

CHAPTER 57 -- SANITARY FOOD TRANSPORTATION

Sec.

- 5701. Findings.
- 5702. Definitions.
- 5703. General regulation.
- 5704. Tank trucks, rail tank cars, and cargo tanks.
- 5705. Motor and rail transportation of nonfood products.
- 5706. Dedicated vehicles.
- 5707. Waiver authority.
- 5708. Food transportation inspections.
- 5709. Consultation.
- 5710. Administrative.
- 5711. Enforcement and penalties.
- 5712. Relationship to other laws.
- 5713. Application of sections 5711 and 5712.
- 5714. Coordination procedures.

Sec. 5701. Findings

Congress finds that --

- (1) the United States public is entitled to receive food and other consumer products that are not made unsafe because of certain transportation practices;
- (2) the United States public is threatened by the transportation of products potentially harmful to consumers in motor vehicles and rail vehicles that are used to transport food and other consumer products; and
- (3) the risks to consumers by those transportation practices are unnecessary and those practices must be ended.

Sec. 5702. Definitions

In this chapter --

- (1) "cosmetic", "device", "drug", "food", and "food additive" have the same meanings given those terms in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).
- (2) "nonfood product" means (individually or by class) a material, substance, or product that is not a cosmetic, device, drug, food, or food additive, or is deemed a nonfood product under section 5703(a)(2) of this title, including refuse and solid waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).
- (3) "refuse" means discarded material that is, or is required by law, to be transported to or disposed of in a landfill or incinerator.
- (4) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, and any other territory or possession of the United States.
- (5) "transports" and "transportation" mean any movement of property in commerce (including intrastate commerce) by motor vehicle or rail vehicle.
- (6) "United States" means all of the States.

Sec. 5703. General regulation

(a) General Requirements. -- (1) Not later than July 31, 1991, the Secretary of Transportation, after consultation required by section 5709 of this title, shall prescribe regulations on the transportation of cosmetics, devices, drugs, food, and food additives in motor vehicles and rail vehicles that are used to transport nonfood products that would make the cosmetics, devices, drugs, food, or food additives unsafe to humans or animals.

(2) The Secretary shall deem a cosmetic, device, or drug to be a nonfood product if --

(A) the cosmetic, device, or drug is transported in a motor vehicle or rail vehicle before, or at the same time as, a food or food additive; and

(B) transportation of the cosmetic, device, or drug would make the food or food additive unsafe to humans or animals.

(b) Special Requirements. -- In prescribing regulations under subsection (a)(1) of this section, the Secretary, after consultation required by section 5709 of this title, shall establish requirements for appropriate --

(1) recordkeeping, identification, marking, certification, or other means of verification to comply with sections 5704-5706 of this title;

(2) decontamination, removal, disposal, and isolation to comply with regulations carrying out sections 5704 and 5705 of this title; and

(3) material for the construction of tank trucks, rail tank cars, cargo tanks, and accessory equipment to comply with regulations carrying out section 5704 of this title.

(c) Considerations and Additional Requirements. -- In prescribing regulations under subsection (a)(1) of this section, the Secretary, after consultation required by section 5709 of this title, shall consider, and may establish requirements related to, each of the following:

(1) the extent to which packaging or similar means of protecting and isolating commodities are adequate to eliminate or ameliorate the potential risks of transporting cosmetics, devices, drugs, food, or food additives in motor vehicles or rail vehicles used to transport nonfood products.

(2) appropriate compliance and enforcement measures to carry out this chapter.

(3) appropriate minimum insurance or other liability requirements for a person to whom this chapter applies.

(d) Packages Meeting Packaging Standards. -- If the Secretary finds packaging standards to be adequate, regulations under subsection (a)(1) of this section may not apply to cosmetics, devices, drugs, food, food additives, or nonfood products packaged in packages that meet the standards.

Sec. 5704. Tank trucks, rail tank cars, and cargo tanks

(a) Prohibitions. -- The regulations prescribed under section 5703(a)(1) of this title shall include provisions prohibiting a person from --

(1) using, offering for use, or arranging for the use of a tank truck, rail tank car, or cargo tank used in motor

vehicle or rail transportation of cosmetics, devices, drugs, food, or food additives if the tank truck, rail tank car, or cargo tank is used to transport a nonfood product, except a nonfood product included in a list published under subsection (b) of this section;

(2) using, offering for use, or arranging for the use of a tank truck or cargo tank to provide motor vehicle transportation of cosmetics, devices, drugs, food, food additives, or nonfood products included in the list published under subsection (b) of this section unless the tank truck or cargo tank is identified, by a permanent marking on the tank truck or cargo tank, as transporting only cosmetics, devices, drugs, food, food additives, or nonfood products included in the list;

(3) using, offering for use, or arranging for the use of a tank truck or cargo tank to provide motor vehicle transportation of a nonfood product that is not included in the list published under subsection (b) of this section if the tank truck or cargo tank is identified, as provided in clause (2) of this subsection, as a tank truck or cargo tank transporting only cosmetics, devices, drugs, food, food additives, or nonfood products included in the list;
or

(4) receiving, except for lawful disposal purposes, any cosmetic, device, drug, food, food additive, or nonfood product that has been transported in a tank truck or cargo tank in violation of clause (2) or (3) of this subsection.

(b) List of Nonfood Products Not Unsafe. -- After consultation required by section 5709 of this title, the Secretary of Transportation shall publish in the Federal Register a list of nonfood products the Secretary decides do not make cosmetics, devices, drugs, food, or food additives unsafe to humans or animals because of transportation of the nonfood products in a tank truck, rail tank car, or cargo tank used to transport cosmetics, devices, drugs, food, or food additives. The Secretary may amend the list periodically by publication in the Federal Register.

(c) Disclosure. -- A person that arranges for the use of a tank truck or cargo tank used in motor vehicle transportation for the transportation of a cosmetic, device, drug, food, food additive, or nonfood product shall disclose to the motor carrier or other appropriate person if the cosmetic, device, drug, food, food additive, or nonfood product being transported is to be used --

(1) as, or in the preparation of, a food or food additive; or

(2) as a nonfood product included in the list published under subsection (b) of this section.

Sec. 5705. Motor and rail transportation of nonfood products

(a) Prohibitions. -- The regulations prescribed under section 5703(a)(1) of this title shall include provisions prohibiting a person from using, offering for use, or arranging for the use of a motor vehicle or rail vehicle (except a tank truck, rail tank car, or cargo tank described in section 5704 of this title) to transport cosmetics, devices, drugs, food, or food additives if the vehicle is used to transport nonfood products

included in a list published under subsection (b) of this section.

(b) List of Unsafe Nonfood Products. -- (1) After consultation required by section 5709 of this title, the Secretary of Transportation shall publish in the Federal Register a list of nonfood products the Secretary decides would make cosmetics, devices, drugs, food, or food additives unsafe to humans or animals because of transportation of the nonfood products in a motor vehicle or rail vehicle used to transport cosmetics, devices, drugs, food, or food additives. The Secretary may amend the list periodically by publication in the Federal Register.

(2) The list published under paragraph (1) of this subsection may not include cardboard, pallets, beverage containers, and other food packaging except to the extent the Secretary decides that the transportation of cardboard, pallets, beverage containers, or other food packaging in a motor vehicle or rail vehicle used to transport cosmetics, devices, drugs, food, or food additives would make the cosmetics, devices, drugs, food, or food additives unsafe to humans or animals.

Sec. 5706. Dedicated vehicles

(a) Prohibitions. -- The regulations prescribed under section 5703(a)(1) of this title shall include provisions prohibiting a person from using, offering for use, or arranging for the use of a motor vehicle or rail vehicle to transport asbestos, in forms or quantities the Secretary of Transportation decides are necessary, or products that present an extreme danger to humans or animals, despite any decontamination, removal, disposal, packaging, or other isolation procedures, unless the motor vehicle or rail vehicle is used only to transport one or more of the following: asbestos, those extremely dangerous products, or refuse.

(b) List of Applicable Products. -- After consultation required by section 5709 of this title, the Secretary shall publish in the Federal Register a list of the products to which this section applies. The Secretary may amend the list periodically by publication in the Federal Register.

Sec. 5707. Waiver authority

(a) General Authority. -- After consultation required by section 5709 of this title, the Secretary of Transportation may waive any part of this chapter or regulations prescribed under this chapter for a class of persons, motor vehicles, rail vehicles, cosmetics, devices, drugs, food, food additives, or nonfood products, if the Secretary decides that the waiver --

(1) would not result in the transportation of cosmetics, devices, drugs, food, or food additives that would be unsafe to humans or animals; and

(2) would not be contrary to the public interest and this chapter.

(b) Publication of Waivers. -- The Secretary shall publish in the Federal Register any waiver and the reasons for the waiver.

Sec. 5708. Food transportation inspections

(a) General Authority. -- For commercial motor vehicles,

the Secretary of Transportation may carry out this chapter and assist in carrying out compatible State laws and regulations through means that include inspections conducted by State employees that are paid for with money authorized under section 31104 of this title, if the recipient State agrees to assist in the enforcement of this chapter or is enforcing compatible State laws and regulations.

(b) Providing Assistance. -- On the request of the Secretary of Transportation, the Secretaries of Agriculture and Health and Human Services, the Administrator of the Environmental Protection Agency, and the heads of other appropriate departments, agencies, and instrumentalities of the United States Government shall provide assistance, to the extent available, to the Secretary of Transportation to carry out this chapter, including assistance in the training of personnel under a program established under subsection (c) of this section.

(c) Training Program. -- After consultation required by section 5709 of this title and consultation with the heads of appropriate State transportation and food safety authorities, the Secretary of Transportation shall develop and carry out a training program for inspectors to conduct vigorous enforcement of this chapter and regulations prescribed under this chapter or compatible State laws and regulations. As part of the training program, the inspectors, including State inspectors or personnel paid with money authorized under section 31104 of this title, shall be trained in the recognition of adulteration problems associated with the transportation of cosmetics, devices, drugs, food, and food additives and in the procedures for obtaining assistance of the appropriate departments, agencies, and instrumentalities of the Government and State authorities to support the enforcement.

Sec. 5709. Consultation

As provided by sections 5703-5708 of this title, the Secretary of Transportation shall consult with the Secretaries of Agriculture and Health and Human Services and the Administrator of the Environmental Protection Agency.

Sec. 5710. Administrative

The Secretary of Transportation has the same duties and powers in regulating transportation under this chapter as the Secretary has under section 5121(a)-(c) (except subsection (c)(1)(A)) of this title in regulating transportation under chapter 51 of this title.

Sec. 5711. Enforcement and penalties

(a) Actions. -- The Secretary of Transportation shall request that a civil action be brought and take action to eliminate or ameliorate an imminent hazard related to a violation of a regulation prescribed or order issued under this chapter in the same way and to the same extent as authorized by section 5122 of this title.

(b) Applicable Penalties and Procedures. -- The penalties and procedures in sections 5123 and 5124 of this title apply to a violation of a regulation prescribed or order issued under this chapter.

Sec. 5712. Relationship to other laws

Section 5125 of this title applies to the relationship between this chapter and a requirement of a State, a political subdivision of a State, or an Indian tribe.

Sec. 5713. Application of sections 5711 and 5712

Sections 5711 and 5712 of this title apply only to transportation occurring on or after the date that regulations prescribed under section 5703(a)(1) of this title are effective.

Sec. 5714. Coordination procedures

Not later than November 3, 1991, the Secretary of Transportation, after consultation with appropriate State officials, shall establish procedures to promote more effective coordination between the departments, agencies, and instrumentalities of the United States Government and State authorities with regulatory authority over motor carrier safety and railroad safety in carrying out and enforcing this chapter.