

§ 372a. Transferred

CODIFICATION

Section, act June 25, 1938, ch. 675, §702A, formerly June 30, 1906, ch. 3915, §10A, as added June 22, 1934, ch. 712, 48 Stat. 1204, and amended, which related to examination of sea food, was renumbered section 706 of act June 25, 1938, by Pub. L. 102-571, title I, §106(3), Oct. 29, 1992, 106 Stat. 4498, and transferred to section 376 of this title.

§ 373. Records**(a) In general**

For the purpose of enforcing the provisions of this chapter, carriers engaged in interstate commerce, and persons receiving food, drugs, devices, tobacco products, or cosmetics in interstate commerce or holding such articles so received, shall, upon the request of an officer or employee duly designated by the Secretary, permit such officer or employee, at reasonable times, to have access to and to copy all records showing the movement in interstate commerce of any food, drug, device, tobacco product, or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof; and it shall be unlawful for any such carrier or person to fail to permit such access to and copying of any such record so requested when such request is accompanied by a statement in writing specifying the nature or kind of food, drug, device, tobacco product, or cosmetic to which such request relates, except that evidence obtained under this section, or any evidence which is directly or indirectly derived from such evidence, shall not be used in a criminal prosecution of the person from whom obtained, and except that carriers shall not be subject to the other provisions of this chapter by reason of their receipt, carriage, holding, or delivery of food, drugs, devices, tobacco products, or cosmetics in the usual course of business as carriers, except as provided in subsection (b) of this section.

(b) Food transportation records

A shipper, carrier by motor vehicle or rail vehicle, receiver, or other person subject to section 350e of this title shall, on request of an officer or employee designated by the Secretary, permit the officer or employee, at reasonable times, to have access to and to copy all records that the Secretary requires to be kept under section 350e(c)(1)(E) of this title.

(June 25, 1938, ch. 675, §703, 52 Stat. 1057; Pub. L. 91-452, title II, §230, Oct. 15, 1970, 84 Stat. 930; Pub. L. 103-80, §3(z), Aug. 13, 1993, 107 Stat. 778; Pub. L. 109-59, title VII, §7202(c), Aug. 10, 2005, 119 Stat. 1913; Pub. L. 111-31, div. A, title I, §103(h), June 22, 2009, 123 Stat. 1837.)

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-31 inserted “tobacco product,” after “device,” in two places and “tobacco products,” after “devices,” in two places.

2005—Pub. L. 109-59 struck out “of interstate shipment” after “Records” in section catchline, designated existing provisions as subsec. (a), inserted subsec. heading, substituted “carriers, except as provided in subsection (b) of this section” for “carriers” before period at end, and added subsec. (b).

1993—Pub. L. 103-80 substituted “, except that” for “: Provided, That” and “, and except that” for “: Provided further, That”.

1970—Pub. L. 91-452 inserted “, or any evidence which is directly or indirectly derived from such evidence,” after “under this section”.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-59 effective Oct. 1, 2005, see section 7204 of Pub. L. 109-59, set out as a note under section 331 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

TRANSFER OF FUNCTIONS

For transfer of functions of Federal Security Administrator to Secretary of Health, Education, and Welfare [now Health and Human Services], and of Food and Drug Administration in the Department of Agriculture to Federal Security Agency, see notes set out under section 321 of this title.

§ 374. Inspection**(a) Right of agents to enter; scope of inspection; notice; promptness; exclusions**

(1) For purposes of enforcement of this chapter, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (A) to enter, at reasonable times, any factory, warehouse, or establishment in which food, drugs, devices, tobacco products, or cosmetics are manufactured, processed, packed, or held, for introduction into interstate commerce or after such introduction, or to enter any vehicle being used to transport or hold such food, drugs, devices, tobacco products, or cosmetics in interstate commerce; and (B) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. In the case of any person (excluding farms and restaurants) who manufactures, processes, packs, transports, distributes, holds, or imports foods, the inspection shall extend to all records and other information described in section 350c of this title, when the standard for records inspection under paragraph (1) or (2) of section 350c(a) of this title applies, subject to the limitations established in section 350c(d) of this title. In the case of any factory, warehouse, establishment, or consulting laboratory in which prescription drugs, non-prescription drugs intended for human use, restricted devices, or tobacco products are manufactured, processed, packed, or held, the inspection shall extend to all things therein (including records, files, papers, processes, controls, and facilities) bearing on whether prescription drugs, nonprescription drugs intended for human use, restricted devices, or tobacco products which are adulterated or misbranded within the meaning of this chapter, or which may not be manufactured, introduced into interstate commerce, or sold, or offered for sale by reason of any provision of this chapter, have been or are being