

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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**SPRIETSMA, ADMINISTRATOR OF THE ESTATE OF
SPRIETSMA, DECEASED *v.* MERCURY MARINE, A
DIVISION OF BRUNSWICK CORP.**

CERTIORARI TO THE SUPREME COURT OF ILLINOIS

No. 01–706. Argued October 15, 2002—Decided December 3, 2002

Petitioner's wife was killed in a boating accident when she was struck by the propeller of an outboard motor manufactured by respondent, Mercury Marine, a division of Brunswick Corporation (Brunswick). In his subsequent common-law tort action in Illinois state court, petitioner claimed that Brunswick's motor was unreasonably dangerous because, among other things, it was not protected by a propeller guard. The trial court dismissed the complaint, and the intermediate court affirmed, finding the action expressly pre-empted by the Federal Boat Safety Act of 1971 (FBSA or Act). The Illinois Supreme Court rejected that rationale, but affirmed on implied pre-emption grounds.

Held: The FBSA does not pre-empt state common-law claims such as petitioner's. Pp. 3–18.

(a) The FBSA was enacted to improve boating safety, to authorize the establishment of national construction and performance standards for boats and associated equipment, and to encourage greater uniformity of boating laws and regulations as among the States and the Federal Government. The Secretary of Transportation has delegated the authority to promulgate regulations establishing minimum safety standards for recreational vessels and associated equipment to the Coast Guard, which must, *inter alia*, consult with a special National Boating Safety Advisory Council before exercising that authority. The Coast Guard may issue exemptions from its regulations if boating safety will not be adversely affected. Section 10 of the Act sets forth an express pre-emption clause, and §40's saving clause provides that compliance with the Act or standards, regulations, or

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orders prescribed under the Act does not relieve a person from liability at common law or under state law. When the Coast Guard issued its first regulations in 1972, the Secretary exempted from pre-emption state laws that regulate matters not covered by the federal regulations. The Coast Guard has since promulgated a host of detailed regulations, but it determined in 1990, after an 18-month inquiry by an Advisory Council subcommittee, that available data did not support adoption of a regulation requiring propeller guards. In 2001, the Advisory Council recommended specific propeller guard regulations, but no regulations regarding their use on recreational boats such as the one in this case are currently pending. Pp. 3–10.

(b) The FBSA does not expressly pre-empt petitioner’s common-law tort claims. Section 10’s express pre-emption clause—which applies to “a [state or local] law or regulation”—is most naturally read as not encompassing common-law claims for two reasons. First, the article “a” implies a discreteness that is not present in common law. Second, because “a word is known by the company it keeps,” *Gustafson v. Alloyd Co.*, 513 U. S. 561, 575, the terms “law” and “regulation” used together indicate that Congress only pre-empted positive enactments. The Act’s saving clause buttresses this conclusion. It assumes that there are some significant number of common-law liability cases to save, and §10’s language permits a narrow reading excluding common-law actions. See *Geier v. American Honda Motor Co.*, 529 U. S. 861, 868. And the contrast between its general reference to “liability at common law” and §10’s more specific and detailed description of what is pre-empted—including an exception for state regulations addressing “uniquely hazardous conditions”—indicates that §10 was drafted to pre-empt performance standards and equipment requirements imposed by statute or regulation. This interpretation does not produce anomalous results. It would have been perfectly rational for Congress not to pre-empt common-law claims, which necessarily perform an important remedial role in compensating accident victims. Pp. 10–12.

(c) The Coast Guard’s 1990 decision not to regulate propeller guards also does not pre-empt petitioner’s claims. That decision left applicable propeller guard law exactly the same as it had been before the subcommittee began its investigation. A Coast Guard decision not to regulate a particular aspect of boating safety is fully consistent with an intent to preserve state regulatory authority pending adoption of specific federal standards. The Coast Guard’s explanation for its propeller guard decision reveals only that the available data did not meet the FBSA’s stringent criteria for federal regulation. The Coast Guard did not take the further step of deciding that, as a matter of policy, the States and their political subdivisions should not impose some version of propeller guard regulation, and it did not re-

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ject propeller guards as unsafe. Although undoubtedly intentional and carefully considered, the 1990 decision does not convey an authoritative message of a federal policy against propeller guards, and nothing in the Coast Guard's recent regulatory activities alters this conclusion. *Geier v. American Honda Motor Co.*, 529 U. S. 861, distinguished. Pp. 12–16.

(d) Nor does the FBSA's statutory scheme implicitly pre-empt petitioner's claims. The Act does not require the Coast Guard to promulgate comprehensive regulations covering every aspect of recreational boat safety and design; nor must the Coast Guard certify the acceptability of every recreational boat subject to its jurisdiction. *Ray v. Atlantic Richfield Co.*, 435 U. S. 151, and *United States v. Locke*, 529 U. S. 89, distinguished. Even if the FBSA could be interpreted as expressly occupying the field of safety regulation of recreational boats with respect to state positive laws and regulations, it does not convey a clear and manifest intent to completely occupy the field so as to foreclose state common-law remedies. This Court's conclusion that the Act's express pre-emption clause does not cover common-law claims suggests the opposite intent. An unembellished statement in a House Report on the Act does not establish an intent to pre-empt common-law remedies. And the FBSA's goal of fostering uniformity in manufacturing regulations, on which respondent ultimately relies for its pre-emption argument, is an important but not unyielding interest, as is demonstrated by the Coast Guard's early grants of broad exemptions for state regulations and by its position in this litigation. Pp. 16–18.

197 Ill. 2d 112, 757 N. E. 2d 75, reversed and remanded.

STEVENS, J., delivered the opinion for a unanimous Court.