TITLE 15 - COMMERCE AND TRADE  
CHAPTER 47 - CONSUMER PRODUCT SAFETY  
§ 2069. Civil penalties  

(a) Amount of penalty  

(1) Any person who knowingly violates section 2068 of this title shall be subject to a civil penalty not to exceed $100,000 for each such violation. Subject to paragraph (2), a violation of section 2068 (a)(1), (2), (4), (5), (6), (7), (8), (9), (10), or (11) of this title shall constitute a separate offense with respect to each consumer product involved, except that the maximum civil penalty shall not exceed $15,000,000 for any related series of violations. A violation of section 2068 (a)(3) of this title shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required thereby; and, if such violation is a continuing one, each day of such violation shall constitute a separate offense, except that the maximum civil penalty shall not exceed $15,000,000 for any related series of violations.  

(2) The second sentence of paragraph (1) of this subsection shall not apply to violations of paragraph (1) or (2) of section 2068 (a) of this title—  

(A) if the person who violated such paragraphs is not the manufacturer or private labeler or a distributor of the products involved, and  

(B) if such person did not have either  

(i) actual knowledge that his distribution or sale of the product violated such paragraphs or  

(ii) notice from the Commission that such distribution or sale would be a violation of such paragraphs.  

(3) (A) The maximum penalty amounts authorized in paragraph (1) shall be adjusted for inflation as provided in this paragraph.  

(B) Not later than December 1, 2011, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.  

(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraph (1) by the cost-of-living adjustment for the preceding five years. Any increase determined under the preceding sentence shall be rounded to—  

(i) in the case of penalties greater than $1,000 but less than or equal to $10,000, the nearest multiple of $1,000;  

(ii) in the case of penalties greater than $10,000 but less than or equal to $100,000, the nearest multiple of $5,000;  

(iii) in the case of penalties greater than $100,000 but less than or equal to $200,000, the nearest multiple of $10,000; and  

(iv) in the case of penalties greater than $200,000, the nearest multiple of $25,000.  

(D) For purposes of this subsection:  

(i) The term “Consumer Price Index” means the Consumer Price Index for all-urban consumers published by the Department of Labor.  

(ii) The term “cost-of-living adjustment for the preceding five years” means the percentage by which—  

(I) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; exceeds  

(II) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted.
(b) Relevant factors in determining amount of penalty

In determining the amount of any penalty to be sought upon commencing an action seeking to assess a penalty for a violation of section 2068 (a) of this title, the Commission shall consider the nature, circumstances, extent, and gravity of the violation, including the nature of the product defect, the severity of the risk of injury, the occurrence or absence of injury, the number of defective products distributed, the appropriateness of such penalty in relation to the size of the business of the person charged, including how to mitigate undue adverse economic impacts on small businesses, and such other factors as appropriate.

(c) Compromise of penalty; deductions from penalty

Any civil penalty under this section may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated and in what amount, the Commission shall consider the appropriateness of such penalty to the size of the business of the person charged, including how to mitigate undue adverse economic impacts on small businesses, the nature, circumstances, extent, and gravity of the violation, including,\(^1\) the nature of the product defect, the severity of the risk of injury, the occurrence or absence of injury, and the number of defective products distributed, and such other factors as appropriate. The amount of such penalty when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

(d) “Knowingly” defined

As used in the first sentence of subsection (a)(1) of this section, the term “knowingly” means

(1) the having of actual knowledge, or

(2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

Footnotes
\(^1\) So in original. The comma probably should not appear.

Amendments

2008—Subsec. (a)(1). Pub. L. 110–314, § 217(a)(1)(A), (B), substituted “$100,000” for “$5,000” and substituted “$15,000,000” for “$1,250,000” in two places.


Subsec. (b). Pub. L. 110–314, § 217(b)(1)(A)(i), inserted “the nature, circumstances, extent, and gravity of the violation, including” after “shall consider”, substituted “products distributed,” for “products distributed, and”, and inserted “, including how to mitigate undue adverse economic impacts on small businesses, and such other factors as appropriate” before period at end.

Subsec. (c). Pub. L. 110–314, § 217(b)(1)(A)(ii)(I), inserted “, and such other factors as appropriate” after “products distributed”.

Pub. L. 110–314, § 217(b)(1)(A)(ii)(I), which directed amendment of subsec. (c) by inserting “, including how to mitigate undue adverse economic impacts on small businesses, the nature, circumstances, extent, and gravity of the violation, including” after “person charged”, was executed by making the insertion after “person charged” the first place appearing, to reflect the probable intent of Congress.
1990—Subsec. (a)(1). Pub. L. 101–608, §§ 112(e), 115 (a)(1), (2), substituted “$5,000” for “$2,000”, and “(10), or (11)” for “or (10)”, and substituted “$1,250,000” for “$500,000” in two places.


1981—Subsecs. (b) to (d). Pub. L. 97–35 added subsec. (b), redesignated former subsec. (b) as (c), substituted “the Commission shall consider the appropriateness of such penalty to the size of the business of the person charged, the nature of the product defect, the severity of the risk of injury, the occurrence or absence of injury, and the number of defective products distributed” for “the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered”, and redesignated subsec. (c) as (d).


Effective Date of 2008 Amendment

Amendment by section 217(a)(1) of Pub. L. 110–314 effective on the date that is the earlier of the date on which final regulations are issued under section 217(b)(2) of Pub. L. 110–314, set out below, or 1 year after Aug. 14, 2008, see section 217(a)(4) of Pub. L. 110–314, set out as a note under section 1194 of this title.

Effective Date of 1981 Amendment


Civil Penalty Criteria