

Public Law 85-897

AN ACT

To protect producers and consumers against misbranding and false advertising of the fiber content of textile fiber products, and for other purposes.

September 2, 1958
[H. R. 469]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Textile Fiber Products Identification Act".

Textile Fiber
Products Identifi-
cation 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 "fiber" or "textile fiber" means a unit of matter which is capable of being spun into a yarn or made into a fabric by bonding or by interlacing in a variety of methods including weaving, knitting, braiding, felting, twisting, or webbing, and which is the basic structural element of textile products.

(c) The term "natural fiber" means any fiber that exists as such in the natural state.

(d) The term "manufactured fiber" means any fiber derived by a process of manufacture from any substance which, at any point in the manufacturing process, is not a fiber.

(e) The term "yarn" means a strand of textile fiber in a form suitable for weaving, knitting, braiding, felting, webbing, or otherwise fabricating into a fabric.

(f) The term "fabric" means any material woven, knitted, felted, or otherwise produced from, or in combination with, any natural or manufactured fiber, yarn, or substitute therefor.

(g) The term "household textile articles" means articles of wearing apparel, costumes and accessories, draperies, floor coverings, furnishings, beddings, and other textile goods of a type customarily used in a household regardless of where used in fact.

(h) The term "textile fiber product" means—

(1) any fiber, whether in the finished or unfinished state, used or intended for use in household textile articles;

(2) any yarn or fabric, whether in the finished or unfinished state, used or intended for use in household textile articles; and

(3) any household textile article made in whole or in part of yarn or fabric;

except that such term does not include a product required to be labeled under the Wool Products Labeling Act of 1939.

(i) The term "affixed" means attached to the textile fiber product in any manner.

(j) The term "Commission" means the Federal Trade Commission.

(k) 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.

(l) The term "Territory" includes the insular possessions of the United States, and also any Territory of the United States.

(m) The term "ultimate consumer" means a person who obtains a textile fiber product by purchase or exchange with no intent to sell or exchange such textile fiber product in any form.

MISBRANDING AND FALSE ADVERTISING DECLARED UNLAWFUL

SEC. 3. (a) The introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product which is misbranded or falsely or deceptively advertised within the meaning of this Act or the rules and regulations promulgated thereunder, is 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.

38 Stat. 717.
15 USC 58.

(b) The sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce, and which is misbranded or falsely or deceptively advertised, within the meaning of this Act or the rules and regulations promulgated thereunder, is 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.

15 USC 58.

(c) The sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, which is misbranded or falsely or deceptively advertised, within the meaning of this Act or the rules and regulations promulgated thereunder, is 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.

15 USC 58.

(d) This section shall not apply—

(1) to any common carrier or contract carrier or freight forwarder with respect to a textile fiber product received, shipped, delivered, or handled by it for shipment in the ordinary course of its business;

(2) to any processor or finisher in performing a contract for the account of a person subject to the provisions of this Act if the processor or finisher does not change the textile fiber content of the textile fiber product contrary to the terms of such contract;

(3) with respect to the manufacture, delivery for transportation, transportation, sale, or offering for sale of a textile fiber product for exportation from the United States to any foreign country;

(4) to any publisher or other advertising agency or medium for the dissemination of advertising or promotional material, except the manufacturer, distributor, or seller of the textile fiber product to which the false or deceptive advertisement relates, if such publisher or other advertising agency or medium furnishes to the Commission, upon request, the name and post office address of the manufacturer, distributor, seller, or other person residing in the United States, who caused the dissemination of the advertising material; or

(5) to any textile fiber product until such product has been produced by the manufacturer or processor in the form intended for sale or delivery to, or for use by, the ultimate consumer: *Provided*. That this exemption shall apply only if such textile fiber product is covered by an invoice or other paper relating to the marketing or handling of the textile fiber product and such invoice or paper correctly discloses the information with respect to the textile fiber product which would otherwise be required under section 4 of this Act to be on the stamp, tag, label, or other identification and the name and address of the person issuing the invoice or paper.

MISBRANDING AND FALSE ADVERTISING OF TEXTILE FIBER PRODUCTS

SEC. 4. (a) Except as otherwise provided in this Act, a textile fiber product shall be misbranded if it is falsely or deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name or amount of constituent fibers contained therein.

(b) Except as otherwise provided in this Act, a textile fiber product shall be misbranded if a stamp, tag, label, or other means of identification, or substitute therefor authorized by section 5, is not on or affixed to the product showing in words and figures plainly legible, the following:

(1) The constituent fiber or combination of fibers in the textile fiber product, designating with equal prominence each natural or manufactured fiber in the textile fiber product by its generic name in the order of predominance by the weight thereof if the weight of such fiber is 5 per centum or more of the total fiber weight of the product, but nothing in this section shall be construed as prohibiting the use of a nondeceptive trademark in conjunction with a designated generic name: *Provided*, That exclusive of permissible ornamentation, any fiber or group of fibers present in an amount of 5 per centum or less by weight of the total fiber content shall not be designated by the generic name or the trademark of such fiber or fibers, but shall be designated only as "other fiber" or "other fibers" as the case may be.

(2) The percentage of each fiber present, by weight, in the total fiber content of the textile fiber product, exclusive of ornamentation not exceeding 5 per centum by weight of the total fiber content: *Provided*, That, exclusive of permissible ornamentation, any fiber or group of fibers present in an amount of 5 per centum or less by weight of the total fiber content shall not be designated by the generic name or trademark of such fiber or fibers, but shall be designated only as "other fiber" or "other fibers" as the case may be: *Provided further*, That in the case of a textile fiber product which contains more than one kind of fiber, deviation in the fiber content of any fiber in such product from the amount stated on the stamp, tag, label, or other identification shall not be a misbranding under this section unless such deviation is in excess of reasonable tolerances which shall be established by the Commission: *And provided further*, That any such deviation which exceeds said tolerances shall not be a misbranding if the person charged proves that the deviation resulted from unavoidable variations in manufacture and despite due care to make accurate the statements on the tag, stamp, label, or other identification.

(3) The name, or other identification issued and registered by the Commission, of the manufacturer of the product or one or more persons subject to section 3 with respect to such product.

(4) If it is an imported textile fiber product the name of the country where processed or manufactured.

(c) For the purposes of this Act, a textile fiber product shall be considered to be falsely or deceptively advertised if any disclosure or implication of fiber content is made in any written advertisement which is used to aid, promote, or assist directly or indirectly in the sale or offering for sale of such textile fiber product, unless the same information as that required to be shown on the stamp, tag, label, or other identification under section 4 (b) (1) and (2) is contained in the heading, body, or other part of such written advertisement, except that the percentages of the fiber present in the textile fiber product need not be stated.

(d) In addition to the information required in this section, the stamp, tag, label, or other means of identification, or advertisement may contain other information not violating the provisions of this Act.

(e) This section shall not be construed as requiring the affixing of a stamp, tag, label, or other means of identification to each textile fiber product contained in a package if (1) such textile fiber products are intended for sale to the ultimate consumer in such package, (2) such package has affixed to it a stamp, tag, label, or other means of identification bearing, with respect to the textile fiber products contained therein, the information required by subsection (b), and (3) the information on the stamp, tag, label, or other means of identification affixed to such package is equally applicable with respect to each textile fiber product contained therein.

(f) This section shall not be construed as requiring designation of the fiber content of any portion of fabric, when sold at retail, which is severed from bolts, pieces, or rolls of fabric labeled in accordance with the provisions of this section at the time of such sale: *Provided*, That if any portion of fabric severed from a bolt, piece, or roll of fabric is in any manner represented as containing percentages of natural or manufactured fibers, other than that which is set forth on the labeled bolt, piece, or roll, this section shall be applicable thereto, and the information required shall be separately set forth and segregated as required by this section.

(g) For the purposes of this Act, a textile fiber product shall be considered to be falsely or deceptively advertised if the name or symbol of any fur-bearing animal is used in the advertisement of such product unless such product, or the part thereof in connection with which the name or symbol of a fur-bearing animal is used, is a fur or fur product within the meaning of the Fur Products Labeling Act: *Provided, however*, That where a textile fiber product contains the hair or fiber of a fur-bearing animal, the name of such animal, in conjunction with the word "fiber", "hair", or "blend", may be used.

(h) For the purposes of this Act, a textile fiber product shall be misbranded if it is used as stuffing in any upholstered product, mattress, or cushion after having been previously used as stuffing in any other upholstered product, mattress, or cushion, unless the upholstered product, mattress, or cushion containing such textile fiber product bears a stamp, tag, or label approved by the Commission indicating in words plainly legible that it contains reused stuffing.

REMOVAL OF STAMP, TAG, LABEL, OR OTHER IDENTIFICATION

SEC. 5. (a) After shipment of a textile fiber product in commerce it shall be unlawful, except as provided in this Act, to remove or mutilate, or cause or participate in the removal or mutilation of, prior to the time any textile fiber product is sold and delivered to the ultimate consumer, any stamp, tag, label, or other identification required by this Act to be affixed to such textile fiber product, and any person violating this section shall be guilty of an unfair method of competition, and an unfair or deceptive act or practice, under the Federal Trade Commission Act.

(b) Any person—

(1) introducing, selling, advertising, or offering for sale, in commerce, or importing into the United States, a textile fiber product subject to the provisions of this Act, or

(2) selling, advertising, or offering for sale a textile fiber product whether in its original state or contained in other textile fiber products, which has been shipped, advertised, or offered for sale, in commerce.

may substitute for the stamp, tag, label, or other means of identification required to be affixed to such textile product pursuant to section 4 (b), a stamp, tag, label, or other means of identification conforming to the requirements of section 4 (b), and such substituted stamp, tag,

65 Stat. 175.
15 USC 69 note.

38 Stat. 717.
15 USC 58.

label, or other means of identification shall show the name or other identification issued and registered by the Commission of the person making the substitution.

(c) If any person other than the ultimate consumer breaks a package which bears a stamp, tag, label, or other means of identification conforming to the requirements of section 4, and if such package contains one or more units of a textile fiber product to which a stamp, tag, label, or other identification conforming to the requirements of section 4 is not affixed, such person shall affix a stamp, tag, label, or other identification bearing the information on the stamp, tag, label, or other means of identification attached to such broken package to each unit of textile fiber product taken from such broken package.

RECORDS

SEC. 6. (a) Every manufacturer of textile fiber products subject to this Act shall maintain proper records showing the fiber content as required by this Act of all such products made by him, and shall preserve such records for at least three years.

(b) Any person substituting a stamp, tag, label, or other identification pursuant to section 5 (b) shall keep such records as will show the information set forth on the stamp, tag, label, or other identification that he removed and the name or names of the person or persons from whom such textile fiber product was received, and shall preserve such records for at least three years.

(c) The neglect or refusal to maintain or preserve the records required by this section is unlawful, and any person neglecting or refusing to maintain such records shall be guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce, under the Federal Trade Commission Act.

38 Stat. 717.
15 USC 58.

ENFORCEMENT OF THE ACT

SEC. 7. (a) Except as otherwise specifically provided herein, this Act shall be enforced by the Federal Trade Commission under rules, regulations, and procedure provided for in the Federal Trade Commission Act.

15 USC 58.

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

15 USC 58.

(c) The Commission is authorized and directed to make such rules and regulations, including the establishment of generic names of manufactured fibers, under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement.

(d) The Commission is authorized to cause inspections, analyses, tests, and examinations to be made of any product subject to this Act.

INJUNCTION PROCEEDINGS

SEC. 8. Whenever the Commission has reason to believe—

(a) that any person is doing, or is about to do, an act which by section 3, 5, 6, 9, or 10 (b) is declared to be unlawful; and

(b) that it would be to the public interest to enjoin the doing of such act until complaint is issued by the Commission under the Federal Trade Commission Act and such complaint is dismissed by the Commission or set aside by the court on review or until an order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act,

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 the doing of such act and upon proper showing a temporary injunction or restraining order shall be granted without bond.

EXCLUSION OF MISBRANDED TEXTILE FIBER PRODUCTS

SEC. 9. All textile fiber products imported into the United States shall be stamped, tagged, labeled, or otherwise identified in accordance with the provisions of section 4 of this Act, and all invoices of such products required pursuant to section 484 of the Tariff Act of 1930, shall set forth, in addition to the matter therein specified, the information with respect to said products required under the provisions of section 4 (b) of this Act, which information shall be in the invoices prior to their certification, if such certification is required pursuant to section 484 of the Tariff Act of 1930. The falsification of, or failure to set forth the required information in such invoices, or the falsification or perjury of the consignee's declaration provided for in section 485 of the Tariff Act of 1930, insofar as it relates to such information, is 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; and any person who falsifies, or perjures the consignee's declaration insofar as it relates to such information, may thenceforth be prohibited by the Commission from importing, or participating in the importation of, any textile fiber product into the United States 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. A verified statement from the manufacturer or producer of such products showing their fiber content as required under the provisions of this Act may be required under regulation prescribed by the Secretary of the Treasury.

GUARANTY

SEC. 10. (a) No person shall be guilty of an unlawful act under section 3 if he establishes a guaranty received in good faith, signed by and containing the name and address of the person residing in the United States by whom the textile fiber product guaranteed was manufactured or from whom it was received, that said product is not misbranded or falsely invoiced under the provisions of this Act. Said guaranty shall be (1) a separate guaranty specifically designating the textile fiber product guaranteed, in which case it may be on the invoice or other paper relating to said product; or (2) a continuing guaranty given by seller to the buyer applicable to all textile fiber products sold to or to be sold to buyer by seller in a form as the Commission, by rules and regulations, may prescribe; or (3) a continuing guaranty filed with the Commission applicable to all textile fiber products handled by a guarantor in such form as the Commission by rules and regulations may prescribe.

(b) The furnishing of a false guaranty, except where the person furnishing such false guaranty relies on a guaranty to the same effect

38 Stat. 717.
15 USC 58.

46 Stat. 722.
19 USC 1484.

19 USC 1485.

15 USC 58.

received in good faith signed by and containing the name and address of the person residing in the United States by whom the product guaranteed was manufactured or from whom it was received, is unlawful, and shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce, within the meaning of the Federal Trade Commission Act.

38 Stat. 717.
15 USC 58.

CRIMINAL PENALTY

SEC. 11. (a) Any person who willfully does an act which by section 3, 5, 6, 9, or 10 (b) is declared to be unlawful shall be guilty of a misdemeanor and upon conviction 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 in this section shall limit any other provision of this Act.

(b) Whenever the Commission has reason to believe that any person is guilty of a misdemeanor under this section, it may certify all pertinent facts to the Attorney General. If, on the basis of the facts certified, the Attorney General concurs in such belief, it shall be his duty to cause appropriate proceedings to be brought for the enforcement of the provisions of this section against such person.

EXEMPTIONS

SEC. 12. (a) None of the provisions of this Act shall be construed to apply to—

- (1) upholstery stuffing, except as provided in section 4 (h);
- (2) outer coverings of furniture, mattresses, and box springs;
- (3) linings or interlinings incorporated primarily for structural purposes and not for warmth;
- (4) filling or padding incorporated primarily for structural purposes and not for warmth;
- (5) stiffenings, trimmings, facings, or interfacings;
- (6) backings of, and paddings or cushions to be used under, floor coverings;
- (7) sewing and handicraft threads;
- (8) bandages, surgical dressings, and other textile fiber products, the labeling of which is subject to the requirements of the Federal Food, Drug and Cosmetic Act of 1938, as amended;
- (9) waste materials not intended for use in a textile fiber product;
- (10) textile fiber products incorporated in shoes or overshoes or similar outer footwear;
- (11) textile fiber products incorporated in headwear, handbags, luggage, brushes, lampshades, or toys, catamenial devices, adhesive tapes and adhesive sheets, cleaning cloths impregnated with chemicals, or diapers.

52 Stat. 1040.
21 USC 301.

The exemption provided for any article by paragraph (3) or (4) of this subsection shall not be applicable if any representation as to fiber content of such article is made in any advertisement, label, or other means of identification covered by section 4 of this Act.

(b) The Commission may exclude from the provisions of this Act other textile fiber products (1) which have an insignificant or inconsequential textile fiber content, or (2) with respect to which the disclosure of textile fiber content is not necessary for the protection of the ultimate consumer.

SEPARABILITY CLAUSE

SEC. 13. If any provision of this Act, or the application thereof to any person, as that term is herein defined, is held invalid, the re-

mainder of the Act and the application of the remaining provisions to any person shall not be affected thereby.

APPLICATION OF EXISTING LAWS

SEC. 14. 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 Act of the United States.

EFFECTIVE DATE

SEC. 15. This Act shall take effect eighteen months after enactment, except for the promulgation of rules and regulations by the Commission, which shall be promulgated within nine months after the enactment of this Act. The Commission shall provide for the exception of any textile fiber product acquired prior to the effective date of this Act.

Approved September 2, 1958.

Public Law 85-898

AN ACT

September 2, 1958
[H. R. 13475]

To authorize an exchange of lands at the Rochester Fish-Cultural Station, Indiana.

Rochester Fish-
Cultural Station,
Ind.
Land convey-
ance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to convey to the city of Rochester, Indiana, all of the right, title, and interest of the United States in the following-described lands that are a part of the Rochester Fish-Cultural Station:

Beginning at the corner of sections 4, 9, 31 and 32 of township 30 north, range 3 east, second principal meridian; thence south 89 degrees 41 minutes east, 974.2 feet; thence north 26 degrees 34 minutes west, 684.4 feet; thence south 74 degrees 54 minutes east, 1,723.8 feet; thence south 0 degrees 02 minutes west, 170.2 feet; thence south 0 degrees 02 minutes west, 990.5 feet; thence north 76 degrees 24 minutes west, 2,399.4 feet; thence north 0 degrees 03 minutes east, 438.8 feet to point of beginning, containing 51.03 acres, more or less;

in exchange for a conveyance by the city of Rochester, Indiana, to the United States of title to the following-described lands:

Two (2) parcels of land located in Indiana, Fulton County, city of Rochester, adjacent to State Highway Numbered 14, in township 30 north, range 3 west, second principal meridian, part in section 9 and part in section 32 of Michigan road lands, and described by metes and bounds as follows:

PARCEL 1

Beginning at a point north 62 degrees 43 minutes west, 577.1 feet from the center quarter corner of section 9, in the north right-of-way line of State Highway Numbered 14, 40 feet from and normal to the centerline thereof, thence with said north right-of-way line, north 67 degrees 53 minutes west, 1898.0 feet to a right-of-way monument; thence continuing north 67 degrees 53 minutes west, 160.0 feet to a point; thence north 29 degrees 46 minutes west, 174.8 feet to a point in the boundary of the land of the Rochester Fish-Cultural Station; thence with said boundary south 68 degrees 27 minutes east, 1640.9 feet; south 55 degrees 16 minutes east, 568.4 feet to the place of beginning; containing 4.99 acres, be the same more or less.