

of Title 42, The Public Health and Welfare, as this section.

1990—Subsec. (a). Pub. L. 101-629, §19(a)(1)(B), (2)(E), substituted “section 360kk(h)” for “section 263f(h)”, “this part” for “this subpart”, and “section 360ll(a)(2) or 360ll(e)” for “section 263g(a)(2) or 263g(e)”.

Subsecs. (b) to (e). Pub. L. 101-629, §19(a)(1)(B), substituted “this part” for “this subpart” wherever appearing.

Subsec. (f). Pub. L. 101-629, §19(a)(1)(B), (2)(E)(ii), substituted “this part” for “this subpart”, “section 360ll” for “section 263g” in three places, and “section 360ll(a)” for “section 263g(a)”.

Statutory Notes and Related Subsidiaries

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90-602, set out as a note under section 360hh of this title.

§ 360oo. Prohibited acts

(a) It shall be unlawful—

(1) for any manufacturer to introduce, or to deliver for introduction, into commerce, or to import into the United States, any electronic product which does not comply with an applicable standard prescribed pursuant to section 360kk of this title;

(2) for any person to fail to furnish any notification or other material or information required by section 360ll or 360nn of this title; or to fail to comply with the requirements of section 360ll(f) of this title;

(3) for any person to fail or to refuse to establish or maintain records required by this part or to permit access by the Secretary or any of his duly authorized representatives to, or the copying of, such records, or to permit entry or inspection, as required by or pursuant to section 360nn of this title;

(4) for any person to fail or to refuse to make any report required pursuant to section 360nn(b) of this title or to furnish or preserve any information required pursuant to section 360nn(f) of this title; or

(5) for any person (A) to fail to issue a certification as required by section 360kk(h) of this title, or (B) to issue such a certification when such certification is not based upon a test or testing program meeting the requirements of section 360kk(h) of this title or when the issuer, in the exercise of due care, would have reason to know that such certification is false or misleading in a material respect.

(b) The Secretary may exempt any electronic product, or class thereof, from all or part of subsection (a), upon such conditions as he may find necessary to protect the public health or welfare, for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security.

(June 25, 1938, ch. 675, §538, formerly act July 1, 1944, ch. 373, title III, §538, formerly §360B, as added Pub. L. 90-602, §2(3), Oct. 18, 1968, 82 Stat. 1184; renumbered §538 and amended Pub. L. 101-629, §19(a)(1)(B), (2)(F), (3), (4), Nov. 28, 1990, 104 Stat. 4529, 4530; Pub. L. 103-80, §4(a)(2), Aug. 13, 1993, 107 Stat. 779.)

Editorial Notes

CODIFICATION

Section was classified to section 263j of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 101-629.

AMENDMENTS

1993—Pub. L. 103-80 amended directory language of Pub. L. 101-629, §19(a)(4), which renumbered section 263j of Title 42, The Public Health and Welfare, as this section.

1990—Subsec. (a)(1). Pub. L. 101-629, §19(a)(2)(F)(i), substituted “section 360kk” for “section 263f”.

Subsec. (a)(2). Pub. L. 101-629, §19(a)(2)(F)(ii), (iii), substituted “section 360ll or 360nn” for “section 263g or 263i” and “section 360ll(f)” for “section 263g(f)”.

Subsec. (a)(3). Pub. L. 101-629, §19(a)(1)(B), (2)(F)(iii), substituted “this part” for “this subpart” and “section 360nn” for “section 263i”.

Subsec. (a)(4). Pub. L. 101-629, §19(a)(2)(F)(iii), substituted “section 360nn(b)” for “section 263i(b)” and “section 360nn(f)” for “section 263i(f)”.

Subsec. (a)(5). Pub. L. 101-629, §19(a)(2)(F)(i), substituted “section 360kk(h)” for “section 263f(h)” in two places.

Statutory Notes and Related Subsidiaries

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90-602, set out as a note under section 360hh of this title.

§ 360pp. Enforcement

(a) Jurisdiction of courts

The district courts of the United States shall have jurisdiction, for cause shown, to restrain violations of section 360oo of this title and to restrain dealers and distributors of electronic products from selling or otherwise disposing of electronic products which do not conform to an applicable standard prescribed pursuant to section 360kk of this title except when such products are disposed of by returning them to the distributor or manufacturer from whom they were obtained. The district courts of the United States shall also have jurisdiction in accordance with section 1355 of title 28 to enforce the provisions of subsection (b) of this section.

(b) Penalties

(1) Any person who violates section 360oo of this title shall be subject to a civil penalty of not more than \$1,000. For purposes of this subsection, any such violation shall with respect to each electronic product involved, or with respect to each act or omission made unlawful by section 360oo of this title, constitute a separate violation, except that the maximum civil penalty imposed on any person under this subsection for any related series of violations shall not exceed \$300,000.

(2) Any such civil penalty may on application be remitted or mitigated by the Secretary. In determining the amount of such penalty, or whether it should be remitted or mitigated and in what amount, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be deducted from any