

chapter shall be considered a violation of section 45 of this title.

(2) Any person who is found to violate any provision of section 4402 or 4403(a) of this title shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than \$10,000.

**(b) Regulations under section 4402 of this title**

(1) Regulations issued by the Federal Trade Commission under section 4402 of this title shall be issued in accordance with section 553 of title 5.

(2) Not later than 180 days after February 27, 1986, the Federal Trade Commission shall promulgate such regulations as it may require to implement section 4402 of this title.

**(c) Construction**

Nothing in this chapter (other than the requirements of sections 4402 and 4403 of this title) shall be construed to limit, restrict, or expand the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of smokeless tobacco products.

(Pub. L. 99-252, § 5, Feb. 27, 1986, 100 Stat. 33.)

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Subsecs. (a) and (c) effective one year after Feb. 27, 1986, see section 11(a) of Pub. L. 99-252, set out as a note under section 4401 of this title.

**§ 4405. Injunctions**

The several district courts of the United States are vested with jurisdiction, for cause shown, to prevent and restrain violations of sections 4402 and 4403 of this title upon application of the Federal Trade Commission in the case of a violation of section 4402 of this title or upon application of the Attorney General of the United States acting through the several United States attorneys in their several districts in the case of a violation of section 4402 or 4403 of this title.

(Pub. L. 99-252, § 6, Feb. 27, 1986, 100 Stat. 33.)

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Section effective one year after Feb. 27, 1986, see section 11(a) of Pub. L. 99-252, set out as a note under section 4401 of this title.

**§ 4406. Preemption**

**(a) Federal action**

Except as provided in the Family Smoking Prevention and Tobacco Control Act (and the amendments made by that Act), no statement relating to the use of smokeless tobacco products and health, other than the statements required by section 4402 of this title, shall be required by any Federal agency to appear on any package or in any advertisement (unless the advertisement is an outdoor billboard advertisement) of a smokeless tobacco product.

**(b) State and local action**

No statement relating to the use of smokeless tobacco products and health, other than the

statements required by section 4402 of this title, shall be required by any State or local statute or regulation to be included on any package or in any advertisement (unless the advertisement is an outdoor billboard advertisement) of a smokeless tobacco product.

**(c) Effect on liability law**

Nothing in this chapter shall relieve any person from liability at common law or under State statutory law to any other person.

(Pub. L. 99-252, § 7, Feb. 27, 1986, 100 Stat. 34; Pub. L. 111-31, div. A, title II, § 205(b), June 22, 2009, 123 Stat. 1849.)

**Editorial Notes**

REFERENCES IN TEXT

The Family Smoking Prevention and Tobacco Control Act, referred to in subsec. (a), is div. A of Pub. L. 111-31, June 22, 2009, 123 Stat. 1776. For complete classification of this Act to the Code, see Short Title of 2009 Amendment note set out under section 301 of Title 21, Food and Drugs, and Tables.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-31 substituted “Except as provided in the Family Smoking Prevention and Tobacco Control Act (and the amendments made by that Act), no” for “No”.

**§ 4407. Omitted**

**Editorial Notes**

CODIFICATION

Section, Pub. L. 99-252, § 8, Feb. 27, 1986, 100 Stat. 34, which required the Secretary of Health and Human Services and the Federal Trade Commission to transmit biennial reports to Congress on smokeless tobacco products, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, pages 95 and 173 of House Document No. 103-7.

**§ 4408. Definitions**

For purposes of this chapter:

(1) The term “smokeless tobacco” has the meaning given such term by section 387(18) of title 21.

(2) The term “commerce” means (A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island and any place outside thereof; (B) commerce between points in any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island, but through any place outside thereof; or (C) commerce wholly within the District of Columbia, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island.

(3) The term “United States”, when used in a geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and installations of the Armed Forces.

(4) The term “package” means a pack, box, carton, pouch, or container of any kind in which smokeless tobacco products are offered for sale, sold, or otherwise distributed to consumers.

(5) The term “sale or distribution” includes sampling or any other distribution not for sale.

(6) The term “Secretary” means the Secretary of Health and Human Services.

(Pub. L. 99-252, §9, Feb. 27, 1986, 100 Stat. 34; Pub. L. 111-31, div. A, title I, §101(c), June 22, 2009, 123 Stat. 1830.)

#### Editorial Notes

##### AMENDMENTS

2009—Par. (1). Pub. L. 111-31 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The term ‘smokeless tobacco’ means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.”

#### CHAPTER 71—PETROLEUM OVERCHARGE DISTRIBUTION AND RESTITUTION

Sec.	
4501.	Restitutionary amounts covered.
4502.	Identification and disbursement of restitutionary amounts.
4503.	Deposit of remainder of excess amount into Treasury as indirect restitution.
4504.	Statute of limitation.
4505.	Reports.
4506.	Termination.
4507.	Definitions.

#### § 4501. Restitutionary amounts covered

##### (a) In general

This chapter (other than section 4504 of this title)—

(1) specifies the procedure for the disbursement of funds collected, including interest thereon, by the Secretary or the courts pursuant to the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 751 et seq.] or the Economic Stabilization Act of 1970 (and the regulations issued thereunder) as restitution for actual or alleged violations of such Acts or regulations; and

(2) subject to subsection (c), applies to—

(A) any amount of such funds held in escrow by the Secretary through accounts administered by the Secretary of the Treasury on or after October 21, 1986; and

(B) any amount of such funds determined at any time, pursuant to judicial or administrative proceedings (including any settlement agreement or declaratory judgment) instituted by the Secretary to enforce such Acts and regulations, to be amounts paid for such actual or alleged violations, including any such amounts held in escrow by any court.

##### (b) Special rule

Amounts described in subsection (a)(2) and held in an escrow account by a court before October 21, 1986, may continue to be held by such court but shall be disbursed, together with any interest thereon, by the Secretary or, as appropriate, by the court only in accordance with the provisions of this chapter.

##### (c) Exclusions

Subsection (a)(2) does not apply to—

(1) any amount actually disbursed before October 21, 1986, to any person or class of persons pursuant to section 155 of Public Law 97-377 or any final judicial or administrative order or judgment (including any settlement agreement or declaratory judgment);

(2) any amount to which any person or class of persons has an enforceable right, created or vested, or governed by the terms and conditions of the settlement approved on July 7, 1986, in *In Re: the Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378, in the United States District Court for the District of Kansas; and

(3) any amount designated by judicial or administrative order or judgment (including any settlement agreement or declaratory judgment) for disbursement at any time to any specific person or class of persons—

(A) identified in such order or judgment as injured by the violation or alleged violation of the Acts described in subsection (a)(1) (including the regulations thereunder); or

(B) identified in such order or judgment issued before October 21, 1986, for indirect restitution.

##### (d) Escrow accounts

Subject to subsections (b) and (c), the amounts covered by subsection (a) shall be held in appropriate escrow accounts administered for the Secretary by the Secretary of the Treasury.

##### (e) Interest

Consistent with the disbursement requirements of this chapter, the Secretary of the Treasury shall provide that amounts described in subsection (a) shall earn interest at the maximum rate earned on investments of Federal trust funds by the Secretary of the Treasury in short-term and long-term securities issued by the Federal Government (including minority bank investments).

(Pub. L. 99-509, title III, §3002, Oct. 21, 1986, 100 Stat. 1881.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Emergency Petroleum Allocation Act of 1973, referred to in subsec. (a)(1), is Pub. L. 93-159, Nov. 27, 1973, 87 Stat. 628, which was classified generally to chapter 16A (§751 et seq.) of this title, was omitted from the Code pursuant to section 760g of this title, which provided for the expiration of the President's authority under that chapter on Sept. 30, 1981.

The Economic Stabilization Act of 1970, referred to in subsec. (a)(1), is title II of Pub. L. 91-379, Aug. 15, 1970, 84 Stat. 799, formerly set out as an Economic Stabilization Provisions note under section 1904 of Title 12, Banks and Banking.

Section 155 of Public Law 97-377, referred to in subsec. (c)(1), is section 155 of Pub. L. 97-377, title I, Dec. 21, 1982, 96 Stat. 1919, which is not classified to the Code.

#### Statutory Notes and Related Subsidiaries

##### SHORT TITLE

Pub. L. 99-509, title III, §3001, Oct. 21, 1986, 100 Stat. 1881, provided that: “This subtitle [subtitle A