cral to proceed in State court, or take other
enforcement actions, on the basis of an al-
leged violation of local or other law.

(d) Persons dealing in tobacco products

Any person who holds a permit under section
5712 of title 26 (regarding permitting of manufac-
turers and importers of tobacco products and ex-
port warehouse proprietors) may bring an action
in an appropriate United States district court to
prevent and restrain violations of this chapter
by any person other than a State, local, or tribal
government.

(e) Notice

(1) Persons dealing in tobacco products

Any person who commences a civil action
under subsection (d) shall inform the Attorney
General of the United States of the action.

(2) State, local, and tribal actions

It is the sense of Congress that the attorney
general of any State, or chief law enforcement
officer of any locality or tribe, that com-
ences a civil action under this section should inform
the Attorney General of the United States of the action.

(f) Public notice

(1) In general

The Attorney General of the United States
shall make available to the public, by posting
information on the Internet and by other ap-
propriate means, information regarding all en-
forcement actions brought by the United States,
or reported to the Attorney General of the United
States, under this section, includ-
ing information regarding the resolution of
the enforcement actions and how the Attorney
General of the United States has responded to
referrals of evidence of violations pursuant to
subsection (c)(2).

(2) Reports to Congress

Not later than 1 year after March 31, 2010,
and every year thereafter until the date that is
5 years after March 31, 2010, the Attorney
General of the United States shall submit to
Congress a report containing the information
described in paragraph (1).

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Not later than 1 year after March 31, 2010,
and every year thereafter until the date that is
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General of the United States shall submit to
Congress a report containing the information
described in paragraph (1).

No State, or political subdivision thereof,
shall have power to impose, for any taxable year
ending after September 14, 1959, a net income
tax on the income derived within such State by
any person from interstate commerce if the only
business activities within such State by or on
behalf of such person during such taxable year
are either, or both, of the following:

(1) the solicitation of orders by such person,
or his representative, in such State for sales of
tangible personal property, which orders are
sent outside the State for approval or rejec-
tion, and, if approved, are filled by shipment
or delivery from a point outside the State; and

(2) the solicitation of orders by such person,
or his representative, in such State in the name of
or for the benefit of a prospective cus-
tomer of such person, if orders by such cus-
tomer to such person to enable such customer
to fill orders resulting from such solicitation
are orders described in paragraph (1).

(b) Domestic corporations; persons domiciled in
or residents of a State

The provisions of subsection (a) of this section
shall not apply to the imposition of a net in-
come tax by any State, or political subdivision
thereof, with respect to—

(1) any corporation which is incorporated
under the laws of such State; or

(2) any individual who, under the laws of
such State, is domiciled in, or a resident of,
such State.

(c) Sales or solicitation of orders for sales by
independent contractors

For purposes of subsection (a) of this section,
a person shall not be considered to have engaged
in business activities within a State during any
taxable year merely by reason of sales in such
State, or the solicitation of orders for sales in
such State, of tangible personal property on be-
half of such person by one or more independent
contractors, or by reason of the maintenance, of
an office in such State by one or more independ-
ent contractors, or by reason of the maintenance,
of an office in such State, of tangible personal
property on be-

(d) Definitions

For purposes of this section—

(1) the term “independent contractor”
means a commission agent, broker, or other
independent contractor who is engaged in sell-
ing, or soliciting orders for the sale of, tan-
gible personal property for more than one
principal and who holds himself out as such in
the regular course of his business activities; and

CHAPTER 10B—STATE TAXATION OF
INCOME FROM INTERSTATE COMMERCE

SUBCHAPTER I—NET INCOME TAXES

Sec. 381. Imposition of net income tax.
§ 382. Assessment of net income taxes

(a) Limitations

No State, or political subdivision thereof, shall have power to assess, after September 14, 1959, any net income tax which was imposed by such State or political subdivision, as the case may be, for any taxable year ending on or before such date, on the income derived within such State by any person from interstate commerce, if the imposition of such tax for a taxable year ending after such date is prohibited by section 381 of this title.

(b) Collections

The provisions of subsection (a) of this section shall not be construed—

(1) to invalidate the collection, on or before September 14, 1959, of any net income tax imposed for a taxable year ending on or before such date, or

(2) to prohibit the collection, after September 14, 1959, of any net income tax which was assessed on or before such date for a taxable year ending on or before such date.

§ 383. “Net income tax” defined

For purposes of this chapter, the term “net income tax” means any tax imposed on, or measured by, net income.

§ 384. Separability

If any provision of this chapter or the application of such provision to any person or circumstance is held invalid, the remainder of this chapter or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SUBCHAPTER II—DISCRIMINATORY TAXES

§ 391. Tax on or with respect to generation or transmission of electricity

No State, or political subdivision thereof, may impose or assess a tax on or with respect to the generation or transmission of electricity which discriminates against out-of-State manufacturers, producers, wholesalers, retailers, or consumers of that electricity. For purposes of this section a tax is discriminatory if it results, either directly or indirectly, in a greater tax burden on electricity which is generated and transmitted in interstate commerce than on electricity which is generated and transmitted in intrastate commerce.


Sections 401 to 411, act Mar. 4, 1927, ch. 489, § 1–10, 12, 44 Stat. 1406–1410, prohibited misbranded shipments of dangerous caustic or corrosive substances in interstate or foreign commerce. See chapter 30 [§ 1261 et seq.] of this title.

EFFECTIVE DATE

Pub. L. 91–113, § 4(a), Nov. 6, 1969, 83 Stat. 189, provided that: “The amendment made by subsection (a) [enacting this section] shall take effect beginning June 30, 1974.”

CHAPTER 11—CAUSTIC POISONS

Provided. That, if the Commission, pursuant to section 17(b) of this Act [set out as a note under section 1261 of this title], exercises the power granted by such section to the United States, or its organic subdivisions, to regulate the interstate commerce in, or with respect to, a hazardous substance, the Federal Caustic Poison Act shall remain in full force and effect during the six calendar months from the date of enactment of this Act [July 12, 1960].

Provided, That, if the Commission, pursuant to section 17(b) of this Act [set out as a note under section 1261 of this title], exercises the power granted by such section to the United States, or its organic subdivisions, to regulate the interstate commerce in, or with respect to, a hazardous substance, the Federal Caustic Poison Act shall remain in full force and effect as to such substance or substances during the six calendar months from the date of enactment of this Act [July 12, 1960].