§ 2057a

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

References in Text
The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (b), is Act June 25, 1938, c. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (section 301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

Codifications
Section was enacted as part of the Anti-Drug Abuse Act of 1988 and not as part of the Consumer Products Safety Act, which comprises this chapter.

LIBRARY REFERENCES

American Digest System
Drugs and Narcotics 15-46.

Encyclopedias
C.J.S. Drugs and Narcotics §§ 2 to 4, 102, 105, 106.

WESTLAW ELECTRONIC RESEARCH

See WESTLAW guide following the Explanation pages of this volume.

§ 2057b. Banning of isopropal nitrite and other nitrites

(a) In general

Except as provided in subsection (b) of this section, volatile alkyl nitrites shall be considered a banned hazardous product under section 2057 of this title.

(b) Lawful purposes

For the purposes of section 2057 of this title, it shall not be unlawful for any person to manufacture for sale, offer for sale distribute in commerce, or import into the United States volatile alkyl nitrites for any commercial purpose or any other purpose approved under the Federal Food, Drug, and Cosmetic Act [21 U.S.C.A. § 301 et seq.].

(c) “Commercial purpose” defined

For purposes of this section, the term “commercial purpose” means any commercial purpose other than for the production of consumer products containing volatile alkyl nitrites that may be used for inhaling or otherwise introducing volatile alkyl nitrites into the human body for euphoric or physical effects.

(d) Effective date

This section shall take effect 90 days after November 29, 1990.

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PRODUCT SAFETY


Expert testimony

While expert opinion deserves to be heeded in the promulgation of a safety standard under this chapter, it must be based on more than casual observation and speculation, particularly where risk of fatal injury is being evaluated. Aqua Slide 'N' Dive Corp. v. Consumer Product Safety Commission, C.A.9 1978, 569 F.2d 831.

Proposed testimony of expert witness identifying factual issues in performing safety analysis of a particular product is mandated by rules of the Consumer Product Safety Commission and comparing facts in instant case to Consumer Product Safety Act rule requirements and rendering an opinion that a product recall should have been performed by defendants was testimony pertaining to matters of law and as such would be excluded. Payne v. A.O. Smith Corp., S.D.Ohio 1985, 627 F.Supp. 226.

7. Immunity


Review

Consumer Product Safety Commission (CPSC) did not act in arbitrary or capricious fashion in deciding not to pursue ban on sale of adult size all-terrain vehicles (ATVs) for use by children under age 16 and instead first testing and evaluating efficacy of consent decree. CPSC had stated it could continue to monitor effectiveness of decree program and consider whether ban on ATVs for use by children was warranted in the context of the Consumer Product Safety Commission and comparing facts in instant case to Consumer Product Safety Act rule requirements and rendering an opinion that a product recall should have been performed by defendants was testimony pertaining to matters of law and as such would be excluded. Payne v. A.O. Smith Corp., S.D.Ohio 1985, 627 F.Supp. 226.


HISTORICAL AND STATUTORY NOTES

Effective Date of Repeal


§ 2060. Judicial review of consumer product safety rules

(a) Petition by persons adversely affected, consumers, or consumer organizations

Not later than 60 days after a consumer product safety rule is promulgated by the Commission, any person adversely affected by such rule, or any consumer or consumer organization, may file a petition with the United States court of appeals for the District of Columbia or for the circuit in which such person, consumer or
§ 2057. Banned hazardous products

AMERICAN LAW REPORTS

Liability for injury incurred in operation of power golf cart. 66 ALR4th 622
Products liability: liability for injury or death allegedly caused by defective tire. 81 ALR3d 318
Products liability: toys and games. 95 ALR3d 390

LIBRARY REFERENCES

Encyclopedias
2 Am Jur 2d, Administrative Law § 646
63 Am Jur 2d, Products Liability §§ 49, 133
7A Am Jur 2d, Automobiles and Highway Traffic § 12
Defective Product Design—Role of Human Factors, 18 Am Jur Proof of Facts 2d, p. 117
Defective Design or Installation of Air-Conditioning System, 23 Am Jur Proof of Facts 2d, p. 543

Television—Fire Litigation, 26 Am Jur Trials, p. 463

§ 2057a. Banning of butyl nitrite

LIBRARY REFERENCES

Texts and Treatises


§ 2057b. Banning of isopropyl nitrite and other nitriles

LIBRARY REFERENCES

Texts and Treatises


§ 2058. Procedure for consumer product safety rules

AMERICAN LAW REPORTS

Liability for injury incurred in operation of power golf cart. 66 ALR4th 622
Products liability: liability for injury or death allegedly caused by defect in snowmobile or other recreational-purpose vehicle. 81 ALR3d 318

LIBRARY REFERENCES

Encyclopedias
2 Am Jur 2d, Administrative Law § 646
63 Am Jur 2d, Products Liability §§ 49, 133
7A Am Jur 2d, Automobiles and Highway Traffic § 12
18 Am Jur Proof of Facts 2d, Defective Product Design—Role of Human Factors, p. 117
23 Am Jur Proof of Facts 2d, Defective Design or Installation of Air-Conditioning System, p. 543

§ 2060. Judicial review of consumer product safety rules

AMERICAN LAW REPORTS

Liability for injury incurred in operation of power golf cart. 66 ALR4th 622
Products liability: liability for injury or death allegedly caused by defective tire. 81 ALR3d 318
Products liability: toys and games. 95 ALR3d 390

LIBRARY REFERENCES

Encyclopedias
2 Am Jur 2d, Administrative Law § 646
63 Am Jur 2d, Products Liability §§ 60-64, 384
7A Am Jur 2d, Automobiles and Highway Traffic § 12
18 Am Jur Proof of Facts 2d, Defective Product Design—Role of Human Factors, p. 117
23 Am Jur Proof of Facts 2d, Defective Design or Installation of Air-Conditioning System, p. 345

§ 2061. Imminent hazards

AMERICAN LAW REPORTS

Liability for injury incurred in operation of power golf cart. 66 ALR4th 622
Products liability: liability for injury or death allegedly caused by defect in snowmobile or other recreational-purpose vehicle. 81 ALR3d 318

LIBRARY REFERENCES

Encyclopedias
2 Am Jur 2d, Administrative Law § 646
63 Am Jur 2d, Products Liability §§ 23, 29, 78, 93, 117
7A Am Jur 2d, Automobiles and Highway Traffic § 12
18 Am Jur Proof of Facts 2d, Defective Product Design—Role of Human Factors, p. 117
23 Am Jur Proof of Facts 2d, Defective Design or Installation of Air-Conditioning System, p. 345

§ 2063. Product certification and labeling

AMERICAN LAW REPORTS

Liability for injury incurred in operation of power golf cart. 66 ALR4th 622
Products liability: failure to provide product warning or instruction in foreign language or to use universally accepted pictographs or symbols. 27 ALR3d 807
Products liability: liability for injury or death allegedly caused by defect in snowmobile or other recreational-purpose vehicle. 81 ALR3d 318
Products liability: liability for injury or death allegedly caused by defective tire. 81 ALR3d 318
Products liability: toys and games. 95 ALR3d 390

LIBRARY REFERENCES

Encyclopedias
2 Am Jur 2d, Administrative Law § 646
63 Am Jur 2d, Products Liability §§ 15, 316
7A Am Jur 2d, Automobiles and Highway Traffic § 12
18 Am Jur Proof of Facts 2d, Defective Design or Installation of Air-Conditioning System, p. 345
23 Am Jur Proof of Facts 2d, Defective Design or Installation of Air-Conditioning System, p. 345