

or referendum enacted prior to September 1, 1997.

(e) No effect on product liability law

Nothing in this section shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

(f) State enforcement authority

Nothing in this section shall prevent a State or political subdivision thereof from enforcing, under any relevant civil or other enforcement authority, a requirement that is identical to a requirement of this chapter.

(June 25, 1938, ch. 675, §751, as added Pub. L. 105-115, title IV, §412(a), Nov. 21, 1997, 111 Stat. 2373; amended Pub. L. 116-136, div. A, title III, §3851(c), Mar. 27, 2020, 134 Stat. 454.)

Editorial Notes

REFERENCES IN TEXT

The Poison Prevention Packaging Act of 1970, referred to in subsec. (a)(2), is Pub. L. 91-601, Dec. 30, 1970, 84 Stat. 1670, as amended, which is classified principally to chapter 39A (§1471 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 1471 of Title 15 and Tables.

The Fair Packaging and Labeling Act, referred to in subsec. (a)(2), is Pub. L. 89-755, Nov. 3, 1966, 80 Stat. 1296, as amended, which is classified generally to chapter 39 (§1451 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 1451 of Title 15 and Tables.

AMENDMENTS

2020—Subsec. (d)(1). Pub. L. 116-136, §3851(c)(1), in introductory provisions, substituted “final order under section 355h of this title” for “final regulation promulgated” and struck out “and not misbranded” after “safe and effective”.

Subsec. (d)(1)(A). Pub. L. 116-136, §3851(c)(2), substituted “regulation or order in effect” for “regulation in effect”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Nov. 21, 1997, except as otherwise provided, see section 501 of Pub. L. 105-115, set out as an Effective Date of 1997 Amendment note under section 321 of this title.

§ 379s. Preemption for labeling or packaging of cosmetics

(a) In general

Except as provided in subsection (b), (d), or (e), no State or political subdivision of a State may establish or continue in effect any requirement for labeling or packaging of a cosmetic that is different from or in addition to, or that is otherwise not identical with, a requirement specifically applicable to a particular cosmetic or class of cosmetics under this chapter, the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.), or the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.).

(b) Exemption

Upon application of a State or political subdivision thereof, the Secretary may by regula-

tion, after notice and opportunity for written and oral presentation of views, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a State or political subdivision requirement for labeling or packaging that—

- (1) protects an important public interest that would otherwise be unprotected;
- (2) would not cause a cosmetic to be in violation of any applicable requirement or prohibition under Federal law; and
- (3) would not unduly burden interstate commerce.

(c) Scope

For purposes of subsection (a), a reference to a State requirement that relates to the packaging or labeling of a cosmetic means any specific requirement relating to the same aspect of such cosmetic as a requirement specifically applicable to that particular cosmetic or class of cosmetics under this chapter for packaging or labeling, including any State requirement relating to public information or any other form of public communication.

(d) No effect on product liability law

Nothing in this section shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

(e) State initiative

This section shall not apply to a State requirement adopted by a State public initiative or referendum enacted prior to September 1, 1997.

(June 25, 1938, ch. 675, §752, as added Pub. L. 105-115, title IV, §412(d), Nov. 21, 1997, 111 Stat. 2376.)

Editorial Notes

REFERENCES IN TEXT

The Poison Prevention Packaging Act of 1970, referred to in subsec. (a), is Pub. L. 91-601, Dec. 30, 1970, 84 Stat. 1670, as amended, which is classified principally to chapter 39A (§1471 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 1471 of Title 15 and Tables.

The Fair Packaging and Labeling Act, referred to in subsec. (a), is Pub. L. 89-755, Nov. 3, 1966, 80 Stat. 1296, as amended, which is classified generally to chapter 39 (§1451 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 1451 of Title 15 and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Nov. 21, 1997, except as otherwise provided, see section 501 of Pub. L. 105-115, set out as an Effective Date of 1997 Amendment note under section 321 of this title.

PART G—SAFETY REPORTS

§ 379v. Safety report disclaimers

With respect to any entity that submits or is required to submit a safety report or other information in connection with the safety of a