Public Law 98-127
98th Congress

An Act

To amend title 18 of the United States Code to prohibit certain tampering with consumer products, and for other purposes.

Oct. 13, 1983
[S. 216]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Anti-Tampering Act".

Federal Anti-Tampering Act. 18 USC 1365 note.

SEC. 2. Chapter 65 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 1365. Tampering with consumer products

Fines or imprisonments. 18 USC 1365.

"(a) Whoever, with reckless disregard for the risk that another person will be placed in danger of death or bodily injury and under circumstances manifesting extreme indifference to such risk, tampers with any consumer product that affects interstate or foreign commerce, or the labeling of, or container for, any such product, or attempts to do so, shall—

"(1) in the case of an attempt, be fined not more than $25,000 or imprisoned not more than ten years, or both;

"(2) if death of an individual results, be fined not more than $100,000 or imprisoned for any term of years or for life, or both;

"(3) if serious bodily injury to any individual results, be fined not more than $100,000 or imprisoned not more than twenty years, or both; and

"(4) in any other case, be fined not more than $50,000 or imprisoned not more than ten years, or both.

"(b) Whoever, with intent to cause serious injury to the business of any person, taints any consumer product or renders materially false or misleading the labeling of, or container for, a consumer product, if such consumer product affects interstate or foreign commerce, shall be fined not more than $10,000 or imprisoned not more than three years, or both.

"(c)(1) Whoever knowingly communicates false information that a consumer product has been tainted, if such product or the results of such communication affect interstate or foreign commerce, and if such tainting, had it occurred, would create a risk of death or bodily injury to another person, shall be fined not more than $25,000 or imprisoned not more than five years, or both.

"Communicates false information."

"(2) As used in paragraph (1) of this subsection, the term 'communicates false information' means communicates information that is false and that the communicator knows is false, under circumstances in which the information may reasonably be expected to be believed.

"(d) Whoever knowingly threatens, under circumstances in which the threat may reasonably be expected to be believed, that conduct that, if it occurred, would violate subsection (a) of this section will occur, shall be fined not more than $25,000 or imprisoned not more than five years, or both.

Fine or imprisonment.

"(e) Whoever is a party to a conspiracy of two or more persons to commit an offense under subsection (a) of this section, if any of the parties intentionally engages in any conduct in furtherance of such offense, shall be fined not more than $25,000 or imprisoned not more than ten years, or both.

Investigation of violations.

"(f) In addition to any other agency which has authority to investigate violations of this section, the Food and Drug Administration and the Department of Agriculture, respectively, have authority to investigate violations of this section involving a consumer product that is regulated by a provision of law such Administration or Department, as the case may be, administers.

Definitions.

"(g) As used in this section—

"(1) the term 'consumer product' means—

"(A) any 'food', 'drug', device', or 'cosmetic', as those terms are respectively defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); or

"(B) any article, product, or commodity which is customarily produced or distributed for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which is designed to be consumed or expended in the course of such consumption or use;

"(2) the term 'labeling' has the meaning given such term in section 201(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(m));

"(3) the term 'serious bodily injury' means bodily injury which involves—

"(A) a substantial risk of death;

"(B) extreme physical pain;

"(C) protracted and obvious disfigurement; or

"(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

"(4) the term 'bodily injury' means—

"(A) a cut, abrasion, bruise, burn, or disfigurement;

"(B) physical pain;

"(C) illness;

"(D) impairment of the function of a bodily member, organ, or mental faculty; or

"(E) any other injury to the body, no matter how temporary.".

SEC. 3. The table of sections at the beginning of chapter 65 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"1365. Tampering with consumer products.".

SEC. 4. (a) Title 35 of the United States Code is amended by inserting after section 155 the following new section:

35 USC 155A.

"§ 155A. Patent term restoration

35 USC 154.

"(a) Notwithstanding section 154 of this title, the term of each of the following patents shall be extended in accordance with this section:

"(1) Any patent which encompasses within its scope a composition of matter which is a new drug product, if during the regulatory review of the product by the Federal Food and Drug Administration—

"(A) the Federal Food and Drug Administration notified the patentee, by letter dated February 20, 1976, that such product's new drug application was not approvable under section 505(b)(1) of the Federal Food, Drug and Cosmetic Act; 21 USC 355.

"(B) in 1977 the patentee submitted to the Federal Food and Drug Administration the results of a health effects test to evaluate the carcinogenic potential of such product;

"(C) the Federal Food and Drug Administration approved, by letter dated December 18, 1979, the new drug application for such product; and

"(D) the Federal Food and Drug Administration approved, by letter dated May 26, 1981, a supplementary application covering the facility for the production of such product.

"(2) Any patent which encompasses within its scope a process for using the composition of matter described in paragraph (1).

"(b) The term of any patent described in subsection (a) shall be extended for a period equal to the period beginning February 20, 1976, and ending May 26, 1981, and such patent shall have the effect as if originally issued with such extended term. Extension.

"(c) The patentee of any patent described in subsection (a) of this section shall, within ninety days after the date of enactment of this section, notify the Commissioner of Patents and Trademarks of the number of any patent so extended. On receipt of such notice, the Commissioner shall confirm such extension by placing a notice thereof in the official file of such patent and publishing an appropriate notice of such extension in the Official Gazette of the Patent and Trademark Office.". Notification of patent number. Extension confirmation.

(b) The table of sections at the beginning of chapter 14 of such title 35 is amended by adding at the end thereof the following:

"155A. Patent term restoration.".

Approved October 13, 1983.

LEGISLATIVE HISTORY—S. 216 (H.R. 2174):

HOUSE REPORT No. 98-93 accompanying H.R. 2174 (Comm. on the Judiciary).
SENATE REPORT No. 98-69 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 129 (1983):
May 9, H.R. 2174 considered and passed House; S. 216 considered and passed Senate.
Sept. 29, considered and passed House, amended, in lieu of H.R. 2174.
Sept. 30, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 19, No. 41 (1983):
Oct. 14, Presidential statement.

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