EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–432, div. C, title IV, § 401(g), Dec. 20, 2006, 120 Stat. 3050, provided that: ''The amendments made by this section [amending this section, sections 1681a and 1681b of this title, and sections 5754 and 5761 of Title 26, Internal Revenue Code] shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act [Dec. 20, 2006].''

EFFECTIVE DATE

Pub. L. 106–476, title IV, § 4004(b), Nov. 9, 2000, 114 Stat. 2181, provided that: ''The amendment made by subsection (a) [enacting this subtitle] shall take effect 30 days after the date of the enactment of this Act [Nov. 9, 2000].''

§ 1681a. Requirements for entry of certain cigarettes and smokeless tobacco products

(a) General rule

Except as provided in subsection (b) of this section, cigarettes or smokeless tobacco products may be imported into the United States only if—

(1) the original manufacturer of those cigarettes or smokeless tobacco products has timely submitted, or has certified that it will timely submit, to the Secretary of Health and Human Services the lists of the ingredients added to the tobacco in the manufacture of such cigarettes or smokeless tobacco products as described in section 1335a of title 15 or section 4403 of title 15, as the case may be;

(2) the precise warning statements in the precise format specified in section 1333 of title 15 or section 4402 of title 15, as the case may be, are permanently imprinted on both—

(A) the primary packaging of all those cigarettes or smokeless tobacco products; and

(B) any other pack, box, carton, or container of any kind in which those cigarettes or smokeless tobacco products are to be offered for sale or otherwise distributed to consumers;

(3) the manufacturer or importer of those cigarettes or smokeless tobacco products is in compliance with respect to those cigarettes or smokeless tobacco products being imported into the United States with a rotation plan approved by the Federal Trade Commission pursuant to section 1333(c)[1] of title 15 or section 4402(d)[1] of title 15, as the case may be;

(4) if such cigarettes or smokeless tobacco products bear a United States trademark registered for such cigarettes or smokeless tobacco products, the owner of such United States trademark registration for cigarettes or smokeless tobacco products (or a person authorized to act on behalf of such owner) has consented to the importation of such cigarettes or smokeless tobacco products into the United States; and

(5) the importer has submitted at the time of entry all of the certificates described in subsection (c) of this section.

(b) Exemptions

Cigarettes or smokeless tobacco products satisfying the conditions of any of the following paragraphs shall not be subject to the requirements of subsection (a) of this section:

(1) Personal-use cigarettes or smokeless tobacco products

Cigarettes or smokeless tobacco products that are imported into the United States in personal use quantities that are allowed entry free of tax and duty under subchapter IV of chapter 98 of the Harmonized Tariff Schedule of the United States. The preceding sentence shall not apply to any cigarettes or smokeless tobacco products sold in connection with a delivery sale.

(2) Cigarettes or smokeless tobacco products imported into the United States for analysis

Cigarettes or smokeless tobacco products that are imported into the United States solely for the purpose of analysis in quantities suitable for such purpose, but only if the importer submits at the time of entry a certificate signed, under penalties of perjury, by the consignee (or a person authorized by such consignee) providing such facts as may be required by the Secretary to establish that such consignee is a manufacturer of cigarettes or smokeless tobacco products, a Federal or State government agency, a university, or is otherwise engaged in bona fide research and stating that such cigarettes or smokeless tobacco products will be used solely for analysis and will not be sold in domestic commerce in the United States.

(3) Cigarettes or smokeless tobacco products intended for noncommercial use, reexport, or repackaging

Cigarettes or smokeless tobacco products—

(A) for which the owner of such United States trademark registration for cigarettes or smokeless tobacco products (or a person authorized to act on behalf of such owner) has consented to the importation of such cigarettes or smokeless tobacco products into the United States; and

(B) for which the importer submits a certificate signed by the manufacturer or export warehouse (or a person authorized by such manufacturer or export warehouse) to which such cigarettes or smokeless tobacco products are to be delivered (as provided in subparagraph (A)) stating, under penalties of perjury, with respect to those cigarettes or smokeless tobacco products, that it will not distribute those cigarettes or smokeless tobacco products into domestic commerce unless prior to such distribution all steps have been taken to comply with paragraphs (1), (2), and (3) of subsection (a) of this section, and, to the extent applicable, section 5754(a)(1)(B) and (C) of title 26.

For purposes of this section, a trademark is registered in the United States if it is registered in the United States Patent and Trademark Office under the provisions of title I of the Act of July 5, 1946 [15 U.S.C. 1051 et seq.] (popularly known as the ''Trademark Act of 1946''), and a copy of the certificate of registration of such mark has been filed with the Secretary. The Secretary shall make available to interested parties a current list of the marks so filed.

[1] See References in Text note below.

(c) Customs certifications required for cigarette or smokeless tobacco product imports

The certificates that must be submitted by the importer of cigarettes or smokeless tobacco products at the time of entry in order to comply with subsection (a)(5) of this section are—

(1) a certificate signed by the manufacturer of such cigarettes or smokeless tobacco products or an authorized official of such manufacturer stating under penalties of perjury, with respect to those cigarettes or smokeless tobacco products, that such manufacturer has timely submitted, and will continue to submit timely, to the Secretary of Health and Human Services the ingredient reporting information required by section 1335a of title 15 or section 4403 of title 15, as the case may be;

(2) a certificate signed by such importer or an authorized official of such importer stating under penalties of perjury that—

(A) the precise warning statements in the precise format required by section 1333 of title 15 or section 4402 of title 15, as the case may be, are permanently imprinted on both—

(i) the primary packaging of all those cigarettes or smokeless tobacco products; and

(ii) any other pack, box, carton, or container of any kind in which those cigarettes or smokeless tobacco products are to be offered for sale or otherwise distributed to consumers; and

(B) with respect to those cigarettes or smokeless tobacco products being imported into the United States, such importer has complied, and will continue to comply, with a rotation plan approved by the Federal Trade Commission pursuant to section 1333(c)[1] of title 15 or section 4402(d)[1] of title 15, as the case may be; and

(3)(A) if such cigarettes or smokeless tobacco products bear a United States trademark registered for cigarettes or smokeless tobacco products, a certificate signed by the owner of such United States trademark registration for cigarettes or smokeless tobacco products (or a person authorized to act on behalf of such owner) stating under penalties of perjury that such owner (or authorized person) consents to the importation of such cigarettes or smokeless tobacco products into the United States; and

(B) a certificate signed by the importer or an authorized official of such importer stating under penalties of perjury that the consent referred to in subparagraph (A) is accurate, remains in effect, and has not been withdrawn.

The Secretary may provide by regulation for the submission of certifications under this section in electronic form if, prior to the entry of any cigarettes or smokeless tobacco products into the United States, the person required to provide such certifications submits to the Secretary a written statement, signed under penalties of perjury, verifying the accuracy and completeness of all information contained in such electronic submissions.

(d) State access to customs certifications

A State, through its Attorney General, shall be entitled to obtain copies of any certification required under subsection (c) directly—

(1) upon request to the agency of the United States responsible for collecting such certification; or

(2) upon request to the importer, manufacturer, or authorized official of such importer or manufacturer.

(June 17, 1930, ch. 497, title VIII, §802, as added Pub. L. 106–476, title IV, §4004(a), Nov. 9, 2000, 114 Stat. 2178; amended Pub. L. 109–432, div. C, title IV, §401(b), (c), (e)(1), (2), (4)(B), Dec. 20, 2006, 120 Stat. 3048, 3049.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (b)(1), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

The Trademark Act of 1946, referred to in subsec. (b), is act July 5, 1946, ch. 540, 60 Stat. 427, as amended, also popularly known as the Lanham Act. Title I of the Act is classified generally to subchapter I (§1051 et seq.) of chapter 22 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1051 of Title 15 and Tables.

Sections 1333 and 4402 of title 15, referred to in subsecs. (a)(3) and (c)(2)(B), were amended by Pub. L. 111–31, div. A, title II, §§201(a), 202(b), 204(a), 205(a), 206, June 22, 2009, 123 Stat. 1842, 1845, 1846, 1848, 1849, and, as so amended, sections 1333(c) and 4402(d) no longer relate to the Federal Trade Commission's approval of a rotation plan.

CODIFICATION

Another section 802 of act June 17, 1930, is classified to section 1683 of this title.

AMENDMENTS

2006—Pub. L. 109–432, §401(e)(4)(B), inserted ''and smokeless tobacco products'' after ''cigarettes'' in section catchline.

Subsec. (a). Pub. L. 109–432, §401(e)(1), inserted ''or smokeless tobacco products'' after ''cigarettes'' in introductory provisions.

Subsec. (a)(1). Pub. L. 109–432, §401(e)(2)(A)(i), inserted ''or section 4403 of title 15, as the case may be'' after ''section 1335a of title 15''.

Pub. L. 109–432, §401(e)(1), inserted ''or smokeless tobacco products'' after ''cigarettes'' in two places.

Subsec. (a)(2). Pub. L. 109–432, §401(e)(2)(A)(ii), inserted ''or section 4402 of title 15, as the case may be,'' after ''section 1333 of title 15'' in introductory provisions.

Pub. L. 109–432, §401(e)(1), inserted ''or smokeless tobacco products'' after ''cigarettes'' in subpars. (A) and (B).

Subsec. (a)(3). Pub. L. 109–432, §401(e)(2)(A)(iii), inserted ''or section 4402(d) of title 15, as the case may be'' after ''section 1333(c) of title 15''.

Pub. L. 109–432, §401(e)(1), inserted ''or smokeless tobacco products'' after ''cigarettes'' in two places.

Subsec. (a)(4). Pub. L. 109–432, §401(e)(1), inserted ''or smokeless tobacco products'' after ''cigarettes'' wherever appearing.

Subsec. (b). Pub. L. 109–432, §401(e)(1), which directed insertion of ''or smokeless tobacco products'' after ''cigarettes'' wherever appearing, was executed by making the insertion after ''Cigarettes'' in introductory provisions, to reflect the probable intent of Congress.

Subsec. (b)(1). Pub. L. 109–432, §401(e)(2)(B)(i), inserted ''or smokeless tobacco products'' after ''cigarettes'' in heading.

Pub. L. 109–432, § 401(e)(1), which directed insertion of ''or smokeless tobacco products'' after ''cigarettes'' wherever appearing, was executed by making the insertion after ''Cigarettes'' in subsec. (b)(1), to reflect the probable intent of Congress.

Pub. L. 109–432, § 401(b), inserted at end ''The preceding sentence shall not apply to any cigarettes or smokeless tobacco products sold in connection with a delivery sale.''

Subsec. (b)(2), (3). Pub. L. 109–432, § 401(e)(2)(B)(ii), inserted ''or smokeless tobacco products'' after ''Cigarettes'' in heading.

Pub. L. 109–432, § 401(e)(1), which directed insertion of ''or smokeless tobacco products'' after ''cigarettes'' wherever appearing, was executed by making the insertion after ''Cigarettes'' and ''cigarettes'' wherever appearing, to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 109–432, § 401(e)(2)(C)(i), inserted ''or smokeless tobacco product'' after ''cigarette'' in heading.

Pub. L. 109–432, § 401(e)(1), inserted ''or smokeless tobacco products'' after ''cigarettes'' in introductory and concluding provisions.

Subsec. (c)(1). Pub. L. 109–432, § 401(e)(2)(C)(ii), inserted ''or section 4403 of title 15, as the case may be'' after ''section 1335a of title 15''.

Pub. L. 109–432, § 401(e)(1), inserted ''or smokeless tobacco products'' after ''cigarettes'' in two places.

Subsec. (c)(2)(A). Pub. L. 109–432, § 401(e)(2)(C)(iii), inserted ''or section 4402 of title 15, as the case may be,'' after ''section 1333 of title 15'' in introductory provisions.

Pub. L. 109–432, § 401(e)(1), inserted ''or smokeless tobacco products'' after ''cigarettes'' in cls. (i) and (ii).

Subsec. (c)(2)(B). Pub. L. 109–432, § 401(e)(2)(C)(iv), inserted ''or section 4402(d) of title 15, as the case may be'' after ''section 1333(c) of title 15''.

Pub. L. 109–432, § 401(e)(1), inserted ''or smokeless tobacco products'' after ''cigarettes''.

Subsec. (c)(3)(A). Pub. L. 109–432, § 401(e)(1), inserted ''or smokeless tobacco products'' after ''cigarettes'' wherever appearing.

Subsec. (d). Pub. L. 109–432, § 401(c), added subsec. (d).

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–432 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 20, 2006, see section 401(g) of Pub. L. 109–432, set out as a note under section 1681 of this title.

§ 1681b. Enforcement

(a) Civil penalty

Any person who violates a provision of section 1681a of this title shall, in addition to the tax and any other penalty provided by law, be liable for a civil penalty for each violation equal to the greater of $1,000 or 5 times the amount of the tax imposed by chapter 52 of the Internal Revenue Code of 1986 on all cigarettes or smokeless tobacco products that are the subject of such violation.

(b) Forfeitures

Any tobacco product, cigarette papers, or tube, or any smokeless tobacco product, that was imported into the United States or is sought to be imported into the United States in violation of, or without meeting the requirements of, section 1681a of this title shall be forfeited to the United States, or to any State in which such tobacco product, cigarette papers, or tube is found. Notwithstanding any other provision of law, any product forfeited to the United States, or to any State, pursuant to this subtitle shall be destroyed.

(June 17, 1930, ch. 497, title VIII, § 803, as added Pub. L. 106–476, title IV, § 4004(a), Nov. 9, 2000, 114 Stat. 2180; amended Pub. L. 109–432, div. C, title IV, § 401(d), (e)(1), (3), Dec. 20, 2006, 120 Stat. 3048, 3049.)

REFERENCES IN TEXT

Chapter 52 of the Internal Revenue Code of 1986, referred to in subsec. (a), is classified to section 5701 et seq. of Title 26, Internal Revenue Code.

CODIFICATION

Another section 803 of act June 17, 1930, is classified to section 1683a of this title.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–432, § 401(e)(1), inserted ''or smokeless tobacco products'' after ''cigarettes''.

Subsec. (b). Pub. L. 109–432, § 401(d), (e)(3), in first sentence, inserted '', or any smokeless tobacco product,'' before ''that was imported'' and '', or to any State in which such tobacco product, cigarette papers, or tube is found'' before period at end and, in second sentence, inserted '', or to any State,'' after ''United States''.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–432 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 20, 2006, see section 401(g) of Pub. L. 109–432, set out as a note under section 1681 of this title.

SUBTITLE VI—SOFTWOOD LUMBER

CODIFICATION

Subtitle is comprised of title VIII of act June 17, 1930, as added by Pub. L. 110–246, title III, § 3301(a), June 18, 2008, 122 Stat. 1844. Another title VIII of act June 17, 1930, was added by Pub. L. 106–476, title IV, § 4004(a), Nov. 9, 2000, 114 Stat. 2178, and is classified to subtitle V (§ 1681 et seq.) of this chapter.

§ 1683. Definitions

In this subtitle:

(1) Appropriate congressional committees

The term ''appropriate congressional committees'' means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(2) Country of export

The term ''country of export'' means the country (including any political subdivision of the country) from which softwood lumber or a softwood lumber product is exported before entering the United States.

(3) Customs laws of the United States

The term ''customs laws of the United States'' means any law or regulation enforced or administered by U.S. Customs and Border Protection.

(4) Export charges

The term ''export charges'' means any tax, charge, or other fee collected by the country from which softwood lumber or a softwood lumber product, described in section 1683b(a) of this title, is exported pursuant to an international agreement entered into by that country and the United States.

(5) Export price

(A) In general

The term ''export price'' means one of the following: