

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by section 24109(c) of Pub. L. 114-94 effective on the date that is 180 days after Dec. 4, 2015, see section 24109(k) of Pub. L. 114-94, set out as a note under section 30102 of this title.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§ 30120A. Recall obligations and bankruptcy of a manufacturer

A manufacturer's filing of a petition in bankruptcy under chapter 7 or chapter 11 of title 11 does not negate the manufacturer's duty to comply with section 30112 or sections 30115 through 30120 of this title. In any bankruptcy proceeding, the manufacturer's obligations under such sections shall be treated as a claim of the United States Government against such manufacturer, subject to subchapter II of chapter 37 of title 31, United States Code, and given priority pursuant to section 3713(a)(1)(A) of such chapter, notwithstanding section 3713(a)(2), to ensure that consumers are adequately protected from any safety defect or noncompliance determined to exist in the manufacturer's products. This section shall apply equally to actions of a manufacturer taken before or after the filing of a petition in bankruptcy.

(Added Pub. L. 112-141, div. C, title I, §31312(a), July 6, 2012, 126 Stat. 772; amended Pub. L. 114-94, div. B, title XXIV, §24106, Dec. 4, 2015, 129 Stat. 1705.)

Editorial Notes

AMENDMENTS

2015—Pub. L. 114-94 substituted “chapter 7 or chapter 11 of title 11” for “chapter 11 of title 11.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§ 30121. Provisional notification and civil actions to enforce

(a) PROVISIONAL NOTIFICATION.—(1) The Secretary of Transportation may order a manufacturer to issue a provisional notification if a civil action about an order issued under section 30118(b) of this title has been brought under section 30163 of this title. The provisional notification shall contain—

(A) a statement that the Secretary has decided that a defect related to motor vehicle safety or noncompliance with a motor vehicle safety standard prescribed under this chapter exists and that the manufacturer is contesting the decision in a civil action in a United States district court;

(B) a clear description of the Secretary's stated basis for the decision;

(C) the Secretary's evaluation of the risk to motor vehicle safety reasonably related to the defect or noncompliance;

(D) measures the Secretary considers necessary to avoid an unreasonable risk to motor vehicle safety resulting from the defect or noncompliance;

(E) a statement that the manufacturer will remedy the defect or noncompliance without charge under section 30120 of this title, but that the requirement to remedy without charge is conditioned on the outcome of the civil action; and

(F) other information the Secretary prescribes by regulation or includes in the order requiring the notice.

(2) A notification under this subsection does not relieve a manufacturer of liability for not giving notification required by an order under section 30118(b) of this title.

(b) CIVIL ACTIONS FOR NOT NOTIFYING.—(1) A manufacturer that does not notify owners and purchasers under section 30119(c) and (d) of this title is liable to the United States Government for a civil penalty, unless the manufacturer prevails in a civil action referred to in subsection (a) of this section or the court in that action enjoins enforcement of the order. Enforcement may be enjoined only if the court decides that the failure to notify is reasonable and that the manufacturer has demonstrated the likelihood of prevailing on the merits. If enforcement is enjoined, the manufacturer is not liable during the time the order is stayed.

(2) A manufacturer that does not notify owners and purchasers as required under subsection (a) of this section is liable for a civil penalty regardless of whether the manufacturer prevails in an action on the validity of the order issued under section 30118(b) of this title.

(c) ORDERS TO MANUFACTURERS.—If the Secretary prevails in a civil action referred to in subsection (a) of this section, the Secretary shall order the manufacturer—

(1) to notify each owner, purchaser, and dealer described in section 30119(d) of this title of the outcome of the action and other information the Secretary requires, and notification under this clause may be combined with notification required under section 30118(b) of this title;

(2) to specify the earliest date under section 30119(b) of this title on which the defect or noncompliance will be remedied without charge under section 30120 of this title; and

(3) if notification was required under subsection (a) of this section, to reimburse an owner or purchaser for reasonable and necessary expenses (in an amount that is not more than the amount specified in the order of the Secretary under subsection (a)) incurred for repairing the defect or noncompliance during the period beginning on the date that notification was required to be issued and ending on the date the owner or purchaser receives the notification under this subsection.

(d) VENUE.—Notwithstanding section 30163(c) of this title, a civil action about an order issued under section 30118(b) of this title must be brought in the United States district court for a judicial district in the State in which the manufacturer is incorporated or the District of Columbia. On motion of a party, the court may

transfer the action to another district court if good cause is shown. All actions related to the same order under section 30118(b) shall be consolidated in an action in one judicial district under an order of the court in which the first action was brought. If the first action is transferred to another court, that court shall issue the consolidation order.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 954.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows include 30121(a), 30121(b), 30121(c), and 30121(d) with their respective legislative sources.

In this section, the text of 15:1397(a)(1)(D) (related to 15:1415) is omitted as surplus.

In subsection (a)(1), before clause (A), the words "and to which subsection (a) of this section applies" are omitted because of the restatement. In clause (A), the words "prescribed under this chapter" are substituted for "Federal", and the words "civil action" are substituted for "proceeding", for consistency. In clause (B), the words "that there is such a defect or failure" are omitted as surplus. In clause (D), the word "considers" is substituted for "which in the judgment of . . . are" to eliminate unnecessary words. In clause (E), the word "remedy" is substituted for "cause . . . to be remedied" to eliminate unnecessary words. The words "civil action" are substituted for "court proceeding" for consistency.

In subsection (b)(1), the words "with respect to such failure to notify" are omitted as surplus. The word "enjoins" is substituted for "restrains" for consistency. The words "of such an order" and "for which the effectiveness of" are omitted as surplus.

In subsection (b)(2), the words "by an order", "or not", and "(to which subsection (a) of the section applies)" are omitted as surplus.

In subsection (c), before clause (1), the words "a civil action referred to in subsection (a) of this section" are substituted for "(i) a manufacturer fails within the period specified in section 1413(b) of this title to comply with an order under section 1412(b) of this title to afford notification to owners and purchasers, (ii) a civil action to which subsection (a) of this section applies is commenced with respect to such order, and (iii) . . . in such action" to eliminate unnecessary words. In clause (1), the word "action" is substituted for "proceeding" for consistency. The words "containing" and "by an order" are omitted as surplus. In clause (2), the words "under section 30119(b) of this title" are substituted for "(in accordance with the second and third sentences of section 1414(b) of this title)" for clarity. The words "under section 30120 of this title" are added for clarity. In clause (3), the words "which are . . . by such owner

or purchaser", "the purpose of", and "to which the order relates" are omitted as surplus.

In subsection (d), the words "Notwithstanding section 30163(c) of this title" are added for clarity. The words "An action under section 1399(a) of this title to restrain a violation of an order . . . or under section 1398 of this title to collect a civil penalty with respect to a violation of such an order" and "to which the order applies" are omitted as surplus. The words "may transfer the action" are substituted for "orders a change of venue" for consistency with 28:1404. The words "(including enforcement actions)" are omitted as surplus. The words "that court shall issue the consolidation order" are substituted for "by order of such other court" for clarity.

§ 30122. Making safety devices and elements inoperative

(a) DEFINITION.—In this section, "motor vehicle repair business" means a person holding itself out to the public to repair for compensation a motor vehicle or motor vehicle equipment.

(b) PROHIBITION.—A manufacturer, distributor, dealer, rental company, or motor vehicle repair business may not knowingly make inoperative any part of a device or element of design installed on or in a motor vehicle or motor vehicle equipment in compliance with an applicable motor vehicle safety standard prescribed under this chapter unless the manufacturer, distributor, dealer, rental company, or repair business reasonably believes the vehicle or equipment will not be used (except for testing or a similar purpose during maintenance or repair) when the device or element is inoperative.

(c) REGULATIONS.—The Secretary of Transportation may prescribe regulations—

- (1) to exempt a person from this section if the Secretary decides the exemption is consistent with motor vehicle safety and section 30101 of this title; and
(2) to define "make inoperative".

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 956; Pub. L. 112-141, div. C, title I, §31202(a)(1), July 6, 2012, 126 Stat. 757; Pub. L. 114-94, div. B, title XXIV, §24109(d), Dec. 4, 2015, 129 Stat. 1707.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows include 30122(a), 30122(b), 30122(c), and 30122(d) with their respective legislative sources.

In subsections (a) and (c), the words "the term" are omitted as surplus.

In subsection (a), the words "in the business of" are omitted as surplus.

In subsection (b), the words "an applicable motor vehicle safety standard prescribed under this chapter" are substituted for "an applicable Federal motor vehicle safety standard" for consistency. The words "of design" the 2d time they appear and "rendered" are omitted as surplus.

In subsection (c)(1), the words "section 30101 of this title" are substituted for "the purposes of this chapter" as being more precise.

In subsection (d), the words "with respect . . . the rendering inoperative of" are omitted as surplus.