

after “as compensation for their services a reasonable per diem” prior to amendment in 1970, by Pub. L. 91-515, which overlooked such language when amending subsec. (g) as provided in 1970 Amendment note.

1970—Subsec. (g). Pub. L. 91-515 substituted provisions authorizing members of an advisory committee to receive compensation and travel expenses in accordance with section 376(b)(5)(D) of this title, for provisions authorizing such members to receive as compensation a reasonable per diem for time actually spent on committee work, and necessary traveling and subsistence expenses while serving away from their places of residence.

1958—Subsec. (i)(2). Pub. L. 85-791, §20(a), in first sentence, substituted “transmitted by the clerk of the court to the Secretary, or” for “served upon the Secretary, or upon”, substituted “file in the court the record of the proceedings” for “certify and file in the court a transcript of the proceedings and the record”, and inserted “as provided in section 2112 of title 28”, and which, in second sentence, substituted “the filing of such petition” for “such filing”.

Subsec. (i)(3). Pub. L. 85-791, §20(b), in first sentence, substituted “transmitted by the clerk of the court to the Secretary of Agriculture, or” for “served upon the Secretary of Agriculture, or upon”, substituted “file in the court the record of the proceedings” for “certify and file in the court a transcript of the proceedings and the record”, and inserted “as provided in section 2112 of title 28”, and, in second sentence, substituted “the filing of such petition” for “such filing”.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-94 effective Oct. 1, 2007, see section 6 of Pub. L. 110-94, set out as a note under section 136a of Title 7, Agriculture.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

#### EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-516 effective at close of Oct. 21, 1972, except if regulations are necessary for implementation of any provision that becomes effective on Oct. 21, 1972, and continuation in effect of subchapter I of chapter 6 of Title 7, Agriculture, and regulations thereunder, relating to control of economic poisons, as in existence prior to Oct. 21, 1972, until superseded by provisions of Pub. L. 92-516 and regulations thereunder, see section 4 of Pub. L. 92-516, set out as an Effective Date note under section 136 of Title 7.

#### TOLERANCE FEES

Pub. L. 108-199, div. G, title V, §501(d)(2), Jan. 23, 2004, 118 Stat. 422, provided that: “Notwithstanding section 408(m)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(m)(1)), during the period beginning on October 1, 2003, and ending on September 30, 2008, the Administrator of the Environmental Protection Agency shall not collect any tolerance fees under that section.”

#### DATA COLLECTION ACTIVITIES TO ASSURE HEALTH OF INFANTS AND CHILDREN

Section 301 of Pub. L. 104-170 provided that:

“(a) IN GENERAL.—The Secretary of Agriculture, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Health and Human Services, shall coordinate the development and implementation of survey procedures to ensure that adequate data on food consumption patterns of infants and children are collected.

“(b) PROCEDURES.—To the extent practicable, the procedures referred to in subsection (a) shall include the collection of data on food consumption patterns of a statistically valid sample of infants and children.

“(c) RESIDUE DATA COLLECTION.—The Secretary of Agriculture shall ensure that the residue data collection activities conducted by the Department of Agriculture in cooperation with the Environmental Protection Agency and the Department of Health and Human Services, provide for the improved data collection of pesticide residues, including guidelines for the use of comparable analytical and standardized reporting methods, and the increased sampling of foods most likely consumed by infants and children.”

#### § 346b. Authorization of appropriations

There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for the purpose and administration of sections 321(q), (r), 342(a)(2), and 346a of this title.

(July 22, 1954, ch. 559, §4, 68 Stat. 517.)

#### CODIFICATION

Section was not enacted as part of the Federal Food, Drug, and Cosmetic Act which comprises this chapter.

#### § 347. Intrastate sales of colored oleomargarine

##### (a) Law governing

Colored oleomargarine or colored margarine which is sold in the same State or Territory in which it is produced shall be subject in the same manner and to the same extent to the provisions of this chapter as if it had been introduced in interstate commerce.

##### (b) Labeling and packaging requirements

No person shall sell, or offer for sale, colored oleomargarine or colored margarine unless—

(1) such oleomargarine or margarine is packaged,

(2) the net weight of the contents of any package sold in a retail establishment is one pound or less,

(3) there appears on the label of the package (A) the word “oleomargarine” or “margarine” in type or lettering at least as large as any other type or lettering on such label, and (B) a full and accurate statement of all the ingredients contained in such oleomargarine or margarine, and

(4) each part of the contents of the package is contained in a wrapper which bears the word “oleomargarine” or “margarine” in type or lettering not smaller than 20-point type.

The requirements of this subsection shall be in addition to and not in lieu of any of the other requirements of this chapter.

##### (c) Sales in public eating places

No person shall possess in a form ready for serving colored oleomargarine or colored margarine at a public eating place unless a notice that oleomargarine or margarine is served is displayed prominently and conspicuously in such place and in such manner as to render it likely to be read and understood by the ordinary individual being served in such eating place or is printed or is otherwise set forth on the menu in type or lettering not smaller than that normally used to designate the serving of other food items. No person shall serve colored oleomargarine or colored margarine at a public eating place, whether or not any charge is made therefor, unless (1) each separate serving bears

or is accompanied by labeling identifying it as oleomargarine or margarine, or (2) each separate serving thereof is triangular in shape.

**(d) Exemption from labeling requirements**

Colored oleomargarine or colored margarine when served with meals at a public eating place shall at the time of such service be exempt from the labeling requirements of section 343 of this title (except paragraphs (a) and (f)) if it complies with the requirements of subsection (b) of this section.

**(e) Color content of oleomargarine**

For the purpose of this section colored oleomargarine or colored margarine is oleomargarine or margarine having a tint or shade containing more than one and six-tenths degrees of yellow, or of yellow and red collectively, but with an excess of yellow over red, measured in terms of Lovibond tintometer scale or its equivalent.

(June 25, 1938, ch. 675, §407, as added Mar. 16, 1950, ch. 61, §3(c), 64 Stat. 20.)

EFFECTIVE DATE

Section 7 of act Mar. 16, 1950, provided that: "This Act [enacting this section and sections 347a and 347b of this title and amending sections 331 and 342 of this title and sections 45 and 55 of Title 15, Commerce and Trade] shall become effective on July 1, 1950."

TRANSFER OF APPROPRIATIONS

Section 5 of act Mar. 16, 1950, provided that: "So much of the unexpended balances of appropriations, allocations, or other funds (including funds available for the fiscal year ending June 30, 1950) for the use of the Bureau of Internal Revenue of the Treasury Department in the exercise of functions under the Oleomargarine Tax Act (26 U.S.C., §2300, subchapter A) [now section 4591 et seq. of Title 26, Internal Revenue Code], as the Director of the Bureau of the Budget [now Director of the Office of Management and Budget] may determine, shall be transferred to the Federal Security Agency (Food and Drug Administration) [now the Department of Health and Human Services] for use in the enforcement of this Act [see Effective Date note above]."

**§ 347a. Congressional declaration of policy regarding oleomargarine sales**

The Congress finds and declares that the sale, or the serving in public eating places, of colored oleomargarine or colored margarine without clear identification as such or which is otherwise adulterated or misbranded within the meaning of this chapter depresses the market in interstate commerce for butter and for oleomargarine or margarine clearly identified and neither adulterated nor misbranded, and constitutes a burden on interstate commerce in such articles. Such burden exists, irrespective of whether such oleomargarine or margarine originates from an interstate source or from the State in which it is sold.

(Mar. 16, 1950, ch. 61, §3(a), 64 Stat. 20.)

CODIFICATION

Section was not enacted as part of the Federal Food, Drug, and Cosmetic Act which comprises this chapter.

EFFECTIVE DATE

Section effective July 1, 1950, see section 7 of act Mar. 16, 1950, set out as a note under section 347 of this title.

**§ 347b. Contravention of State laws**

Nothing in this Act shall be construed as authorizing the possession, sale, or serving of colored oleomargarine or colored margarine in any State or Territory in contravention of the laws of such State or Territory.

(Mar. 16, 1950, ch. 61, §6, 64 Stat. 22.)

REFERENCES IN TEXT

This Act, referred to in text, is act Mar. 16, 1950, ch. 61, 64 Stat. 20, which is classified to sections 331, 342, 347 to 347b of this title, and sections 45 and 55 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as part of the Federal Food, Drug, and Cosmetic Act which comprises this chapter.

EFFECTIVE DATE

Section effective July 1, 1950, see section 7 of act Mar. 16, 1950, set out as a note under section 347 of this title.

**§ 348. Food additives**

**(a) Unsafe food additives; exception for conformity with exemption or regulation**

A food additive shall, with respect to any particular use or intended use of such additives, be deemed to be unsafe for the purposes of the application of clause (2)(C) of section 342(a) of this title, unless—

(1) it and its use or intended use conform to the terms of an exemption which is in effect pursuant to subsection (j) of this section;

(2) there is in effect, and it and its use or intended use are in conformity with, a regulation issued under this section prescribing the conditions under which such additive may be safely used; or

(3) in the case of a food additive as defined in this chapter that is a food contact substance, there is—

(A) in effect, and such substance and the use of such substance are in conformity with, a regulation issued under this section prescribing the conditions under which such additive may be safely used; or

(B) a notification submitted under subsection (h) of this section that is effective.

While such a regulation relating to a food additive, or such a notification under subsection (h)(1) of this section relating to a food additive that is a food contact substance, is in effect, and has not been revoked pursuant to subsection (i) of this section, a food shall not, by reason of bearing or containing such a food additive in accordance with the regulation or notification, be considered adulterated under section 342(a)(1) of this title.

**(b) Petition for regulation prescribing conditions of safe use; contents; description of production methods and controls; samples; notice of regulation**

(1) Any person may, with respect to any intended use of a food additive, file with the Secretary a petition proposing the issuance of a regulation prescribing the conditions under which such additive may be safely used.

(2) Such petition shall, in addition to any explanatory or supporting data, contain—