

Mexico principal meridian. From said place of beginning, line runs west on said one-sixteenth subdivision line for a distance of 208.7 feet; thence north 417.4 feet; thence east 208.7 feet; thence south 417.4 feet to place of beginning, containing 2 acres, more or less.

SEC. 2. This conveyance is subject to all valid existing rights-of-way of record; and to the right of the United States Public Health Service to continue use and occupancy of that property, presently in use by it, for so long as is necessary.

Rights-of-way.
Public Health Service occupancy.

SEC. 3. The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of any lands and improvements placed in a trust status under the authority of this Act should or should not be set off against any claim against the United States determined by the Commission.

25 USC 70a.

Approved November 6, 1969.

Public Law 91-113.

AN ACT

November 6, 1969
[S. 1689]

To amend the Federal Hazardous Substances Act to protect children from toys and other articles intended for use by children which are hazardous due to the presence of electrical, mechanical, or thermal hazards, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Child Protection and Toy Safety Act of 1969".

Child Protection and Toy Safety Act of 1969.

SEC. 2. (a) Section 2(f)(1) of the Federal Hazardous Substances Act (15 U.S.C. 1261(f)(1)) is amended by adding at the end thereof the following:

74 Stat. 372.

"(D) Any toy or other article intended for use by children which the Secretary by regulation determines, in accordance with section 3(e) of this Act, presents an electrical, mechanical, or thermal hazard."

(b) Section 3 of such Act (15 U.S.C. 1262) is amended by adding at the end thereof the following new subsection:

Regulations.

"(e) (1) A determination by the Secretary that a toy or other article intended for use by children presents an electrical, mechanical, or thermal hazard shall be made by regulation in accordance with the procedures prescribed by section 553 (other than clause (B) of the last sentence of subsection (b) of such section) of title 5 of the United States Code unless the Secretary elects the procedures prescribed by subsection (e) of section 701 of the Federal Food, Drug, and Cosmetic Act, in which event such subsection and subsections (f) and (g) of such section 701 shall apply to the making of such determination. If the Secretary makes such election, he shall publish that fact with the proposal required to be published under paragraph (1) of such subsection (e).

80 Stat. 383.

70 Stat. 919.

52 Stat. 1055.

21 USC 371.

"(2) If, before or during a proceeding pursuant to paragraph (1) of this subsection, the Secretary finds that, because of an electrical, mechanical, or thermal hazard, distribution of the toy or other article involved presents an imminent hazard to the public health and he, by order published in the Federal Register, gives notice of such finding, such toy or other article shall be deemed to be a banned hazardous substance for purposes of this Act until the proceeding has been completed. If not yet initiated when such order is published, such a proceeding shall be initiated as promptly as possible.

Notice of finding.

Publication in Federal Register.

Filing of
petition.

80 Stat. 383.

“(3) (A) In the case of any toy or other article intended for use by children which is determined by the Secretary, in accordance with section 553 of title 5 of the United States Code, to present an electrical, mechanical, or thermal hazard, any person who will be adversely affected by such a determination may, at any time prior to the 60th day after the regulation making such determination is issued by the Secretary, file a petition with the United States Court of Appeals for the circuit in which such person resides or has his principal place of business for a judicial review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary shall file in the court the record of the proceedings on which the Secretary based his determination, as provided in section 2112 of title 28 of the United States Code.

72 Stat. 941.

Hearing;
additional
evidence.

“(B) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there was no opportunity to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary in a hearing or in such other manner, and upon such terms and conditions, as to the court may seem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

Modification
of findings.

Judicial
review.

“(C) Upon the filing of the petition under this paragraph, the court shall have jurisdiction to review the determination of the Secretary in accordance with subparagraphs (A), (B), (C), and (D) of paragraph (2) of the second sentence of section 706 of title 5 of the United States Code. If the court ordered additional evidence to be taken under subparagraph (B) of this paragraph, the court shall also review the Secretary's determination to determine if, on the basis of the entire record before the court pursuant to subparagraphs (A) and (B) of this paragraph, it is supported by substantial evidence. If the court finds the determination is not so supported, the court may set it aside. With respect to any determination reviewed under this paragraph, the court may grant appropriate relief pending conclusion of the review proceedings, as provided in section 705 of such title.

80 Stat. 393.

“(D) The judgment of the court affirming or setting aside, in whole or in part, any such determination of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28 of the United States Code.”

62 Stat. 928.

80 Stat. 1304.
15 USC 1261.

(e) The proviso in section 2(q) (1) of such Act is amended by inserting “or necessarily present an electrical, mechanical, or thermal hazard” after “hazardous substance involved”.

Hazards.
74 Stat. 372.

(d) Section 2 of such Act is amended by adding at the end thereof the following:

Electrical.

“(r) An article may be determined to present an electrical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture may cause personal injury or illness by electric shock.

Mechanical.

“(s) An article may be determined to present a mechanical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness (1) from fracture, fragmentation, or disas-

sembly of the article, (2) from propulsion of the article (or any part or accessory thereof), (3) from points or other protrusions, surfaces, edges, openings, or closures, (4) from moving parts, (5) from lack or insufficiency of controls to reduce or stop motion, (6) as a result of self-adhering characteristics of the article, (7) because the article (or any part or accessory thereof) may be aspirated or ingested, (8) because of instability, or (9) because of any other aspect of the article's design or manufacture.

"(t) An article may be determined to present a thermal hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness because of heat as from heated parts, substances, or surfaces."

Thermal.

SEC. 3. (a) Subparagraph 1(A) of section 2(f) of the Federal Hazardous Substances Act (15 U.S.C. 1261 (f) (1) (A)) is amended by inserting "or combustible" after "flammable".

74 Stat. 372.

(b) Section 2(1) of such Act (15 U.S.C. 1261(1)) is amended—

74 Stat. 373.

(1) by striking out "and the term" and inserting in lieu thereof "the term";

(2) by inserting before the semicolon the following: "and the term 'combustible' shall apply to any substance which has a flash point above eighty degrees Fahrenheit to and including one hundred and fifty degrees, as determined by the Tagliabue Open Cup Tester";

(3) by inserting "or combustibility" after "flammability"; and

(4) by inserting " 'combustible' " after "the terms 'flammable' ".

(c) Section 2(p) (1) (E) of such Act (15 U.S.C. 1261 (p) (1) (E)) is amended by inserting "Combustible," after "Flammable,".

74 Stat. 380.
15 USC 1261
notes, 401 note.

SEC. 4. (a) The Federal Hazardous Substances Act is amended by redesignating sections 15, 16, 17, and 18 as sections 16, 17, 18, and 19, respectively, and by inserting after section 14 the following new section:

"REPURCHASE OF BANNED HAZARDOUS SUBSTANCES

"SEC. 15. (a) In the case of any article or substance sold by its manufacturer, distributor, or dealer which is a banned hazardous substance (whether or not it was such at the time of its sale), such article or substance shall, in accordance with regulations of the Secretary, be repurchased as follows:

"(1) The manufacturer of any such article or substance shall repurchase it from the person to whom he sold it, and shall—

"(A) refund that person the purchase price paid for such article or substance,

"(B) if that person has repurchased such article or substance pursuant to paragraph (2) or (3), reimburse him for any amounts paid in accordance with that paragraph for the return of such article or substance in connection with its repurchase, and

"(C) if the manufacturer requires the return of such article or substance in connection with his repurchase of it in accordance with this paragraph, reimburse that person for any reasonable and necessary expenses incurred in returning it to the manufacturer.

"(2) The distributor of any such article or substance shall repurchase it from the person to whom he sold it, and shall—

"(A) refund that person the purchase price paid for such article or substance,

"(B) if that person has repurchased such article or substance pursuant to paragraph (3), reimburse him for any amounts paid in accordance with that paragraph for the return of such article or substance in connection with its repurchase, and

“(C) if the distributor requires the return of such article or substance in connection with his repurchase of it in accordance with this paragraph, reimburse that person for any reasonable and necessary expenses incurred in returning it to the distributor.

“(3) In the case of any such article or substance sold at retail by a dealer, if the person who purchased it from the dealer returns it to him, the dealer shall refund the purchaser the purchase price paid for it and reimburse him for any reasonable and necessary transportation charges incurred in its return.

“Manufacturer.”

“(b) For the purposes of this section, (1) the term ‘manufacturer’ includes an importer for resale, and (2) a dealer who sells at wholesale an article or substance shall with respect to that sale be considered the distributor of that article or substance.”

74 Stat. 380.
15 USC 1261
note.

(b) (1) Subsection (a) of the section of such Act redesignated as section 18 is amended by striking out “section 18” and inserting in lieu thereof “section 19”.

15 USC 401
note.

(2) The section of such Act redesignated as section 19 is amended by striking out “section 16(b)” and inserting in lieu thereof “section 17(b)”.

Effective date.

SEC. 5. The amendments made by this Act shall take effect on the sixtieth day following the date of the enactment of this Act.

Approved November 6, 1969.

Public Law 91-114

AN ACT

November 10, 1969
[H. R. 337]

To increase the maximum rate of per diem allowance for employees of the Government traveling on official business, and for other purposes.

Federal em-
ployees.
Per diem
allowance.
increase.
80 Stat. 498.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5702 of title 5, United States Code, is amended by striking out “\$16” and inserting in lieu thereof “\$25”, by striking out “\$30” and inserting in lieu thereof “\$40”, and by striking out “\$10” and inserting in lieu thereof “\$18”.

SEC. 2. Section 5703 of title 5, United States Code, is amended by striking out “\$16” and inserting in lieu thereof “\$25”, by striking out “\$30” and inserting in lieu thereof “\$40”, and by striking out “\$10” and inserting in lieu thereof “\$18”.

70 Stat. 360;
75 Stat. 340.

SEC. 3. The seventh paragraph under the heading “Administrative Provisions” in the Senate section of the Legislative Branch Appropriation Act, 1957 (2 U.S.C. 68b), is amended by striking out “\$16” and inserting in lieu thereof “\$25”, and by striking out “\$30”, and inserting in lieu thereof “\$40”.

Approved November 10, 1969.

Public Law 91-115

AN ACT

November 10, 1969
[S. 73]

To amend the Act entitled “An Act to authorize the sale and exchange of isolated tracts of tribal land on the Rosebud Sioux Indian Reservation, South Dakota”.

Rosebud Sioux
Indian Reser-
vation, S. Dak.
Lands.
Foreclosure or
sale proceed-
ings.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of December 11, 1963 (77 Stat. 349), Public Law 88-196, entitled “An Act to authorize the sale and exchange of isolated tracts of tribal land on the Rosebud Sioux Indian Reservation, South Dakota”, be and the same is hereby amended by adding a section 3 reading as follows: