

Editorial Notes

AMENDMENTS

1980—Pub. L. 96-399 substituted “manufactured home” for “mobile home” in two places.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

§ 5409. Prohibited acts; exemptions

(a) No person shall—

(1) make use of any means of transportation or communication affecting interstate or foreign commerce or the mails to manufacture for sale, lease, sell, offer for sale or lease, or introduce or deliver, or import into the United States, any manufactured home which is manufactured on or after the effective date of any applicable Federal manufactured home construction and safety standard under this chapter and which does not comply with such standard, except as provided in subsection (b), where such manufacture, lease, sale, offer for sale or lease, introduction, delivery, or importation affects commerce;

(2) fail or refuse to permit access to or copying of records, or fail to make reports or provide information, or fail or refuse to permit entry or inspection, as required under section 5413 of this title;

(3) fail to furnish notification of any defect as required by section 5414 of this title;

(4) fail to issue a certification required by section 5415 of this title, or issue a certification to the effect that a manufactured home conforms to all applicable Federal manufactured home construction and safety standards, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect;

(5) fail to comply with a final order issued by the Secretary under this chapter;

(6) issue a certification pursuant to subsection (h) of section 5403 of this title, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect; or

(7) after the expiration of the period specified in section 5404(c)(2)(B) of this title, fail to comply with the requirements for the installation program required by section 5404 of this title in any State that has not adopted and implemented a State installation program.

(b)(1) Paragraph (1) of subsection (a) shall not apply to the sale, the offer for sale, or the introduction or delivery for introduction in interstate commerce of any manufactured home after the first purchase of it in good faith for purposes other than resale.

(2) For purposes of section 5410 of this title, paragraph (1) of subsection (a) shall not apply to any person who establishes that he did not have reason to know in the exercise of due care that such manufactured home is not in conformity with applicable Federal manufactured home construction and safety standards, or to any person who, prior to such first purchase, holds a

certificate issued by the manufacturer or importer of such manufactured home to the effect that such manufactured home conforms to all applicable Federal manufactured home construction and safety standards, unless such person knows that such manufactured home does not so conform.

(3) A manufactured home offered for importation in violation of paragraph (1) of subsection (a) shall be refused admission into the United States under joint regulations issued by the Secretary of the Treasury and the Secretary, except that the Secretary of the Treasury and the Secretary may, by such regulations, provide for authorizing the importation of such manufactured home into the United States upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such manufactured home will be brought into conformity with any applicable Federal manufactured home construction or safety standard prescribed under this chapter, or will be exported from, or forfeited to, the United States.

(4) The Secretary of the Treasury and the Secretary may, by joint regulations, permit the importation of any manufactured home after the first purchase of it in good faith for purposes other than resale.

(5) Paragraph (1) of subsection (a) shall not apply in the case of a manufactured home intended solely for export, and so labeled or tagged on the manufactured home itself and on the outside of the container, if any, in which it is to be exported.

(c) Compliance with any Federal manufactured home construction or safety standard issued under this chapter does not exempt any person from any liability under common law.

(Pub. L. 93-383, title VI, §610, Aug. 22, 1974, 88 Stat. 704; Pub. L. 95-128, title IX, §902(b), Oct. 12, 1977, 91 Stat. 1149; Pub. L. 96-399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 106-569, title VI, §608, Dec. 27, 2000, 114 Stat. 3009.)

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2000—Subsec. (a)(7). Pub. L. 106-569 added par. (7).

1980—Subsecs. (a)(1), (4), (b)(1) to (5), (c). Pub. L. 96-399 substituted “manufactured home” for “mobile home” wherever appearing.

1977—Subsec. (a)(6). Pub. L. 95-128 added par. (6).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106-569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

§ 5410. Civil and criminal penalties

(a) Whoever violates any provision of section 5409 of this title, or any regulation or final order

issued thereunder, shall be liable to the United States for a civil penalty of not to exceed \$1,000 for each such violation. Each violation of a provision of section 5409 of this title, or any regulation or order issued thereunder shall constitute, a separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed \$1,000,000 for any related series of violations occurring within one year from the date of the first violation.

(b) An individual or a director, officer, or agent of a corporation who knowingly and willfully violates section 5409 of this title in a manner which threatens the health or safety of any purchaser shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(Pub. L. 93-383, title VI, §611, Aug. 22, 1974, 88 Stat. 705; Pub. L. 96-399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641.)

Editorial Notes

AMENDMENTS

1980—Subsec. (a). Pub. L. 96-399 substituted “manufactured home” for “mobile home”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

§ 5411. Injunctive relief

(a) Jurisdiction; petition of United States attorney or Attorney General; notice by Secretary to affected persons to present views

The United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65(a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this chapter, or to restrain the sale, offer for sale, or the importation into the United States, of any manufactured home which is determined, prior to the first purchase of such manufactured home in good faith for purposes other than resale, not to conform to applicable Federal manufactured home construction and safety standards prescribed pursuant to this chapter or to contain a defect which constitutes an imminent safety hazard, upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States. Whenever practicable, the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views and the failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

(b) Criminal contempt proceedings; conduct of trial

In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, which violation also constitutes a violation of this chapter, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted

in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(c) Venue

Actions under subsection (a) of this section and section 5410 of this title may be brought in the district wherein any act or transaction constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

(d) Subpenas

In any action brought by the United States under subsection (a) of this section or section 5410 of this title, subpoenas by the United States for witnesses who are required to attend at United States district court may run into any other district.

(e) Designation by manufacturer of agent for service of administrative and judicial processes, etc.; filing and amendment of designation; failure to make designation

It shall be the duty of every manufacturer offering a manufactured home for importation into the United States to designate in writing an agent upon whom service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made for and on behalf of such manufacturer, and to file such designation with the Secretary, which designation may from time to time be changed by like writing, similarly filed. Service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made upon such manufacturer by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon such manufacturer, and in default of such designation of such agent, service of process or any notice, order, requirement, or decision in any proceeding before the Secretary or in any judicial proceeding pursuant to this chapter may be made by mailing such process, notice, order, requirement, or decision to the Secretary by registered or certified mail.

(Pub. L. 93-383, title VI, §612, Aug. 22, 1974, 88 Stat. 705; Pub. L. 96-399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641.)

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REFERENCES IN TEXT

Rule 65 of the Federal Rules of Civil Procedure, referred to in subsec. (a), is set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 42 of the Federal Rules of Criminal Procedure, referred to in subsec. (b), is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1980—Subsecs. (a), (e). Pub. L. 96-399 substituted “manufactured home” for “mobile home” wherever appearing.