

merce. However, any commission merchant, dealer, or broker who has violated—

(A) any provision of this paragraph may, with the consent of the Secretary, admit the violation or violations; or

(B) any provision of this paragraph relating to a misrepresentation by mark, stencil, or label shall be permitted by the Secretary to admit the violation or violations if such violation or violations are not repeated or flagrant;

and pay, in the case of a violation under either clause (A) or (B) of this paragraph, a monetary penalty not to exceed \$2,000 in lieu of a formal proceeding for the suspension or revocation of license, any payment so made to be deposited into the Treasury of the United States as miscellaneous receipts. A person other than the first licensee handling misbranded perishable agricultural commodities shall not be held liable for a violation of this paragraph by reason of the conduct of another if the person did not have knowledge of the violation or lacked the ability to correct the violation.

(6) For any commission merchant, dealer, or broker, for a fraudulent purpose, to remove, alter, or tamper with any card, stencil, stamp, tag, or other notice placed upon any container or railroad car containing any perishable agricultural commodity, if such card, stencil, stamp, tag, or other notice contains a certificate or statement under authority of any Federal or State inspector or in compliance with any Federal or State law or regulation as to the grade or quality of the commodity contained in such container or railroad car or the State or country in which such commodity was produced.

(7) For any commission merchant, dealer or broker, without the consent of an inspector, to make, cause, or permit to be made any change by way of substitution or otherwise in the contents of a load or lot of any perishable agricultural commodity after it has been officially inspected for grading and certification, but this shall not prohibit re-sorting and discarding inferior produce.

(June 10, 1930, ch. 436, §2, 46 Stat. 532; Apr. 13, 1934, ch. 120, §§2, 3, 48 Stat. 585; June 19, 1936, ch. 602, §1, 49 Stat. 1533; Aug. 20, 1937, ch. 719, §§2-4, 50 Stat. 725, 726; June 29, 1940, ch. 456, §§3, 4, 54 Stat. 696; Apr. 6, 1942, ch. 211, 56 Stat. 200; July 30, 1956, ch. 786, §1, 70 Stat. 726; Pub. L. 93-369, Aug. 10, 1974, 88 Stat. 423; Pub. L. 97-352, §1, Oct. 18, 1982, 96 Stat. 1667; Pub. L. 98-273, §2, May 7, 1984, 98 Stat. 166; Pub. L. 104-48, §§9(b), 10, Nov. 15, 1995, 109 Stat. 430.)

CODIFICATION

Section was formerly classified to section 552 of this title.

AMENDMENTS

1995—Pub. L. 104-48, §9(b)(1), substituted “commerce:” for “commerce—” in introductory provisions.

Pars. (1) to (3). Pub. L. 104-48, §9(b)(2), substituted period for semicolon at end.

Par. (4). Pub. L. 104-48, §9(b)(2), (3), substituted period for semicolon after “section 499e(c) of this title” and inserted at end “However, this paragraph shall not be considered to make the good faith offer, solicitation, payment, or receipt of collateral fees and expenses, in and of itself, unlawful under this chapter.”

Par. (5). Pub. L. 104-48, §§9(b)(2), 10, substituted “foreign commerce. However,” for “foreign commerce: *Provided*, That”, substituted period for semicolon after “miscellaneous receipts”, and inserted at end “A person other than the first licensee handling misbranded perishable agricultural commodities shall not be held liable for a violation of this paragraph by reason of the conduct of another if the person did not have knowledge of the violation or lacked the ability to correct the violation.”

Par. (6). Pub. L. 104-48, §9(b)(2), substituted period for semicolon at end.

1984—Par. (4). Pub. L. 98-273 inserted “or to fail to maintain the trust as required under section 499e(c) of this title:”.

1982—Par. (5). Pub. L. 97-352 substituted “*Provided*, That any commission merchant, dealer, or broker who has violated (A) any provision of this paragraph may, with the consent of the Secretary, admit the violation or violations; or (B) any provision of this paragraph relating to a misrepresentation by mark, stencil, or label shall be permitted by the Secretary to admit the violation or violations if such violation or violations are not repeated or flagrant; and pay, in the case of a violation under either clause (A) or (B) of this paragraph,” for “*Provided*, That any commission merchant, dealer, or broker who has violated this paragraph may, with the consent of the Secretary, admit the violation or violations and pay”.

1974—Par. (5). Pub. L. 93-369 inserted proviso for consent admission of violations, payment of monetary penalty not in excess of \$2,000 in lieu of formal proceedings for suspension or revocation of license, and for deposit of the payments into the Treasury of the United States as miscellaneous receipts.

1956—Par. (5). Act July 30, 1956, struck out “for a fraudulent purpose” after “broker”, and included misrepresentation of region of origin.

1942—Par. (4). Act Apr. 6, 1942, inserted “and make full payment” and “or to fail, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with any such transaction”.

1940—Par. (1). Act June 29, 1940, §3, among other changes, inserted “dealer” after “merchant”.

Par. (5). Act June 29, 1940, inserted “quantity, size, pack, weight” after “quality”.

1937—Par. (5). Act Aug. 20, 1937, §2, among other changes, inserted “mark, stencil, label, statement” after “act” and “the character, kind, grade, quality, condition, degree of maturity” after “or deed”.

Par. (6). Act Aug. 20, 1937, §3, inserted “or in compliance with any Federal or State law or regulation” after “inspector”.

Par. (7). Act Aug. 20, 1937, §4, added par. (7).

1936—Par. (4). Act June 17, 1936, struck out “or concerning the condition of the market for” after “involving”.

1934—Par. (2). Act Apr. 13, 1934, §2, inserted “or consigned” after “sold”.

Par. (4). Act Apr. 13, 1934, §3, substituted “in connection with any transaction involving or concerning” for “concerning the condition, quality, quantity or disposition of” and inserted “or consigned” after “contracted to be bought or sold”.

§ 499b-1. Products produced in distinct geographic areas

(a) In general

In the case of a perishable agricultural commodity (as defined under the Perishable Agricultural Commodity Act (7 U.S.C. 499a(4))—¹

(1) subject to a Federal marketing order under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.);

¹ See References in Text note below.

(2) traditionally identified as being produced in a distinct geographic area, State, or region; and

(3) the unique identity, based on such distinct geographic area, of which has been promoted with funds collected through producer contributions pursuant to such marketing order,

no person may use the unique name or geographical designation of such commodity to promote the sale of a similar commodity produced outside such area, State, or region.

(b) Penalties

A violation of this section shall be considered a violation of paragraphs (4) and (5) of section 2 of the Perishable Agricultural Commodities Act (7 U.S.C. 499b(4) and (5)).

(c) Reimbursement

A person bringing a complaint under this section shall reimburse the Secretary of Agriculture for any and all costs associated with the enforcement of this section.

(d) Prohibition

The Secretary of Agriculture shall not increase any fees charged under the Perishable Agricultural Commodities Act [7 U.S.C. 499a et seq.] to offset costs associated with the operation of this section.

(e) Regulations

The Secretary shall promulgate regulations to carry out this section.

(Pub. L. 101-624, title XIII, §1309, Nov. 28, 1990, 104 Stat. 3562.)

REFERENCES IN TEXT

The Perishable Agricultural Commodity Act, and the Perishable Agricultural Commodities Act, referred to in subsecs. (a), (b), and (d), probably mean the Perishable Agricultural Commodities Act, 1930, act June 10, 1930, ch. 436, 46 Stat. 531, as amended, which is classified generally to this chapter (§499a et seq.). For complete classification of this Act to the Code, see section 499a(a) of this title and Tables.

7 U.S.C. 499a(4), referred to in subsec. (a), was redesignated 7 U.S.C. 499a(b)(4) by Pub. L. 102-237, title X, §1011(d)(A), Dec. 13, 1991, 105 Stat. 1898.

The Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.), referred to in subsec. (a)(1), is act June 3, 1937, ch. 296, 50 Stat. 246, as amended, which is classified principally to chapter 26A (§671 et seq.) of this title. For complete classification of this Act to the Code, see section 674 of this title and Tables. The Agricultural Marketing Agreement Act of 1937 reenacted and amended the Agricultural Adjustment Act, title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Perishable Agricultural Commodities Act, 1930 which comprises this chapter.

§ 499c. Licenses

(a) License required; penalties for violations

After December 10, 1930, no person shall at any time carry on the business of a commission mer-

chant, dealer, or broker without a license valid and effective at such time. Any person who violates any provision of this subsection shall be liable to a penalty of not more than \$1,000 for each such offense and not more than \$250 for each day it continues, which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

Any person violating this provision may, upon a showing satisfactory to the Secretary of Agriculture, or his authorized representative, that such violation was not willful but was due to inadvertence, be permitted by the Secretary, or such representative, to settle his liability in the matter by the payment of the fees due for the period covered by such violation and an additional sum, not in excess of \$250, to be fixed by the Secretary of Agriculture or his authorized representative. Such payment shall be deposited in the Treasury of the United States in the same manner as regular license fees.

(b) Application and fees for licenses

(1) Application for license

Any person desiring any such license shall make application to the Secretary. The Secretary may by regulation prescribe the information to be contained in such application and to be furnished thereafter.

(2) License fees

Upon the filing of an application under paragraph (1), the applicant shall pay such license fees, both individually and in the aggregate, as the Secretary determines necessary to meet the reasonably anticipated expenses for administering this chapter and the Act to prevent the destruction or dumping of farm produce, approved March 3, 1927 (7 U.S.C. 491-497). Thereafter, the licensee shall pay such license fees annually or at such longer interval as the Secretary may prescribe. The Secretary shall take due account of savings to the program when determining an appropriate interval for renewal of licenses. The Secretary shall establish and alter license fees only by rulemaking under section 553 of title 5, except that the Secretary may not alter the fees required under paragraph (3) or (4) for retailers and grocery wholesalers that are dealers. Effective on November 15, 1995, and until such time as the Secretary alters such fees by rule, an individual license fee shall equal \$550 per year, plus \$200 for each branch or additional business facility operated by the applicant in excess of nine such facilities, as determined by the Secretary, subject to an annual aggregate limit of \$4,000 per licensee. Any increase in license fees prescribed by the Secretary under this paragraph shall not take effect unless the Secretary determines that, without such increase, the funds on hand as of the end of the fiscal year in which the increase takes effect will be less than 25 percent of the projected budget to administer this chapter and such Act for the next fiscal year. In no case may a license fee increase by the Secretary take effect before the end of the three-year period beginning on November 15, 1995.