 2052(a)(5) of this title, any nicotine provided in a liquid nicotine container sold, offered for sale, manufactured for sale, distributed in commerce, or imported into the United States shall be packaged in accordance with the standards provided in section 1700.15 of title 16, Code of Federal Regulations, as determined through testing in accordance with the method described in section 1700.20 of title 16, Code of Federal Regulations, and any subsequent changes to such sections adopted by the Commission.

(b) Savings clause

(1) In general

Nothing in this section shall be construed to limit or otherwise affect the authority of the Secretary of Health and Human Services to regulate, issue guidance, or take action regarding the manufacture, marketing, sale, distribution, importation, or packaging, including child-resistant packaging, of nicotine, liquid nicotine, liquid nicotine containers, electronic cigarettes, electronic nicotine delivery systems or other similar products that contain or dispense liquid nicotine, or any other nicotine-related products, including—

(A) authority under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and the Family Smoking Prevention and Tobacco Control Act (Public Law 111–31) and the amendments made by such Act; and

(B) authority for the rulemaking entitled ''Deeming Tobacco Products to Be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act; regulations on the Sale and Distribution of Tobacco Products and the Required Warning Statements for Tobacco Products'' (April 2014) (FDA–2014–N–0189), the rulemaking entitled ''Nicotine Exposure Warnings and Child-Resistant Packaging for Liquid Nicotine, Nicotine-Containing E-Liquid(s), and Other Tobacco Products'' (June 2015) (FDA–2015–N–1514), and subsequent actions by the Secretary regarding packaging of liquid nicotine containers.

(2) Consultation

If the Secretary of Health and Human Services adopts, maintains, enforces, or imposes or continues in effect any packaging requirement for liquid nicotine containers, including a child-resistant packaging requirement, the Secretary shall consult with the Commission, taking into consideration the expertise of the Commission in implementing and enforcing this section and the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.).

(c) Applicability

Notwithstanding section 2052(a)(5) of this title and section 1261(f)(2) of this title, the requirement of subsection (a) shall be treated as a standard for the special packaging of a household substance established under section 3(a) of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1472(a)).

(d) Definitions

In this section:

(1) Commission

The term ''Commission'' means the Consumer Product Safety Commission.

(2) Liquid nicotine container

(A) In general

Notwithstanding section 1261(f)(2) of this title and section 2052(a)(5) of this title, the term ''liquid nicotine container'' means a package (as defined in section 2 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471))—

(i) from which nicotine in a solution or other form is accessible through normal and foreseeable use by a consumer; and

(ii) that is used to hold soluble nicotine in any concentration.

(B) Exclusion

The term ''liquid nicotine container'' does not include a sealed, pre-filled, and disposable container of nicotine in a solution or other form in which such container is inserted directly into an electronic cigarette, electronic nicotine delivery system, or other similar product, if the nicotine in the container is inaccessible through customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion or other contact by children.

(3) Nicotine

The term ''nicotine'' means any form of the chemical nicotine, including any salt or complex, regardless of whether the chemical is naturally or synthetically derived.

(Pub. L. 114–116, § 2, Jan. 28, 2016, 130 Stat. 3.)

Editorial Notes

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (b)(1), is act June 25, 1938, ch. 675, 52 Stat.