

be unlawful, the Secretary shall prescribe the rate, charge, regulation, or practice thereafter to be observed, in such manner as, in his judgment, will remove such advantage, preference, or discrimination. Such rates, charges, regulations, or practices shall be observed while in effect by the stockyard owners, market agencies, or dealers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

(Aug. 15, 1921, ch. 64, title III, §311, 42 Stat. 167; Pub. L. 85-909, §2(4), Sept. 2, 1958, 72 Stat. 1750; Pub. L. 94-410, §3(c), Sept. 13, 1976, 90 Stat. 1249.)

#### AMENDMENTS

1976—Pub. L. 94-410 substituted “livestock” for “live stock” wherever appearing.

1958—Pub. L. 85-909 substituted “stockyard owner, market agency, or dealer” for “stockyard owner or market agency” wherever occurring, and “stockyard owners, market agencies, or dealers” for “stockyard owners or market agencies”.

### § 213. Prevention of unfair, discriminatory, or deceptive practices

(a) It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with determining whether persons should be authorized to operate at the stockyards, or with the receiving, marketing, buying, or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing, or handling of livestock.

(b) Whenever complaint is made to the Secretary by any person, or whenever the Secretary has reason to believe, that any stockyard owner, market agency, or dealer is violating the provisions of subsection (a) of this section, the Secretary after notice and full hearing may make an order that he shall cease and desist from continuing such violation to the extent that the Secretary finds that it does or will exist. The Secretary may also assess a civil penalty of not more than \$10,000 for each such violation. In determining the amount of the civil penalty to be assessed under this section, the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business. If, after the lapse of the period allowed for appeal or after the affirmance of such penalty, the person against whom the civil penalty is assessed fails to pay such penalty, the Secretary may refer the matter to the Attorney General who may recover such penalty by an action in the appropriate district court of the United States.

(Aug. 15, 1921, ch. 64, title III, §312, 42 Stat. 167; Pub. L. 85-909, §2(5), Sept. 2, 1958, 72 Stat. 1750; Pub. L. 90-446, §1(e), July 31, 1968, 82 Stat. 475; Pub. L. 94-410, §3, Sept. 13, 1976, 90 Stat. 1249.)

#### AMENDMENTS

1976—Subsec. (a). Pub. L. 94-410, §3(a), (c), struck out “in commerce” after “or handling” and substituted “livestock” for “live stock”.

Subsec. (b). Pub. L. 94-410, §3(b), inserted provisions dealing with authority of Secretary to assess a civil

penalty for violations and, upon failure to pay, procedure for recovery of such penalty.

1968—Subsec. (a). Pub. L. 90-446 inserted “determining whether persons should be authorized to operate at stockyards, or with” after “in connection with”.

1958—Subsec. (a). Pub. L. 85-909 struck out “at a stockyard” after “in commerce”.

### § 214. Effective date of orders

Except as otherwise provided in this chapter all orders of the Secretary under this subchapter, other than orders for the payment of money, shall take effect within such reasonable time, not less than five days, as is prescribed in the order, and shall continue in force until his further order, or for a specified period of time, according as is prescribed in the order, unless such order is suspended or modified or set aside by the Secretary or is suspended or set aside by a court of competent jurisdiction.

(Aug. 15, 1921, ch. 64, title III, §313, 42 Stat. 167.)

### § 215. Failure to obey orders; punishment

(a) Any stockyard owner, market agency, or dealer who knowingly fails to obey any order made under the provisions of sections 211, 212, or 213 of this title shall forfeit to the United States the sum of \$500 for each offense. Each distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense. Such forfeiture shall be recoverable in a civil suit in the name of the United States.

(b) It shall be the duty of the various United States attorneys, under the direction of the Attorney General, to prosecute for the recovery of forfeitures. The costs and expense of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

(Aug. 15, 1921, ch. 64, title III, §314, 42 Stat. 167; June 25, 1948, ch. 646, §1, 62 Stat. 909.)

#### CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted “United States attorneys” for “district attorneys” in subsec. (a). See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

### § 216. Proceedings to enforce orders; injunction

If any stockyard owner, market agency, or dealer fails to obey any order of the Secretary other than for the payment of money while the same is in effect, the Secretary, or any party injured thereby, or the United States by its Attorney General, may apply to the district court for the district in which such person has his principal place of business for the enforcement of such order. If after hearing the court determines that the order was lawfully made and duly served and that such person is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction or other proper process, mandatory or otherwise, to restrain such person, his officers, agents, or representatives from further disobedience of such order or to enjoin upon him or them obedience to the same.

(Aug. 15, 1921, ch. 64, title III, §315, 42 Stat. 167.)