

of the name of a variety for which a certificate of protection has been issued under this chapter is required under State law.

(b) Anyone convicted of violating a binding cease and desist order, or of performing any act prohibited in subsection (a) of this section for the purpose of deceiving the public, shall be fined not more than \$10,000 and not less than \$500.

(c) Anyone whose business is damaged or is likely to be damaged by an act prohibited in subsection (a) of this section, or is subjected to competition in connection with which such act is performed, may have remedy by civil action.

(Pub. L. 91-577, title III, §128, Dec. 24, 1970, 84 Stat. 1557; Pub. L. 96-574, §19(c), Dec. 22, 1980, 94 Stat. 3352; Pub. L. 103-349, §§12, 13(v), Oct. 6, 1994, 108 Stat. 3142, 3144.)

#### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-349 inserted “or tubers or parts of tubers” after “plant material” and substituted “if the Secretary determines” for “if he determines” in introductory provisions, and added par. (4).

1980—Subsec. (a)(3). Pub. L. 96-574 substituted provisions respecting prohibitions for use of phrases “Unauthorized Propagation Prohibited” and “Unauthorized Seed Multiplication Prohibited” for provisions respecting prohibitions for use of phrase “propagation prohibited”.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103-349, set out as a note under section 2401 of this title.

#### § 2569. Nonresident proprietors; service and notice

Every owner not residing in the United States may file in the Plant Variety Protection Office a written designation stating the name and address of a person residing within the United States on whom may be served process or notice of proceedings affecting the plant variety protection or rights thereunder. If the person designated cannot be found at the address given in the last designation, or if no person has been designated, the United States District Court for the District of Columbia shall have jurisdiction and summons shall be served by publication or otherwise as the court directs. The court shall have the same jurisdiction to take any action respecting the plant variety protection, or rights thereunder that it would have if the owner were personally within the jurisdiction of the court.

(Pub. L. 91-577, title III, §129, Dec. 24, 1970, 84 Stat. 1557.)

#### § 2570. Liability of States, instrumentalities of States, and State officials for infringement of plant variety protection

(a) Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in the official capacity of the officer or employee, shall not be immune, under the eleventh amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any

governmental or nongovernmental entity, for infringement of plant variety protection under section 2541 of this title, or for any other violation under this subchapter.

(b) In a suit described in subsection (a) of this section for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any private entity. Such remedies include damages, interest, costs, and treble damages under section 2564 of this title, and attorney fees under section 2565 of this title.

(Pub. L. 91-577, title III, §130, as added Pub. L. 102-560, §3(b), Oct. 28, 1992, 106 Stat. 4231; amended Pub. L. 103-349, §13(w), Oct. 6, 1994, 108 Stat. 3144.)

#### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-349 substituted “the official capacity of the officer or employee” for “his official capacity”.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-349 effective 180 days after Oct. 6, 1994, see section 15 of Pub. L. 103-349, set out as a note under section 2401 of this title.

#### EFFECTIVE DATE

Section effective with respect to violations that occur on or after Oct. 28, 1992, see section 4 of Pub. L. 102-560, set out as an Effective Date of 1992 Amendment note under section 2541 of this title.

#### PART M—INTENT AND SEVERABILITY

#### § 2581. Intent

It is the intent of Congress to provide the indicated protection for new varieties by exercise of any constitutional power needed for that end, so as to afford adequate encouragement for research, and for marketing when appropriate, to yield for the public the benefits of new varieties. Constitutional clauses 3 and 8 of article I, section 8 are both relied upon.

(Pub. L. 91-577, title III, §131, Dec. 24, 1970, 84 Stat. 1558.)

#### § 2582. Severability

If this chapter is held unconstitutional as to some provisions or circumstances, it shall remain in force as to the remaining provisions and other circumstances.

(Pub. L. 91-577, title III, §132, Dec. 24, 1970, 84 Stat. 1558.)

#### § 2583. Repealed. Pub. L. 96-574, § 20, Dec. 22, 1980, 94 Stat. 3352

Section, Pub. L. 91-577, title III, §144, Dec. 24, 1970, 84 Stat. 1559, exempted certain plants from provisions of this chapter.

#### CHAPTER 58—POTATO RESEARCH AND PROMOTION

|            |   |
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| Sec. 2611. | Congressional findings and declaration of policy. |
| 2612.      | Definitions.                                      |
| 2613.      | Authority for issuance and amendment of plan.     |