(g) Admissibility into evidence; disclosure of conduct; publication of notice; supporting or answering claims under antitrust laws

(1) Except as provided in paragraph (2), for the sole purpose of establishing that a person or standards development organization is entitled to the protections of section 4303 of this title, the fact of disclosure of conduct under subsection (a) of this section and the fact of publication of a notice under subsection (b) of this section shall be admissible into evidence in any judicial or administrative proceeding.

(2) No action by the Attorney General or the Commission taken pursuant to this section shall be admissible into evidence in any such proceeding for the purpose of supporting or answering any claim under the antitrust laws or under any State law similar to the antitrust laws.

(Pub. L. 98–462, § 6, Oct. 11, 1984, 98 Stat. 1818; Pub. L. 103–42, § 3(f), June 10, 1993, 107 Stat. 119; Pub. L. 108–237, title I, § 107, June 22, 2004, 118 Stat. 664.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–237, § 107(1), designated existing provisions as par. (1), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, of par. (1), and added par. (2).

Subsec. (b). Pub. L. 108–237, § 107(2), inserted ", or a notice with respect to such standards development activity that identifies the standards development organization engaged in such activity and that describes such activity in general terms" before period at end of first sentence and "or available to such organization, as the case may be" before period at end of last sentence.

Subsec. (d)(2). Pub. L. 108–237, § 107(3), inserted ", or the standards development activity," after "venture".

Subsec. (e). Pub. L. 108–237, § 107(4), substituted "person or standards development organization that" for "person who" and inserted "or any standards development organization" after "on any person".

Subsec. (g)(1). Pub. L. 108–237, § 107(5), inserted "or standards development organization" after "person".

1993—Pub. L. 103–42, § 3(f)(1), substituted "joint venture" for "joint research and development venture" in section catchline.

Subsec. (a). Pub. L. 103–42, § 3(f)(2), (3), substituted "joint venture" for "joint research and development venture" and "October 11, 1984" for "the date of the enactment of this Act" and added par. (3).

Subsecs. (d)(2), (e). Pub. L. 103–42, § 3(f)(3), substituted "joint venture" for "joint research and development venture".

REPORTS ON JOINT VENTURES AND UNITED STATES COMPETITIVENESS

Section 4 of Pub. L. 103–42 provided that:

"(a) PURPOSE.—The purpose of the reports required by this section is to inform Congress and the American people of the effect of the National Cooperative Research and Production Act of 1993 [15 U.S.C. 4301 et seq.] on the competitiveness of the United States in key technological areas of research, development, and production.

"(b) ANNUAL REPORT BY THE ATTORNEY GENERAL.—In the 30-day period beginning at each 1-year interval in the 6-year period beginning on the date of the enactment of this Act [June 10, 1993], the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate—

"(1) a list of joint ventures for which notice was filed under section 6(a) of the National Cooperative Research and Production Act of 1993 [15 U.S.C. 4305(a)] during the 12-month period for which such report is made, including—

"(A) the purpose of each joint venture;

"(B) the identity of each party described in section 6(a)(1) of such Act; and

"(C) the identity and nationality of each person described in section 6(a)(3) of such Act; and

"(2) a list of cases and proceedings, if any, brought during such period under the antitrust laws by the Department of Justice, and by the Federal Trade Commission, with respect to joint ventures for which notice was filed under such section at any time.

"(c) TRIENNIAL REPORT BY THE ATTORNEY GENERAL.—In the 30-day period beginning at each 3-year interval in the 6-year period beginning on the date of the enactment of this Act [June 10, 1993], the Attorney General, after consultation with such other agencies as the Attorney General considers to be appropriate, shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a description of the technological areas most commonly pursued by joint ventures for production for which notice was filed under section 6(a) of the National Cooperative Research and Production Act of 1993 [15 U.S.C. 4305(a)] during the 3-year period for which such report is made, and an analysis of the trends in the competitiveness of United States industry in such areas.

"(d) REVIEW OF ANTITRUST TREATMENT UNDER FOREIGN LAWS.—In the three 30-day periods beginning 1 year, 3 years, and 6 years after the date of the enactment of this Act [June 10, 1993], the Attorney General, after consultation with such other agencies as the Attorney General considers to be appropriate, shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report on the antitrust treatment of United States businesses with respect to participation in joint ventures for production, under the law of each foreign nation any of whose domestic businesses disclosed its nationality under section 6(a)(3) of the National Cooperative Research and Production Act of 1993 [15 U.S.C. 4305(a)(3)] at any time."

§ 4306. Application of section 4303 protections to production of products, processes, and services

Notwithstanding sections 4303 and 4305 of this title, the protections of section 4303 of this title shall not apply with respect to a joint venture's production of a product, process, or service, as referred to in section 4301(a)(6)(D) of this title, unless—

(1) the principal facilities for such production are located in the United States or its territories, and

(2) each person who controls any party to such venture (including such party itself) is a United States person, or a foreign person from a country whose law accords antitrust treatment no less favorable to United States persons than to such country's domestic persons with respect to participation in joint ventures for production.

(Pub. L. 98–462, § 7, as added Pub. L. 103–42, § 3(g), June 10, 1993, 107 Stat. 119.)

CHAPTER 70—COMPREHENSIVE SMOKELESS TOBACCO HEALTH EDUCATION

Sec.
4401. Public education.
4402. Smokeless tobacco warning.
4403. Ingredient reporting.
4404. Enforcement, regulations, and construction.
4405. Injunctions.
4406. Preemption.
4407. Omitted.
4408. Definitions.

§ 4401. Public education

(a) Development

(1) The Secretary of Health and Human Services shall establish and carry out a program to inform the public of any dangers to human health resulting from the use of smokeless tobacco products. In carrying out such program the Secretary shall—

(A) develop educational programs and materials and public service announcements respecting the dangers to human health from the use of smokeless tobacco;

(B) make such programs, materials, and announcements available to States, local governments, school systems, the media, and such other entities as the Secretary determines appropriate to further the purposes of this chapter;

(C) conduct and support research on the effect of smokeless tobacco on human health; and

(D) collect, analyze, and disseminate information and studies on smokeless tobacco and health.

(2) In developing programs, materials, and announcements under paragraph (1) the Secretary shall consult with the Secretary of Education, medical and public health entities, consumer groups, representatives of manufacturers of smokeless tobacco products, and other appropriate entities.

(b) Assistance

The Secretary of Health and Human Services may provide technical assistance and may make grants to States—

(1) to assist in the development of educational programs and materials and public service announcements respecting the dangers to human health from the use of smokeless tobacco,

(2) to assist in the distribution of such programs, materials, and announcements throughout the States, and

(3) to establish 18 as the minimum age for the purchase of smokeless tobacco.

(Pub. L. 99–252, § 2, Feb. 27, 1986, 100 Stat. 30.)

EFFECTIVE DATE

Section 11 of Pub. L. 99–252 provided that:

''(a) IN GENERAL.—Except as provided in sections 3(f) and 5(b) [sections 4402(f) and 4404(b) of this title] and subsection (b), this Act [enacting this chapter and amending section 342 of Title 21, Food and Drugs] shall take effect one year after the date of enactment of this Act [Feb. 27, 1986].

''(b) EXCEPTION.—Sections 2, 3(b), 3(c), 3(d), 3(e), 4(b), 7, 8, 9 [sections 4401, 4402(b) to (e), 4403(b), and 4406 to 4408 of this title], and 10 [amending section 342 of Title 21] shall take effect on the date of the enactment of this Act [Feb. 27, 1986].''

SHORT TITLE

Section 1 of Pub. L. 99–252 provided that: ''This Act [enacting this chapter and amending section 342 of Title 21, Food and Drugs] may be cited as the 'Comprehensive Smokeless Tobacco Health Education Act of 1986'.''

§ 4402. Smokeless tobacco warning

(a) General rule

(1) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this chapter, one of the following labels:

''WARNING: THIS PRODUCT MAY CAUSE MOUTH CANCER

''WARNING: THIS PRODUCT MAY CAUSE GUM DISEASE AND TOOTH LOSS

''WARNING: THIS PRODUCT IS NOT A SAFE ALTERNATIVE TO CIGARETTES''.

(2) It shall be unlawful for any manufacturer, packager, or importer of smokeless tobacco products to advertise or cause to be advertised (other than through the use of outdoor billboard advertising) within the United States any smokeless tobacco product unless the advertising bears, in accordance with the requirements of this chapter, one of the labels required by paragraph (1).

(b) Label format

The Federal Trade Commission shall issue regulations requiring the label statement required by subsection (a) of this section to appear—

(1) in the case of the smokeless tobacco product package—

(A) in a conspicuous and prominent place on the package, and

(B) in a conspicuous format and in conspicuous and legible type in contrast with all other printed material on the package, and

(2) in the case of advertising subject to subsection (a)(2) of this section—

(A) in a conspicuous and prominent location in the advertisement and in conspicuous and legible type in contrast with all other printed material in the advertisement,

(B) in the following format:

T154402.EPS

(C) the label statement shall appear in capital letters and the area of the circle and arrow shall be determined by the Federal Trade Commission.

(c) Label display

The Federal Trade Commission shall issue regulations requiring each label statement required by subsection (a) of this section to—

(1) in the case of a smokeless tobacco product package, be randomly displayed by each manufacturer, packager, or importer of a smokeless tobacco product 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 parts of the United States in which such product is marketed, and

(2) in the case of any advertisement of a smokeless tobacco product, be rotated every 4 months by each manufacturer, packager, or importer of a smokeless tobacco product in an alternating sequence in the advertisement for each brand of the product.

(d) Plan

(1) Each manufacturer, packager, or importer of a smokeless tobacco product shall submit a plan to the Federal Trade Commission which specifies the method such manufacturer, packager, or importer will use to rotate, display, and distribute the statements required by subsection (a) of this section in accordance with the requirements of subsections (b) and (c) of this section.

(2) The Federal Trade Commission shall approve a plan submitted by a manufacturer, packager, or importer of a smokeless tobacco product under paragraph (1) if such plan provides for the rotation, display, and distribution on smokeless tobacco product packages and advertisements of the statements required by subsection (a) of this section in a manner which complies with this section and the regulations promulgated pursuant to this section.

(e) Application

This section does not apply to a distributor or a retailer of any smokeless tobacco product which does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

(f) Television and radio advertising

Effective 6 months after February 27, 1986, it shall be unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.

(Pub. L. 99–252, § 3, Feb. 27, 1986, 100 Stat. 30.)

EFFECTIVE DATE

Subsec. (a) effective one year after Feb. 27, 1986, and subsecs. (b) to (e) effective Feb. 27, 1986, see section 11 of Pub. L. 99–252, set out as a note under section 4401 of this title.

§ 4403. Ingredient reporting

(a) In general

(1) Each person who manufactures, packages, or imports smokeless tobacco products shall annually provide the Secretary with—

(A) a list of the ingredients added to tobacco in the manufacture of smokeless tobacco products which does not identify the company which uses the ingredients or the brand of smokeless tobacco which contains the ingredients; and

(B) a specification of the quantity of nicotine contained in each such product.

(2) A person or group of persons required to provide information by this subsection may designate an individual or entity to provide the information required by this subsection.

(b) Report

(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 smokeless tobacco products and the findings of such research;

(B) information pertaining to any such ingredient which in the judgment of the Secretary poses a health risk to users of smokeless tobacco; 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 a trade secret or confidential information subject to section 552(b)(4) of title 5 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 information 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 information, the Secretary shall make the information available to the subcommittee or committee and shall, at the same time, notify in writing the person who provided the information 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 any 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. 99–252, § 4, Feb. 27, 1986, 100 Stat. 32.)

EFFECTIVE DATE

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

§ 4404. Enforcement, regulations, and construction

(a) Enforcement

(1) A violation of section 4402 of this title or the regulations promulgated pursuant to this 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.)

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.)

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

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.)

§ 4407. Omitted

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'' means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

(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.)

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) of this section, 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) of this section 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) of this section 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 judg-