

§ 1198. Shipments from foreign countries; demand for redelivery; claim for liquidated damages

An imported product, fabric, or related material to which flammability standards under this chapter are applicable shall not be delivered from customs custody except as provided in section 1499 of title 19. In the event an imported product, fabric, or related material is delivered from customs custody under bond, as provided in section 1499 of title 19 and fails to conform with an applicable flammability standard in effect on the date of entry of such merchandise, the Secretary of the Treasury shall demand redelivery and in the absence thereof shall assert a claim for liquidated damages for breach of a condition of the bond arising out of such failure to conform or redeliver in accordance with regulations prescribed by the Secretary of the Treasury or his delegate. When asserting a claim for liquidated damages against an importer for failure to redeliver such nonconforming goods, the liquidated damages shall be not less than 10 per centum of the value of the nonconforming merchandise if, within five years prior thereto, the importer has previously been assessed liquidated damages for failure to redeliver nonconforming goods in response to a demand from the Secretary of the Treasury as set forth above.

(June 30, 1953, ch. 164, §9, 67 Stat. 114; Pub. L. 90-189, §7, Dec. 14, 1967, 81 Stat. 572.)

Editorial Notes

AMENDMENTS

1967—Pub. L. 90-189 substituted provisions prohibiting the delivery from customs of imported products, fabrics, or related materials to which flammability standards are applicable, except as provided in section 1499 of title 19, and requiring the Secretary of the Treasury to demand redelivery in the event any such imported product, fabric, or related material is delivered from customs custody under bond and fails to conform with an applicable flammability standard, and in the absence of such redelivery to assert a claim for liquidated damages for breach of the bond, which damages shall not be less than 10 per centum of the value of the nonconforming merchandise if, within 5 years prior thereto, the importer has previously been assessed liquidated damages for failure to redeliver nonconforming goods in response to a demand by the Secretary for provisions which authorized the Commission to prohibit any person who had exported or who had attempted to export from any foreign country into the United States any wearing apparel or fabric which was so highly flammable as to be dangerous when worn by individuals from further participation in the exportation from any foreign country into the United States of any wearing apparel or fabric except upon filing bonds with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this chapter.

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.

§ 1199. Chapter as additional legislation

The provisions of this chapter shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other law. If any provision of this chapter or the application thereof to any person or circumstances is held invalid the remainder of the chapter and the application of such provisions to any other person or circumstances shall not be affected thereby.

(June 30, 1953, ch. 164, §10, 67 Stat. 115.)

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.

§ 1200. Persons excluded from operation of chapter

The provisions of this chapter shall not apply (a) to any common carrier, contract carrier, or freight forwarder in transporting a product, fabric, or related material shipped or delivered for shipment into commerce in the ordinary course of its business; (b) to any converter, processor, or finisher in performing a contract or commission service for the account of a person subject to the provisions of this chapter: *Provided*, That said converter, processor, or finisher does not cause any product, fabric, or related material to become subject to this chapter contrary to the terms of the contract or commission service; or (c) to any product, fabric, or related material shipped or delivered for shipment into commerce for the purpose of finishing or processing such product, fabric, or related material so that it conforms with applicable flammability standards issued or amended under the provisions of section 1193 of this title.

(June 30, 1953, ch. 164, §11, 67 Stat. 115; Pub. L. 90-189, §8, Dec. 14, 1967, 81 Stat. 573.)

Editorial Notes

AMENDMENTS

1967—Pub. L. 90-189 substituted “in transporting a product, fabric, or related material” for “with respect to an article of wearing apparel or fabric”, “product, fabric, or related material” for “article of wearing apparel or fabric” in two places, and “such product, fabric, or related material so that it conforms with applicable flammability standards issued or amended under the provisions of section 1193 of this title” for “to render such article or fabric not so highly flammable, under the provisions of section 1193 of this title, 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.

§ 1201. Study and investigation; research, development and training

(a) The Consumer Product Safety Commission shall conduct a continuing study and investigation of the deaths, injuries, and economic losses resulting from accidental burning of products, fabrics, or related materials.

(b) In cooperation with appropriate public and private agencies, the Commission is authorized to—

- (1) conduct research into the flammability of products, fabrics, and materials;
- (2) conduct feasibility studies on reduction of flammability of products, fabrics, and materials;
- (3) develop flammability test methods and testing devices; and
- (4) offer appropriate training in the use of flammability test methods and testing devices.

(June 30, 1953, ch. 164, §14, as added Pub. L. 90-189, §10, Dec. 14, 1967, 81 Stat. 573; amended Pub. L. 92-573, §30(b), Oct. 27, 1972, 86 Stat. 1231; Pub. L. 96-470, title I, §114, Oct. 19, 1980, 94 Stat. 2240; Pub. L. 97-35, title XII, §1211(e), Aug. 13, 1981, 95 Stat. 721; Pub. L. 110-314, title II, §204(c)(2)(B), Aug. 14, 2008, 122 Stat. 3042.)

Editorial Notes

CODIFICATION

In subsec. (a), pursuant to Pub. L. 92-573 and as amended by Pub. L. 110-314, the words “in cooperation with the Commission”, meaning the Consumer Product Safety Commission, which followed “Consumer Product Safety Commission”, have been omitted from the Code as redundant in that they would provide for the Consumer Product Safety Commission to cooperate with itself.

AMENDMENTS

2008—Pub. L. 110-314 substituted “Commission” for “Secretary of Commerce” in subssecs. (a) and (b).

1981—Subsec. (a). Pub. L. 97-35 struck out provisions relating to the submission of an annual report by the Secretary of Health and Human Services to the President and to the Congress containing the results of a study and investigation.

1980—Subsec. (b). Pub. L. 96-470 struck out provision requiring the Secretary to report the results of activities under this subsection to Congress.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1215 of Pub. L. 97-35, set out as a note under section 2052 of this title.

TRANSFER OF FUNCTIONS

“Consumer Product Safety Commission” substituted for “Secretary of Health, Education, and Welfare” in subsec. (a) pursuant to section 30(b) of Pub. L. 92-573, which is classified to section 2079(b) of this title and which transferred functions of Secretary of Health, Education, and Welfare, Secretary of Commerce, and Federal Trade Commission under this chapter to Consumer Product Safety Commission.

TOXICOLOGIC RISKS OF FLAME-RETARDANT CHEMICALS IN RESIDENTIAL UPHOLSTERED FURNITURE

Pub. L. 105-276, title IV, §423, Oct. 21, 1998, 112 Stat. 2510, provided that within 90 days of Oct. 21, 1998, the

Consumer Product Safety Commission was to make all necessary arrangements for the Committee on Toxicology of the National Academy of Sciences (NAS) to conduct an independent 12-month study of the potential toxicologic risks of all flame-retardant chemicals identified by the NAS and the Commission as likely candidates for use in residential upholstered furniture for the purpose of meeting regulations proposed by the Commission for flame resistance of residential upholstered furniture, and that the Academy would send the report, when complete, to the Commission, which would provide the report to Congress.

§ 1202. Exemptions

(a) Exports; risk of injury to residents of United States

This chapter shall not apply to any fabric, related material, or product which is to be exported from the United States, if such fabric, related material, or product, and any container in which it is enclosed, bears a stamp or label stating that such fabric, related material, or product is intended for export and such fabric, related material, or product is in fact exported from the United States; unless the Commission determines that exportation of such fabric, related material, or product presents an unreasonable risk of injury to persons residing within the United States; except that this chapter shall apply to any fabric, related material, or product manufactured for sale, offered for sale, or intended for shipment to any installation of the United States located outside of the United States.

(b) Imports intended for export; risk of injury to residents of United States

This chapter shall not apply to any fabric, related material, or product which is imported into the United States for dyeing, finishing, other processing, or storage in bond, and export from the United States, if such fabric, related material, or product, and any container in which it is enclosed, bears a stamp or label stating that such fabric, related material, or product is intended for export, and such fabric, related material, or product is in fact exported from the United States, unless the Commission determines that exportation of such fabric, related material, or product presents an unreasonable risk of injury to persons residing within the United States; except that this chapter shall apply to any such imported fabric, related material, or product manufactured for sale, offered for sale, or intended for shipment to any installation of the United States located outside of the United States.

(c) Statement of exportation: filing period, information; notification of foreign country; petition for minimum filing period; good cause

Not less than thirty days before any person exports to a foreign country any fabric, related material, or product that fails to conform to an applicable flammability standard or regulation in effect under this chapter, such person shall file a statement with the Commission notifying the Commission of such exportation, and the Commission, upon receipt of such statement, shall promptly notify the government of such country of such exportation and of the basis for such flammability standard or regulation. Any