

Consumer Product Safety Commission

§ 1609.1

(Impression of notary seal required here.) Notary Public in and for County of _____, State of _____. My commission expires _____.

(Sec. 5 of the Act, 67 Stat. 112, as amended by 81 Stat. 570, 15 U.S.C. 1194: section 8 of the Act 67 Stat. 114, as amended by 81 Stat. 572, 15 U.S.C. 1197)

[40 FR 59887, Dec. 30, 1975, as amended at 52 FR 48810, Dec. 28, 1987]

§ 1608.4 Guaranties furnished by non-residents of the U.S. no bar to prosecution.

A guaranty furnished under section 8 of the act by a person who is not a resident of the United States may not be relied upon as a bar to prosecution under section 7 of the act for a violation of section 3 of the act.

§ 1608.5 Salvage operations of common carriers and others.

For the purposes of this act the ordinary course of business of common carriers, contract carriers or freight forwarders, as referred to in section 11 of the act, shall not include the marketing or handling of products, fabrics, or related materials subject to the act in the course of performance of salvage or lien realizing operations.

§ 1608.6 Reference to guaranty by Government prohibited.

No representation nor suggestion shall be made in advertising or otherwise marketing or handling products, fabrics or related materials subject to the act that the act, the Government, or any branch thereof, guarantees, in any manner that such product, fabric, or related material conforms to a flammability standard in effect under the act.

PART 1609—TEXT OF THE FLAMMABLE FABRICS ACT OF 1953, AS AMENDED IN 1954, PRIOR TO 1967 AMENDMENT AND REVISION

§ 1609.1 Text of the Flammable Fabrics Act of 1953, as amended in 1954.

The following is the text of the Flammable Fabrics Act of 1953, ch. 164, 67 Stat. 111, as amended, ch. 833, 68 Stat. 770 (1954):

AN ACT

To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Flammable Fabrics Act."

DEFINITIONS

Sec. 2. As used in this Act—

(a) The term *person* means an individual, partnership, corporation, association, or any other form of business enterprise.

(b) The term *commerce* means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

(c) The term *Territory* includes the insular possessions of the United States and also any Territory of the United States.

(d) The term *article of wearing apparel* means any costume or article of clothing worn or intended to be worn by individuals except hats, gloves, and footwear: Provided, however, That such hats do not constitute or form part of a covering for the neck, face, or shoulders when worn by individuals: Provided further, That such gloves are not more than fourteen inches in length and are not affixed to or do not form an integral part of another garment: And provided further, That such footwear does not consist of hosiery in whole or in part and is not affixed to or does not form an integral part of another garment.

(e) The term *fabric* means any material (other than fiber, filament, or yarn) woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended or sold for use in wearing apparel except that interlining fabrics when intended or sold for use in wearing apparel shall not be subject to this Act.

(f) The term *interlining* means any fabric which is intended for incorporation into an article of wearing apparel as a layer between an outer shell and an inner lining.

(g) The term *Commission* means the Federal Trade Commission.

(h) The term *Federal Trade Commission Act* means the Act of Congress entitled "An Act

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to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914, as amended.

PROHIBITED TRANSACTIONS

SEC. 3. (a) The manufacture for sale, the sale, or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any article of wearing apparel which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(b) The sale or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any fabric which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(c) The manufacture for sale, the sale, or the offering for sale, of any article of wearing apparel made of fabric which under section 4 is so highly flammable as to be dangerous when worn by individuals and which has been shipped or received in commerce shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

STANDARD OF FLAMMABILITY

SEC. 4. (a) Any fabric or article of wearing apparel shall be deemed so highly flammable within the meaning of section 3 of this Act as to be dangerous when worn by individuals if such fabrics or any uncovered or exposed part of such article of wearing apparel exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in the Commercial Standard promulgated by the Secretary of Commerce effective January 30, 1953, and identified as "Flammability of Clothing Textiles, Commercial Standard 191-53," or exhibits a rate of burning in excess of that specified in paragraph 3.11 of the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192-53." For the purposes of this Act, such Commercial Standard 191-53 shall apply with respect to the hats, gloves, and

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footwear covered by section 2(d) of this Act, notwithstanding any exception contained in such Commercial Standard with respect to hats, gloves, and footwear.

(b) If at any time the Secretary of Commerce finds that the Commercial Standards referred to in subsection (a) of this section are inadequate for the protection of the public interest, he shall submit to the Congress a report setting forth his findings together with such proposals for legislation as he deems appropriate.

(c) Notwithstanding the provisions of paragraph 3.1 Commercial Standard 191-53, textiles free from nap, pile, tufting, flock or other type of raised fiber surface when tested as described in said standard shall be classified as class 1, normal flammability, when the time of flame spread is three and one-half seconds or more, and as class 3, rapid and intense burning when the time of flame spread is less than three and one-half seconds. [Approved August 23, 1954.]

ADMINISTRATION AND ENFORCEMENT

SEC. 5. (a) Except as otherwise specifically provided herein, sections 3, 5, 6, and 8(b) of this Act shall be enforced by the Commission under rules, regulations and procedures provided for in the Federal Trade Commission Act.

(b) The Commission is authorized and directed to prevent any person from violating the provisions of section 3 of this Act in the same manner, by the same means and with the same jurisdiction, powers and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act; and any such person violating any provision of section 3 of this Act shall be subject to the penalties and entitled to the privileges and immunities provided in said Federal Trade Commission Act as though the applicable terms and provisions of the said Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) The Commission is authorized and directed to prescribe such rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act.

(d) The Commission is authorized to—

(1) cause inspections, analyses, tests, and examinations to be made of any article of wearing apparel or fabric which it has reason to believe falls within the prohibitions of this Act; and

(2) cooperate on matters related to the purposes of this Act with any department or agency of the Government; with any State, Territory, or possession or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

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INJUNCTION AND CONDEMNATION PROCEEDINGS

SEC. 6. (a) Whenever the Commission has reason to believe that any person is violating or is about to violate section 3 of this Act, and that it would be in the public interest to enjoin such violation until complaint under the Federal Trade Commission Act is issued and dismissed by the Commission or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act or is set aside by the court on review, the Commission may bring suit in the district court of the United States or in the United States court of any Territory for the district or Territory in which such person resides or transacts business, to enjoin such violation and upon proper showing a temporary injunction or restraining order shall be granted without bond.

(b) Whenever the Commission has reason to believe that any article of wearing apparel has been manufactured or introduced into commerce or any fabric has been introduced in commerce in violation of section 3 of this Act, it may institute proceedings by process of libel for the seizure and confiscation of such article of wearing apparel or fabric in any district court of the United States within the jurisdiction of which such article of wearing apparel or fabric is found. Proceedings in cases instituted under the authority of this section shall conform as nearly as may be to proceedings in rem in admiralty, except that on demand of either party and in the discretion of the court, any issue of fact shall be tried by jury. Whenever such proceedings involving identical articles of wearing apparel or fabrics are pending in two or more jurisdictions, they may be consolidated for trial by order of any such court upon application seasonably made by any party in interest upon notice to all other parties in interest. Any court granting an order of consolidation shall cause prompt notification thereof to be given to other courts having jurisdiction in the cases covered thereby and the clerks of such other courts shall transmit all pertinent records and papers to the court designated for the trial of such consolidated proceedings.

(c) In any such action the court upon application seasonably made before trial shall by order allow any party in interest, his attorney or agent, to obtain a representative sample of the article of wearing apparel or fabric seized.

(d) If such articles of wearing apparel or fabrics are condemned by the court they shall be disposed of by destruction, by delivery to the owner or claimant thereof upon payment of court costs and fees and storage and other proper expenses and upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing ap-

parel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce, or by sale upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce. If such products are disposed of by sale the proceeds, less costs and charges, shall be paid into the Treasury of the United States.

PENALTIES

SEC. 7. Any person who willfully violates section 3 or 8(b) of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$5,000 or be imprisoned not more than one year or both in the discretion of the court: Provided, That nothing herein shall limit other provisions of this Act.

GUARANTY

SEC. 8. (a) No person shall be subject to prosecution under section 7 of this Act for a violation of section 3 of this Act if such person (1) establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4 of this Act show that the fabric covered by the guaranty, or used in the wearing apparel covered by the guaranty, is not, under the provisions of section 4 of this Act, so highly flammable as to be dangerous when worn by individuals, and (2) has not, by further processing, affected the flammability of the fabric or wearing apparel covered by the guaranty which he received. Such guaranty shall be either (1) a separate guaranty specifically designating the wearing apparel or fabric guaranteed, in which case it may be on the invoice or other paper relating to such wearing apparel or fabric; or (2) a continuing guaranty filed with the Commission applicable to any wearing apparel or fabric handled by a guarantor, in such form as the Commission by rules or regulations may prescribe.

(b) It shall be unlawful for any person to furnish, with respect to any wearing apparel or fabric, a false guaranty (except a person relying upon a guaranty to the same effect received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received) with reason to believe the wearing apparel or fabric falsely guaranteed may be introduced, sold, or transported in commerce, and any person who violates the

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provisions of this subsection is guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or who has attempted to export from any foreign country into the United States any wearing apparel or fabric which, under the provisions of section 4, is so highly flammable as to be dangerous when worn by individuals may thenceforth be prohibited by the Commission from participating in the exportation from any foreign country into the United States of any wearing apparel or fabric except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act.

INTERPRETATION AND SEPARABILITY

SEC. 10. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other law. If any provision of this Act or the application thereof to any person or circumstances is held invalid the remainder of the Act and the application of such provisions to any other person or circumstances shall not be affected thereby.

EXCLUSIONS

SEC. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier, or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the ordinary course of its business; or (b) to any converter, processor, or finisher in performing a contract or commission service for the account of a person subject to the provisions of this Act: Provided, That said converter, processor, or finisher does not cause any article of wearing apparel or fabric to become subject to this Act contrary to the terms of the contract or commission service; or (c) to any article of wearing apparel or fabric shipped or delivered for shipment into commerce for the purpose of finishing or processing to render such article or fabric not so highly flammable, under the provisions of section 4 of this Act, as to be dangerous when worn by individuals.

EFFECTIVE DATE

SEC. 12. This Act shall take effect one year after the date of its passage.

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**AUTHORIZATION OF NECESSARY
APPROPRIATIONS**

SEC. 13. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

[40 FR 59889, Dec. 30, 1975]

**PART 1610—STANDARD FOR THE
FLAMMABILITY OF CLOTHING
TEXTILES**

Subpart A—The Standard

- Sec.
- 1610.1 Purpose.
- 1610.2 Scope.
- 1610.3 Requirements.
- 1610.4 Methods of test.
- 1610.5 Notes.

Subpart B—Rules and Regulations

- 1610.31 Terms defined.
- 1610.32 General requirements.
- 1610.33 Test procedures for textile fabrics and film.
- 1610.34 Only uncovered or exposed parts of wearing apparel to be tested.
- 1610.35 Procedures for testing special types of textile fabrics under the standard.
- 1610.36 Applications of act to particular types of products.
- 1610.37 Reasonable and representative tests to support guaranties.
- 1610.38 Maintenance of records by those furnishing guaranties.
- 1610.39 Shipments under 11(c) of the act.
- 1610.40 Use of alternate apparatus, procedures, or criteria for tests for guaranty purposes.

**Subpart C—Interpretations and
Policies**

- 1610.61 Clarification of flammability standard for clothing textiles (CS 191-53).
- 1610.62 Reasonable and representative testing to assure compliance with the standard for the clothing textiles.

SOURCE: 40 FR 59891, Dec. 30, 1975, unless otherwise noted.

CODIFICATION NOTE: Part 1610 is a codification of the previously unpublished standard for flammability of clothing textiles, Commercial Standard 191-53, issued by the Department of Commerce, effective on January 30, 1953. This flammability standard became mandatory through section 4(a) of the Flammable Fabrics Act, as amended in 1954, and remains in effect due to the savings clause (section 11) of Pub. L. 90-189. 16 CFR part 1609 contains the text of the Flammable Fabrics Act of 1953, as amended in 1954.