

dise in Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished with such offices to be terminated not later than Dec. 31, 1966, by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. Functions of offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 1178. Nonapplicability of chapter to certain machines and devices

None of the provisions of this chapter shall be construed to apply—

(1) to any machine or mechanical device designed and manufactured primarily for use at a racetrack in connection with parimutuel betting,

(2) to any machine or mechanical device, such as a coin-operated bowling alley, shuffleboard, marble machine (a so-called pinball machine), or mechanical gun, which is not designed and manufactured primarily for use in connection with gambling, and (A) which when operated does not deliver, as a result of the application of an element of chance, any money or property, or (B) by the operation of which a person may not become entitled to receive, as the result of the application of an element of chance, any money or property, or

(3) to any so-called claw, crane, or digger machine and similar devices which are not operated by coin, are actuated by a crank, and are designed and manufactured primarily for use at carnivals or county or State fairs.

(Jan. 2, 1951, ch. 1194, § 9, as added Pub. L. 87-840, § 6, Oct. 18, 1962, 76 Stat. 1077.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on sixtieth day after Oct. 18, 1962, see section 7 of Pub. L. 87-840, set out as an Effective Date of 1962 Amendment note under section 1171 of this title.

CHAPTER 25—FLAMMABLE FABRICS

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§ 1191. Definitions

As used in this chapter—

(a) The term “person” means an individual, partnership, corporation, association, or any other form of business enterprise.

(b) The term “commerce” means commerce among the several States or with foreign nations or in any territory of the United States or in the District of Columbia or between any such territory and another, or between any such territory and any State or foreign nation, or between the District of Columbia or the Commonwealth of Puerto Rico and any State or territory or foreign nation, or between the Commonwealth of Puerto Rico and any State or territory or foreign nation or the District of Columbia.

(c) The term “territory” includes the insular possessions of the United States and also any territory of the United States.

(d) The term “article of wearing apparel” means any costume or article of clothing worn or intended to be worn by individuals.

(e) The term “interior furnishing” means any type of furnishing made in whole or in part of fabric or related material and intended for use or which may reasonably be expected to be used, in homes, offices, or other places of assembly or accommodation.

(f) The term “fabric” means any material (except fiber, filament, or yarn for other than retail sale) woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended for use or which may reasonably be expected to be used, in any product as defined in subsection (h).

(g) The term “related material” means paper, plastic, rubber, synthetic film, or synthetic foam which is intended for use or which may reasonably be expected to be used in any product as defined in subsection (h).

(h) The term “product” means any article of wearing apparel or interior furnishing.

(i) The term “Commission” means the Consumer Product Safety Commission.

(j) The term “Federal Trade Commission Act” means the Act of Congress entitled “An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes”, approved September 26, 1914, as amended [15 U.S.C. 41 et seq.].

(June 30, 1953, ch. 164, § 2, 67 Stat. 111; Pub. L. 90-189, § 1, Dec. 14, 1967, 81 Stat. 568; Pub. L. 110-314, title II, § 204(c)(2)(A), Aug. 14, 2008, 122 Stat. 3042.)

Editorial Notes

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in par. (j), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, 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

2008—Par. (i). Pub. L. 110-314 added par. (i) and struck out former par. (i) which read as follows: “The term ‘Commission’ means the Federal Trade Commission.”

1967—Par. (b). Pub. L. 90-189, § 1(1), reduced from capital to lower-case the first letter of “territory” wherever appearing and redefined “commerce” to include commerce between the Commonwealth of Puerto Rico and any State or territory or foreign nation or the District of Columbia.

Par. (c). Pub. L. 90-189, § 1(2), reduced from capital to lower-case the first letter of “territory” wherever appearing.

Par. (d). Pub. L. 90-189, §1(3), struck out provisions which excepted hats, gloves, and footwear from definition of “article of wearing apparel” provided that: such hats did not constitute or form part of a covering for the neck, face, or shoulders when worn by individuals; such gloves were not more than fourteen inches in length and were not affixed to or did not form an integral part of another garment; and such footwear did not consist of hosiery in whole or in part and was not affixed to or did not form an integral part of another garment.

Par. (e). Pub. L. 90-189, §1(5), (6), added par. (e) and redesignated former par. (e) as (f).

Par. (f). Pub. L. 90-189, §1(4), (5), (7), redesignated par. (e) as (f), substituted “(except fiber, filament, or yarn for other than retail sale)” for “(other than fiber, filament, or yarn)” and “for use or which may reasonably be expected to be used, in any product as defined in subsection (h)” for “or sold for use in wearing apparel except that interlining fabrics when intended or sold for use in wearing apparel shall not be subject to this chapter”, and struck out former par. (f) which defined “interlining”.

Pars. (g) to (j). Pub. L. 90-189, §1(5), (8), added pars. (g) and (h) and redesignated former pars. (g) and (h) as (i) and (j), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Act June 30, 1953, ch. 164, §12, 67 Stat. 115, provided: “This Act [enacting this chapter] shall take effect one year after the date of its passage [June 30, 1953].”

SHORT TITLE

Act June 30, 1953, ch. 164, §1, 67 Stat. 111, provided: “This Act [enacting this chapter] may be cited as the ‘Flammable Fabrics Act.’”

SAVINGS PROVISION

Pub. L. 90-189, §11, Dec. 14, 1967, 81 Stat. 574, provided that: “Notwithstanding the provisions of this Act [amending this section and sections 1192 to 1195, 1197, 1198, and 1200 of this title and enacting sections 1201 to 1204 of this title], the standards of flammability in effect under the provisions of the Flammable Fabrics Act, as amended [this chapter], on the day preceding the date of enactment of this Act [Dec. 14, 1967], shall continue in effect for the fabrics and articles of wearing apparel to which they are applicable until superseded or modified by the Secretary of Commerce pursuant to the authority conferred by the amendments made by this Act.”

APPROPRIATIONS

Act June 30, 1953, ch. 164, §13, 67 Stat. 115, as amended by Pub. L. 90-189, §9, Dec. 14, 1967, 81 Stat. 573; Pub. L. 92-542, Oct. 25, 1972, 86 Stat. 1108, appropriated \$1,500,000 for the fiscal year ending June 30, 1968, \$2,250,000 each for the fiscal year ending June 30, 1969, and the fiscal year ending June 30, 1970, and \$4,000,000 for the fiscal year ending June 30, 1973, to carry out the provisions of this chapter.

COVID-19 REGULATORY RELIEF AND WORK FROM HOME SAFETY ACT

Pub. L. 116-260, div. FF, title XXI, §2101, Dec. 27, 2020, 134 Stat. 3303, provided that:

“(a) SHORT TITLE.—This title may be cited as the ‘COVID-19 Regulatory Relief and Work From Home Safety Act’.

“(b) DEFINITIONS.—In this Act [probably means “this title”]—

“(1) the term ‘bedding product’ means—

“(A) an item that is used for sleeping or sleep-related purposes; or

“(B) any component or accessory with respect to an item described in subparagraph (A), without re-

gard to whether the component or accessory, as applicable, is used—

“(i) alone; or

“(ii) along with, or contained within, that item;

“(2) the term ‘California standard’ means the standard set forth by the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation of the Department of Consumer Affairs of the State of California in Technical Bulletin 117-2013, entitled ‘Requirements, Test Procedure and Apparatus for Testing the Smolder Resistance of Materials Used in Upholstered Furniture’, originally published June 2013, as in effect on the date of enactment of this Act [Dec. 27, 2020];

“(3) the terms ‘foundation’ and ‘mattress’ have the meanings given those terms in section 1633.2 of title 16, Code of Federal Regulations, as in effect on the date of enactment of this Act [Dec. 27, 2020]; and

“(4) the term ‘upholstered furniture’—

“(A) means an article of seating furniture that—

“(i) is intended for indoor use;

“(ii) is movable or stationary;

“(iii) is constructed with an upholstered seat, back, or arm; or

“(iv) is—

“(I) made or sold with a cushion or pillow, without regard to whether that cushion or pillow, as applicable, is attached or detached with respect to the article of furniture; or

“(II) stuffed or filled, or able to be stuffed or filled, in whole or in part, with any material, including a substance or material that is hidden or concealed by fabric or another covering, including a cushion or pillow belonging to, or forming a part of, the article of furniture; and

“(v) together with the structural units of the article of furniture, any filling material, and the container and covering with respect to those structural units and that filling material, can be used as a support for the body of an individual, or the limbs and feet of an individual, when the individual sits in an upright or reclining position;

“(B) includes an article of furniture that is intended for use by a child; and

“(C) does not include—

“(i) a mattress;

“(ii) a foundation;

“(iii) any bedding product; or

“(iv) furniture that is used exclusively for the purpose of physical fitness and exercise.

“(c) ADOPTION OF STANDARD.—

“(1) IN GENERAL.—Beginning on the date that is 180 days after the date of enactment of this Act [Dec. 27, 2020], and except as provided in paragraph (2), the California standard shall be considered to be a flammability 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, stand-

ard, 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, 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, or significant property damage, it shall institute proceedings for the determination of an appropriate flammability standard (including conditions and manner of testing) or other regulation or amendment thereto for such fabric, related material, or product.

(b) Necessary findings; effective date; exemptions

Each standard, regulation, or amendment thereto promulgated pursuant to this section shall be based on findings that such standard, regulation, or amendment thereto is needed to adequately protect the public against unreasonable risk of the occurrence of fire leading to death, injury, or significant property damage, is reasonable, technologically practicable, and appropriate, is limited to such fabrics, related materials, or products which have been determined to present such unreasonable risks, and shall be stated in objective terms. Each such standard, regulation, or amendment thereto, shall become effective twelve months from the date on which such standard, regulation, or amendment is pro-