

<p>15 USC Ch. 36: CIGARETTE LABELING AND ADVERTISING</p> <p>From Title 15—COMMERCE AND TRADE</p>
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CHAPTER 36—CIGARETTE LABELING AND ADVERTISING

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§1331. Congressional declaration of policy and purpose

It is the policy of the Congress, and the purpose of this chapter, to establish a comprehensive Federal Program to deal with cigarette labeling and advertising with respect to any relationship between smoking and health, whereby—

(1) the public may be adequately informed about any adverse health effects of cigarette smoking by inclusion of warning notices on each package of cigarettes and in each advertisement of cigarettes; and

(2) commerce and the national economy may be (A) protected to the maximum extent consistent with this declared policy and (B) not impeded by diverse, nonuniform, and confusing cigarette labeling and advertising regulations with respect to any relationship between smoking and health.

(Pub. L. 89–92, §2, July 27, 1965, 79 Stat. 282; Pub. L. 91–222, §2, Apr. 1, 1970, 84 Stat. 87; Pub. L. 98–474, §6(a), Oct. 12, 1984, 98 Stat. 2204.)

AMENDMENTS

1984—Par. (1). Pub. L. 98–474 substituted "about any adverse health effects of cigarette smoking by inclusion of warning notices on each package of cigarettes and in each advertisement;" for "that cigarette smoking may be hazardous to health by inclusion of a warning to that effect on each package of cigarettes;"

1970—Pub. L. 91–222 reenacted section without change.

EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91–222, §3, Apr. 1, 1970, 84 Stat. 90, provided in part that: "All other provisions of the amendment made by this Act [enacting section 1340 of this title, amending this section and sections 1332 and 1335 to 1339 of this title, and enacting provisions set out as notes under this section] except where otherwise specified shall take effect on January 1, 1970."

EFFECTIVE DATE

Pub. L. 89–92, §12, formerly §11, July 27, 1965, 79 Stat. 284, as renumbered by Pub. L. 98–474, §5(a), Oct. 12, 1984, 98 Stat. 2203, provided that: "This Act [this chapter] shall take effect on January 1, 1966."

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–474, §1, Oct. 12, 1984, 98 Stat. 2200, provided that: "This Act [enacting sections 1335a and 1341 of this title, amending this section and sections 1332, 1333, 1336, and 1337 of this title, and enacting provisions set out as notes under this section and sections 1333 and 1335a of this title] may be cited as the 'Comprehensive Smoking Education Act'."

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93–109, §1, Sept. 21, 1973, 87 Stat. 352, provided: "That this Act [amending sections 1332 and 1335 of this title] may be cited as the 'Little Cigar Act of 1973'."

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91–222, §1, Apr. 1, 1970, 84 Stat. 87, provided: "That this Act [enacting section 1340 of this title, amending this section and sections 1332 to 1339 of this title, and enacting provisions set out as notes under this section and sections 1333 and 1334 of this title] may be cited as the 'Public Health Cigarette Smoking Act of 1969'."

SHORT TITLE

Pub. L. 89–92, §1, July 27, 1965, 79 Stat. 282, provided: "This Act [enacting this chapter] may be cited as the 'Federal Cigarette Labeling and Advertising Act'."

SEPARABILITY

Pub. L. 89–92, §13, formerly §12, as added by Pub. L. 91–222, §2, Apr. 1, 1970, 84 Stat. 90, and renumbered Pub. L. 98–474, §5(a), Oct. 12, 1984, 98 Stat. 2203, provided that: "If any provision of this Act [this chapter] or the application thereof to any person or circumstances is held invalid, the other provisions of this Act [this chapter] and the application of such provisions to other persons or circumstances shall not be affected thereby."

CONGRESSIONAL STATEMENT OF PURPOSE

Pub. L. 98–474, §2, Oct. 12, 1984, 98 Stat. 2200, provided that: "It is the purpose of this Act [see Short Title of 1984 Amendment note above] to provide a new strategy for making Americans more aware of any adverse health effects of smoking, to assure the timely and widespread dissemination of research findings and to enable individuals to make informed decisions about smoking."

§1332. Definitions

As used in this chapter—

(1) The term "cigarette" means—

- (A) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and
- (B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A).

(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, and Johnston Island. The term "State" includes any political division of any State.

(4) The term "package" means a pack, box, carton, or container of any kind in which cigarettes are offered for sale, sold, or otherwise distributed to consumers.

(5) The term "person" means an individual, partnership, corporation, or any other business or legal entity.

(6) The term "sale or distribution" includes sampling or any other distribution not for sale.

(7) The term "little cigar" means any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subsection (1)) and as to which one thousand units weigh not more than three pounds.

(8) The term "brand style" means a variety of cigarettes distinguished by the tobacco used, tar and nicotine content, flavoring used, size of the cigarette, filtration on the cigarette, or packaging.

(9) The term "Secretary" means the Secretary of Health and Human Services.

(Pub. L. 89–92, §3, July 27, 1965, 79 Stat. 282; Pub. L. 91–222, §2, Apr. 1, 1970, 84 Stat. 88; Pub. L. 93–109, §2, Sept. 21, 1973, 87 Stat. 352; Pub. L. 98–474, §6(b), Oct. 12, 1984, 98 Stat. 2204; Pub. L. 99–92, §11(b), Aug. 16, 1985, 99 Stat. 403.)

AMENDMENTS

1985—Pars. (8), (9). Pub. L. 99–92 added par. (8) and redesignated former par. (8) as (9).

1984—Par. (8). Pub. L. 98–474 added par. (8).

1973—Subsec. (7). Pub. L. 93–109 added subsec. (7).

1970—Subsec. (3). Pub. L. 91–222 inserted provisions defining "State".

EFFECTIVE DATE OF 1973 AMENDMENT

Pub. L. 93–109, §4, Sept. 21, 1973, 87 Stat. 352, provided that: "The amendment made by this Act [amending this section and section 1335 of this title] shall become effective thirty days after the date of enactment [Sept. 21, 1973]."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–222 effective Jan. 1, 1970, except where otherwise specified, see section 3 of Pub. L. 91–222, set out in part as a note under section 1331 of this title.

§1333. Labeling

(a) Label requirements

(1) In general

It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

WARNING: Cigarettes are addictive.

WARNING: Tobacco smoke can harm your children.

WARNING: Cigarettes cause fatal lung disease.

WARNING: Cigarettes cause cancer.

WARNING: Cigarettes cause strokes and heart disease.

WARNING: Smoking during pregnancy can harm your baby.

WARNING: Smoking can kill you.

WARNING: Tobacco smoke causes fatal lung disease in nonsmokers.

WARNING: Quitting smoking now greatly reduces serious risks to your health.

(2) Placement; typography; etc.

Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Each label statement shall comprise the top 50 percent of the front and rear panels of the package. The word

"WARNING" shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (c).

(3) Does not apply to foreign distribution

The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

(4) Applicability to retailers

A retailer of cigarettes shall not be in violation of this subsection for packaging that—

(A) contains a warning label;

(B) is supplied to the retailer by a license- or permit-holding tobacco product manufacturer, importer, or distributor; and

(C) is not altered by the retailer in a way that is material to the requirements of this subsection.

(b) Advertising requirements

(1) In general

It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

(2) Typography, etc.

Each label statement required by subsection (a) in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent (including a smoke constituent) yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word "WARNING" shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under subsection (c). The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital "W" of the word "WARNING" in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that—

(A) in the case of an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

(3) Matchbooks

Notwithstanding paragraph (2), for matchbooks (defined as containing not more than 20 matches) customarily given away with the purchase of tobacco products, each label statement required by subsection (a) may be printed on the inside cover of the matchbook.

(4) Adjustment by Secretary

The Secretary may, through a rulemaking under section 553 of title 5, adjust the format and type sizes for the label statements required by this section; the text, format, and type sizes of any required tar, nicotine yield, or other constituent (including smoke constituent) disclosures; or the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.]. The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2). The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure

that the total text required to appear by law will fit within such area.

(c) Marketing requirements

(1) Random display

The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

(2) Rotation

The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

(3) Review

The Secretary shall review each plan submitted under paragraph (2) and approve it if the plan—

(A) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

(B) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

(4) Applicability to retailers

This subsection and subsection (b) apply to a retailer only if that retailer is responsible for or directs the label statements required under this section except that this paragraph shall not relieve a retailer of liability if the retailer displays, in a location open to the public, an advertisement that does not contain a warning label or has been altered by the retailer in a way that is material to the requirements of this subsection and subsection (b).

(d) ¹ Graphic label statements

Not later than 24 months after June 22, 2009, the Secretary shall issue regulations that require color graphics depicting the negative health consequences of smoking to accompany the label statements specified in subsection (a)(1). The Secretary may adjust the type size, text and format of the label statements specified in subsections (a)(2) and (b)(2) as the Secretary determines appropriate so that both the graphics and the accompanying label statements are clear, conspicuous, legible and appear within the specified area.

(d) ¹ Change in required statements

The Secretary through a rulemaking conducted under section 553 of title 5 may adjust the format, type size, color graphics, and text of any of the label requirements, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of tobacco products.

(e) Tar, nicotine, and other smoke constituent disclosure

(1) In general

The Secretary shall, by a rulemaking conducted under section 553 of title 5, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

(2) Resolution of differences

Any differences between the requirements established by the Secretary under paragraph (1) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

(3) Cigarette and other tobacco product constituents

In addition to the disclosures required by paragraph (1), the Secretary may, under a rulemaking conducted under section 553 of title 5, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product constituent including any smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase

consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.].

(4) Retailers

This subsection applies to a retailer only if that retailer is responsible for or directs the label statements required under this section.

(Pub. L. 89–92, §4, July 27, 1965, 79 Stat. 283; Pub. L. 91–222, §2, Apr. 1, 1970, 84 Stat. 88; Pub. L. 98–474, §4(a), Oct. 12, 1984, 98 Stat. 2201; Pub. L. 99–92, §11[(a)], Aug. 16, 1985, 99 Stat. 402; Pub. L. 99–117, §11(d), Oct. 7, 1985, 99 Stat. 495; Pub. L. 111–31, div. A, title II, §§201(a), 202(b), 206, June 22, 2009, 123 Stat. 1842, 1845, 1849.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsecs. (b)(4), (d), and (e)(3), is act June 25, 1938, ch. 675, 52 Stat. 1040, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

AMENDMENTS

2009—Pub. L. 111–31, §201(a), amended section generally. Prior to amendment, section related to cigarette labeling requirements.

Subsec. (d). Pub. L. 111–31, §202(b), added subsec. (d) relating to change in required statements.

Subsec. (e). Pub. L. 111–31, §206, added subsec. (e).

1985—Subsec. (c). Pub. L. 99–92 designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), the" for "The label", and added par. (2).

Subsec. (c)(2)(A). Pub. L. 99–117 substituted "brand style" for "brand" in provisions preceding cl. (i).

1984—Pub. L. 98–474 amended section generally, designating existing provisions as subsec. (a), expanding choice of warnings to be placed on cigarette packaging and further expanding scope of places that must contain warnings to include advertisements and outdoor billboards, and adding subsecs. (b) to (d).

1970—Pub. L. 91–222 substituted "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health" for "Caution: Cigarette Smoking May Be Hazardous to Your Health."

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–31, div. A, title II, §201(b), June 22, 2009, 123 Stat. 1845, provided that: "The amendment made by subsection (a) [amending this section] shall take effect 15 months after the issuance of the regulations required by subsection (a) [final rule issued June 22, 2011, eff. Sept. 22, 2012; see 76 F.R. 36628]. Such effective date shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by subsection (a)."

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–92, §11(c), Aug. 16, 1985, 99 Stat. 403, provided that:

"(1) The amendments made by subsection (a) [probably refers to undesignated par. preceding subsec. (b), amending this section] shall take effect October 12, 1985, except that—

"(A) on and after the date of the enactment of this Act [Aug. 16, 1985] a manufacturer or importer of cigarettes may apply to the Federal Trade Commission to have the label rotation specified in section 4(c)(2) of the Federal Cigarette Labeling and Advertising Act [subsec. (c)(2) of this section], as amended by subsection (a), apply to its brand styles of cigarettes and the Commission may take action on such an application, and

"(B) a manufacturer or importer of cigarettes may elect to have the amendments apply at an earlier date or dates selected by the manufacturer or importer.

"(2) The Federal Trade Commission may, upon application of a manufacturer or importer of cigarettes with an approved application under section 4(c)(2) of the Federal Cigarette Labeling and Advertising Act [subsec. (c)(2) of this section], as amended by subsection (a), extend the effective date specified in paragraph (1) to January 11, 1986. The Commission may approve an application for such an extension only if the Commission determines that the effective date specified in such paragraph (1) would cause unreasonable economic hardship to the applicant. Section 4 of the Federal Cigarette Labeling and Advertising Act [this section], as in effect before October 12, 1985, shall apply with respect to a manufacturer or importer with an application approved under this paragraph."

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-474, §4(b), Oct. 12, 1984, 98 Stat. 2203, provided that: "The amendment made by subsection (a) [amending this section] shall take effect upon the expiration of a one-year period beginning on the date of the enactment of this Act [Oct. 12, 1984]."

EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91-222, §3, Apr. 1, 1970, 84 Stat. 90, provided in part that: "Section 4 of the amendment made by this Act [amending this section] shall take effect on the first day of the seventh calendar month which begins after the date of the enactment of this Act [Apr. 1, 1970]."

¹ So in original. There are two subsecs. designated (d).

§1334. Preemption

(a) Additional statements

Except to the extent the Secretary requires additional or different statements on any cigarette package by a regulation, by an order, by a standard, by an authorization to market a product, or by a condition of marketing a product, pursuant to the Family Smoking Prevention and Tobacco Control Act (and the amendments made by that Act), or as required under section 387c(a)(2) of title 21 or section 387t(a) of title 21, no statement relating to smoking and health, other than the statement required by section 1333 of this title, shall be required on any cigarette package.

(b) State regulations

No requirement or prohibition based on smoking and health shall be imposed under State law with respect to the advertising or promotion of any cigarettes the packages of which are labeled in conformity with the provisions of this chapter.

(c) Exception

Notwithstanding subsection (b), a State or locality may enact statutes and promulgate regulations, based on smoking and health, that take effect after the effective date of the Family Smoking Prevention and Tobacco Control Act, imposing specific bans or restrictions on the time, place, and manner, but not content, of the advertising or promotion of any cigarettes.

(Pub. L. 89-92, §5, July 27, 1965, 79 Stat. 283; Pub. L. 91-222, §2, Apr. 1, 1970, 84 Stat. 88; Pub. L. 111-31, div. A, title II, §§202(a), 203, June 22, 2009, 123 Stat. 1845, 1846.)

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.

The effective date of the Family Smoking Prevention and Tobacco Control Act, referred to in subsec. (c), probably means the date of enactment of Pub. L. 111-31, which was approved June 22, 2009.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–31, §202(a), substituted "Except to the extent the Secretary requires additional or different statements on any cigarette package by a regulation, by an order, by a standard, by an authorization to market a product, or by a condition of marketing a product, pursuant to the Family Smoking Prevention and Tobacco Control Act (and the amendments made by that Act), or as required under section 387c(a)(2) of title 21 or section 387t(a) of title 21, no" for "No".

Subsec. (c). Pub. L. 111–31, §203, added subsec. (c).

1970—Subsec. (b). Pub. L. 91–222 substituted provision that no requirement or prohibition based on smoking and health should be imposed under State law with respect to the advertising or promotion of any cigarettes which packages are labeled in conformity with the provisions of this chapter for provision that no statement relating to smoking and health should be required in the advertising of any cigarettes which packages are labeled in conformity with the provisions of this chapter.

Subsecs. (c), (d). Pub. L. 91–222 struck out subsecs. (c) and (d) relating to the authority of the Federal Trade Commission with respect to unfair or deceptive advertising acts or practices, and reports to Congress by the Secretary of Health, Education, and Welfare and the Federal Trade Commission. See sections 1336 and 1337 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91–222, §3, Apr. 1, 1970, 84 Stat. 90, provided in part that: "Section 5 of the amendment made by this Act [amending this section] shall take effect as of July 1, 1969."

§1335. Unlawful advertisements on medium of electronic communication

After January 1, 1971, it shall be unlawful to advertise cigarettes and little cigars on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission.

(Pub. L. 89–92, §6, July 27, 1965, 79 Stat. 283; Pub. L. 91–222, §2, Apr. 1, 1970, 84 Stat. 89; Pub. L. 93–109, §3, Sept. 21, 1973, 87 Stat. 352.)

AMENDMENTS

1973—Pub. L. 93–109 extended prohibition against advertisements to little cigars.

1970—Pub. L. 91–222 substituted provision that after January 1, 1971, it shall be unlawful to advertise cigarettes on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission, for provision that a violation of this chapter should constitute misdemeanor and be punishable by fine. See, now, section 1338 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–109 effective thirty days after Sept. 21, 1973, see section 4 of Pub. L. 93–109, set out as a note under section 1332 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–222 effective Jan. 1, 1970, except where otherwise specified, see section 3 of Pub. L. 91–222, set out in part as a note under section 1331 of this title.

§1335a. List of cigarette ingredients; annual submission to Secretary; transmittal to Congress; confidentiality

(a) Each person who manufactures, packages, or imports cigarettes shall annually provide the Secretary with a list of the ingredients added to tobacco in the manufacture of cigarettes which does not identify the company which uses the ingredients or the brand of cigarettes which contain the ingredients. A person or group of persons required to provide a list by this subsection may designate an individual or entity to provide the list required by this subsection.

(b)(1) At such times as the Secretary considers appropriate, the Secretary shall transmit to the Congress a report, based on the information provided under subsection (a) of this section, respecting—

(A) a summary of research activities and proposed research activities on the health effects of ingredients added to tobacco in the manufacture of cigarettes and the findings of such research;

(B) information pertaining to any such ingredient which in the judgement of the Secretary poses a health risk to cigarette smokers; and

(C) any other information which the Secretary determines to be in the public interest.

(2)(A) Any information provided to the Secretary under subsection (a) of this section shall be treated as trade secret or confidential information subject to section 552(b)(4) of title 5 and section 1905 of title 18 and shall not be revealed, except as provided in paragraph (1), to any person other than those authorized by the Secretary in carrying out their official duties under this section.

(B) Subparagraph (A) does not authorize the withholding of a list provided under subsection (a) of this section from any duly authorized subcommittee or committee of the Congress. If a subcommittee or committee of the Congress requests the Secretary to provide it such a list, the Secretary shall make the list available to the subcommittee or committee and shall, at the same time, notify in writing the person who provided the list of such request.

(C) The Secretary shall establish written procedures to assure the confidentiality of information provided under subsection (a) of this section. Such procedures shall include the designation of a duly authorized agent to serve as custodian of such information. The agent—

(i) shall take physical possession of the information and, when not in use by a person authorized to have access to such information, shall store it in a locked cabinet or file, and

(ii) shall maintain a complete record of any person who inspects or uses the information.

Such procedures shall require that any person permitted access to the information shall be instructed in writing not to disclose the information to anyone who is not entitled to have access to the information.

(Pub. L. 89–92, §7, as added Pub. L. 98–474, §5(a), Oct. 12, 1984, 98 Stat. 2203.)

PRIOR PROVISIONS

A prior section 7 of Pub. L. 89–92 was renumbered section 8 and is classified to section 1336 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–474, §5(b), Oct. 12, 1984, 98 Stat. 2204, provided that: "Section 7 of the Federal Cigarette Labeling and Advertising Act [this section] added by subsection (a) shall take effect upon the expiration of the one-year period beginning on the date of the enactment of this Act [Oct. 12, 1984]."

§1336. Authority of Federal Trade Commission; unfair or deceptive acts or practices

Nothing in this chapter (other than the requirements of section 1333 of this title) shall be construed to limit, restrict, expand, or otherwise affect the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes.

(Pub. L. 89–92, §8, formerly §7, July 27, 1965, 79 Stat. 283; Pub. L. 91–222, §2, Apr. 1, 1970, 84 Stat. 89; renumbered §8 and amended Pub. L. 98–474, §§5(a), 6(c), Oct. 12, 1984, 98 Stat. 2203, 2204; Pub. L. 99–92, §12, Aug. 16, 1985, 99 Stat. 404.)

PRIOR PROVISIONS

A prior section 8 of Pub. L. 89–92 was renumbered section 9, classified to section 1337 of this title, and subsequently omitted from the Code.

AMENDMENTS

1985—Pub. L. 99–92 struck out "(b)" after "1333".

1984—Pub. L. 98–474 amended section generally, striking out subsecs. (a) and (c) which dealt with the authority of the Federal Trade Commission with respect to its pending trade regulation rule proceeding relating to cigarette advertising and its authority to issue trade regulation rules or to require an affirmative statement in any cigarette advertisement, which left the provisions of former subsec. (b) to constitute this section.

1970—Pub. L. 91–222 substituted provisions concerning the action of the Federal Trade

Commission with respect to its pending trade regulation rule proceeding relating to cigarette advertising, the Commission's authority with respect to unfair or deceptive cigarette advertising acts or practices, and its authority to issue trade regulation rules or to require an affirmative statement in any cigarette advertisement, for provisions investing the several district courts with jurisdiction, for cause shown, to prevent and restrain violations of this chapter upon proper application. See section 1339 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–222 effective Jan. 1, 1970, except where otherwise specified, see section 3 of Pub. L. 91–222, set out in part as a note under section 1331 of this title.

§1337. Omitted

CODIFICATION

Section, Pub. L. 89–92, §9, formerly §8, July 27, 1965, 79 Stat. 283; Pub. L. 91–222, §2, Apr. 1, 1970, 84 Stat. 89; renumbered §9 and amended Pub. L. 98–474, §§5(a), 6(d), Oct. 12, 1984, 98 Stat. 2203, 2205, which required the Secretary of Health and Human Services to transmit an annual report to Congress concerning health consequences of smoking and recommendations for legislation, and which required the Federal Trade Commission to transmit an annual report to Congress concerning practices and methods of cigarette advertising and promotion and recommendations for legislation, 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 172 of House Document No. 103–7.

A prior section 9 of Pub. L. 89–92 was renumbered section 10 and is classified to section 1338 of this title.

§1338. Criminal penalty

Any person who violates the provisions of this chapter shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than \$10,000.

(Pub. L. 89–92, §10, formerly §9, July 27, 1965, 79 Stat. 284; Pub. L. 91–222, §2, Apr. 1, 1970, 84 Stat. 89; renumbered §10, Pub. L. 98–474, §5(a), Oct. 12, 1984, 98 Stat. 2203.)

PRIOR PROVISIONS

A prior section 10 of Pub. L. 89–92 was renumbered section 11 and is classified to section 1339 of this title.

AMENDMENTS

1970—Pub. L. 91–222 substituted provisions that violators shall be guilty of a misdemeanor and subject to fine, for provision that if any part of this chapter be held invalid, other provisions thereof shall not be affected. See Separability note set out under section 1331 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–222 effective Jan. 1, 1970, except where otherwise specified, see section 3 of Pub. L. 91–222, set out in part as a note under section 1331 of this title.

§1339. Injunction proceedings

The several district courts of the United States are invested with jurisdiction, for cause shown, to prevent and restrain violations of this chapter upon the application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

(Pub. L. 89–92, §11, formerly §10, July 27, 1965, 79 Stat. 284; Pub. L. 91–222, §2, Apr. 1, 1970, 84 Stat. 89; renumbered §11, Pub. L. 98–474, §5(a), Oct. 12, 1984, 98 Stat. 2203.)

PRIOR PROVISIONS

Two prior sections 11 of Pub. L. 89–92 were renumbered section 12 by section 5(a) of Pub. L. 98–474 and are classified to section 1340 of this title and as an Effective Date note under section 1331 of this title.

AMENDMENTS

1970—Pub. L. 91–222 substituted provision that the several district courts are invested with jurisdiction in injunction proceedings, for provisions that regulation of advertising terminate on July 1, 1969, but that such termination shall not be construed as limiting, expanding or otherwise affecting such jurisdiction which Federal Trade Commission or other federal agencies had prior to July 27, 1965.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–222 effective Jan. 1, 1970, except where otherwise specified, see section 3 of Pub. L. 91–222, set out in part as a note under section 1331 of this title.

§1340. Cigarettes for export

Packages of cigarettes manufactured, imported, or packaged (1) for export from the United States or (2) for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States shall be exempt from the requirements of this chapter, but such exemptions shall not apply to cigarettes manufactured, imported, or packaged for sale or distribution to members or units of the Armed Forces of the United States located outside of the United States.

(Pub. L. 89–92, §12, formerly §11, as added Pub. L. 91–222, §2, Apr. 1, 1970, 84 Stat. 89; renumbered §12, Pub. L. 98–474, §5(a), Oct. 12, 1984, 98 Stat. 2203.)

CODIFICATION

Another section 12 of Pub. L. 89–92, July 27, 1965, 79 Stat. 284, is set out as an Effective Date note under section 1331 of this title.

PRIOR PROVISIONS

A prior section 12 of Pub. L. 89–92 was renumbered section 13 and is set out as a Separability note under section 1331 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1970, see section 3 of Pub. L. 91–222, set out in part as a note under section 1331 of this title.

§1341. Smoking, research, education and information

(a) Establishment of program; Secretary; functions

The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall establish and carry out a program to inform the public of any dangers to human health presented by cigarette smoking. In carrying out such program, the Secretary shall—

- (1) conduct and support research on the effect of cigarette smoking on human health and develop materials for informing the public of such effect;
- (2) coordinate all research and educational programs and other activities within the Department of Health and Human Services (hereinafter in this section referred to as the "Department") which relate to the effect of cigarette smoking on human health and coordinate, through the Interagency Committee on Smoking and Health (established under subsection (b) of this section), such activities with similar activities of other Federal agencies and of private agencies;
- (3) establish and maintain a liaison with appropriate private entities, other Federal agencies, and State and local public agencies respecting activities relating to the effect of cigarette smoking on human health;
- (4) collect, analyze, and disseminate (through publications, bibliographies, and otherwise) information, studies, and other data relating to the effect of cigarette smoking on human health, and develop standards,

criteria, and methodologies for improved information programs related to smoking and health;

(5) compile and make available information on State and local laws relating to the use and consumption of cigarettes; and

(6) undertake any other additional information and research activities which the Secretary determines necessary and appropriate to carry out this section.

(b) Interagency Committee on Smoking and Health; composition; chairman; compensation; staffing and other assistance

(1) To carry out the activities described in paragraphs (2) and (3) of subsection (a) of this section there is established an Interagency Committee on Smoking and Health. The Committee shall be composed of—

(A) members appointed by the Secretary from appropriate institutes and agencies of the Department, which may include the National Cancer Institute, the National Heart, Lung, and Blood Institute, the Eunice Kennedy Shriver National Institute of Child Health and Human Development, the National Institute on Drug Abuse, the Health Resources and Services Administration, and the Centers for Disease Control and Prevention;

(B) at least one member appointed from the Federal Trade Commission, the Department of Education, the Department of Labor, and any other Federal agency designated by the Secretary, the appointment of whom shall be made by the head of the entity from which the member is appointed; and

(C) five members appointed by the Secretary from physicians and scientists who represent private entities involved in informing the public about the health effects of smoking.

The Secretary shall designate the chairman of the Committee.

(2) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence,¹ in the manner provided by sections 5702 and 5703 of title 5.

(3) The Secretary shall make available to the Committee such staff, information, and other assistance as it may require to carry out its activities effectively.

(c) Report to Congress; contents

The Secretary shall transmit a report to Congress not later than January 1, 1986, and biennially thereafter which shall contain—

(1) an overview and assessment of Federal activities undertaken to inform the public of the health consequences of smoking and the extent of public knowledge of such consequences,

(2) a description of the Secretary's and Committee's activities under subsection (a) of this section,

(3) information regarding the activities of the private sector taken in response to the effects of smoking on health, and

(4) such recommendations as the Secretary may consider appropriate.

(Pub. L. 98–474, §3, Oct. 12, 1984, 98 Stat. 2200; Pub. L. 99–92, §13, Aug. 16, 1985, 99 Stat. 404; Pub. L. 102–531, title III, §312(a), Oct. 27, 1992, 106 Stat. 3504; Pub. L. 110–154, §1(c)(1), Dec. 21, 2007, 121 Stat. 1827.)

CODIFICATION

Section was enacted as part of the Comprehensive Smoking Education Act, and not as part of the Federal Cigarette Labeling and Advertising Act which comprises this chapter.

AMENDMENTS

2007—Subsec. (b)(1)(A). Pub. L. 110–154 substituted "Eunice Kennedy Shriver National Institute of Child Health and Human Development" for "National Institute of Child Health and Human Development".

1992—Subsec. (b)(1)(A), Pub. L. 102–531 substituted "Centers for Disease Control and Prevention" for "Centers for Disease Control".

1985—Subsec. (c). Pub. L. 99–92 substituted "1986" for "1985".

¹ So in original. Probably should be "subsistence."