

unless the invoice pertaining to such seed and any other labeling of such seed bear a lot identification and the name of each kind and variety of vegetable seed present in any amount and each kind or kind and variety of agricultural seed present in excess of 5 per centum of the whole, and unless in the case of hybrid seed present in excess of 5 per centum of the whole it is designated as hybrid.<sup>1</sup>

(4) any agricultural seeds or any mixture thereof, or any vegetable seeds or any mixture thereof, for seeding purposes, that have been treated, unless each container thereof bears a label giving the following information and statements in accordance with rules and regulations prescribed under section 1592 of this title:

(A) A word or statement indicating that the seeds have been treated;

(B) The commonly accepted coined, chemical (generic), or abbreviated chemical name of any substance used in such treatment;

(C) If the substance used in such treatment in the amount remaining with the seeds is harmful to humans or other vertebrate animals, an appropriate caution statement approved by the Secretary of Agriculture as adequate for the protection of the public, such as "Do not use for food or feed or oil purposes"; *Provided*, That the caution statement for mercurials and similarly toxic substances, as defined in said rules and regulations, shall be a representation of a skull and crossbones and a statement such as "This seed has been treated with POISON", in red letters on a background of distinctly contrasting color; and

(D) A description, approved by the Secretary of Agriculture as adequate for the protection of the public, of any process used in such treatment.

(Aug. 9, 1939, ch. 615, title III, §301, 53 Stat. 1282; Pub. L. 85-581, §12, Aug. 1, 1958, 72 Stat. 478; Pub. L. 89-686, §§13, 14, Oct. 15, 1966, 80 Stat. 978; Pub. L. 97-439, §5(b)(1), Jan. 8, 1983, 96 Stat. 2288; Pub. L. 103-465, title IV, §441(1), Dec. 8, 1994, 108 Stat. 4973.)

#### AMENDMENTS

1994—Pub. L. 103-465 struck out "(a)" before "The importation" in introductory provisions, struck out ", or is required to be stained and is not so stained, under the terms of this subchapter," after "noxious-weed seeds" in par. (1), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: "any seed containing 10 per centum or more of the seeds of alfalfa or red clover, which has been stained prior to being offered for entry in a manner that does not permit compliance with the provisions of this subchapter and the regulations made and promulgated thereunder."

1983—Subsec. (a)(1). Pub. L. 97-439 substituted "any agricultural or vegetable seeds if any such seed contains noxious weed seeds" for "any seed containing 10 per centum or more of any agricultural or vegetable seeds if any such seed is adulterated or unfit for seeding purposes".

1966—Subsec. (a)(4). Pub. L. 89-686, §13, prohibited importation of any seed containing 10 per centum or more of any agricultural seeds and prescribed as additional prerequisites to importation a lot identification for the

invoice and any other labeling, the kind and variety of seed present in any amount, each kind or kind and variety of seed present in excess of 5 per centum of the whole, and hybrid designation in case of hybrid seed present in excess of 5 per centum of the whole.

Subsec. (a)(5). Pub. L. 89-686, §14, added par. (5).

1958—Subsec. (a)(4). Pub. L. 85-581 added par. (4).

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103-465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

#### EFFECTIVE DATE

See section 1610 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under this subchapter to the Secretary of Homeland Security, and for treatment of related references, see sections 231, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### § 1582. Procedure relating to importations; disposal of refuse; exceptions

(a) The Secretary of the Treasury shall deliver to the Secretary of Agriculture, subject to joint rules and regulations prescribed under section 1592 of this title, samples of seed and screenings which are being imported into the United States, or offered for import, giving notice thereof to the owner or consignee, and if it appears from the examination of such samples that any seed or screenings offered to be imported into the United States are subject to the provisions of this subchapter and do not comply with the provisions of this subchapter, or if the labeling of such seed is false or misleading in any respect, such seed or screenings shall be refused admission, and the Secretary of the Treasury shall refuse delivery to the owner or consignee, who may appear, however, before the Secretary of Agriculture and show cause why the seed or screenings should be admitted. Seed or screenings refused admission and not exported by the owner or consignee within twelve months from the date of notice of such refusal shall be destroyed in accordance with joint rules and regulations prescribed under section 1592 of this title: *Provided*, That the Secretary of the Treasury may authorize the delivery of seed or screenings which are being imported or offered for import to the owner or consignee thereof, pending decision as to the admission of such seed or screenings and for cleaning, labeling, or other reconditioning if required to bring such seed or screenings into compliance with the provisions of this chapter, upon the execution by such owner or consignee of a good and sufficient bond conditioned upon redelivery of the seed or screenings upon demand unless redelivery is waived because the seed is reconditioned to bring it into compliance with this chapter or is destroyed under Government supervision under this chapter, and providing for the payment of such liquidated damages in the event of default

<sup>1</sup> So in original. The period probably should be a semicolon.

as may be required pursuant to regulations of the Secretary of the Treasury: *And provided further*, That all expenses incurred by the United States (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the supervision of cleaning, labeling, other reconditioning, or destruction, of seed or screenings under this subchapter shall be reimbursed to the United States by the owner or consignee of the seed or screenings, and such reimbursements shall be recredited to the appropriation from which the expenses were paid, the amount of such expenses to be determined in accordance with joint regulations under section 1592 of this title, and all expenses in connection with the storage, cartage, and labor on the seed or screenings which are refused admission or delivery, shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against future importations made by such owner or consignee.

(b) The refuse from any seeds or screenings which are allowed to be cleaned under bond shall be destroyed in accordance with joint rules and regulations prescribed under section 1592 of this title.

(c) The provisions of this subchapter shall not apply—

(1) when seed is shipped in bond through the United States, or

(2) when the Secretary of Agriculture finds that a substantial proportion of the importations of any kind of seed is used for other than seeding purposes, and he provides by rules and regulations that seed of such kind not imported for seeding purposes shall be exempted from the provisions of the chapter: *Provided*, That importations of such kinds of seed shall be accompanied by a declaration setting forth the use for which imported when and as required under joint rules and regulations prescribed under section 1592 of this title.

(d) The provisions of this subchapter prohibiting the importation of seed shall not apply—

(1) when seed grown in the United States is returned from a foreign country without having been admitted into the commerce of any foreign country: *Provided*, That there is satisfactory proof as provided for in the joint rules and regulations prescribed under section 1592 of this title, that the seed was grown in the United States and was not admitted into the commerce of a foreign country and was not commingled with other seed, or

(2) when seed is imported for sowing for experimental or breeding purposes and not for sale: *Provided*, That declarations are filed, and importations are limited in quantity, as provided for in the rules and regulations prescribed under section 1592 of this title, to assure that the importations are for experimental or breeding purposes.

(Aug. 9, 1939, ch. 615, title III, §302, 53 Stat. 1283; Pub. L. 85-581, §§13, 14, Aug. 1, 1958, 72 Stat. 478, 479; Pub. L. 89-686, §§15-17, Oct. 15, 1966, 80 Stat. 979; Pub. L. 97-439, §5(b)(2), (3), Jan. 8, 1983, 96 Stat. 2288; Pub. L. 100-449, title III, §301(e), Sept. 28, 1988, 102 Stat. 1868; Pub. L. 103-182, title III, §361(a), Dec. 8, 1993, 107 Stat. 2122; Pub. L.

103-465, title IV, §441(2), Dec. 8, 1994, 108 Stat. 4973.)

#### AMENDMENT OF SECTION

*For termination of amendment by section 501(c) of Pub. L. 100-449, see Effective and Termination Dates of 1988 Amendment note below.*

#### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-465, §441(2)(A), struck out “staining,” before “cleaning, labeling,” in two places.

Subsec. (e). Pub. L. 103-465, §441(2)(B), struck out subsec. (e) which read as follows: “The provisions of this subchapter requiring certain seeds to be stained shall not apply—

“(1) to alfalfa or clover seed originating in Canada or Mexico, or

“(2) when seeds otherwise required to be stained will not be sold within the United States and will be used for seed production only by or for the importer or consignee and the importer of record or consignee files a statement in accordance with the rules and regulations prescribed under section 1592 of this title certifying that such seeds will be used only for seed production by or for the importer or consignee.”

1993—Subsec. (e)(1). Pub. L. 103-182 inserted “or Mexico” after “Canada”.

1988—Pub. L. 100-449 temporarily amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “The provisions of this subchapter requiring certain seeds to be stained shall not apply when such seed will not be sold within the United States and will be used for seed production only by or for the importer or consignee: *Provided*, That the importer of record or consignee files a statement in accordance with the rules and regulations prescribed under section 1592 of this title certifying that such seed will be used only for seed production by or for the importer or consignee.” See Effective and Termination Dates of 1988 Amendment note below.

1983—Subsec. (a). Pub. L. 97-439, §5(b)(2), struck out provision that Secretary may apply statistical sampling and inspection techniques to samples and screenings to determine whether pure-live seed requirement of any kind of seed was being met, in event of which he was to advise importer of each lot of seed not examined for pure-live seed percentage.

Subsec. (d). Pub. L. 97-439, §5(b)(3)(A), struck out “that is adulterated or unfit for seeding purposes” after “importation of seed” in provisions preceding par. (1).

Subsec. (d)(3). Pub. L. 97-439, §5(b)(3)(B), struck out cl. (3) which described the situation when seed not meeting the pure-live seed requirements of section 1584 of this title would not be sold within the United States and would be used for seed production only by or for the importer or consignee, providing that the importer of record or consignee filed a statement in accordance with the rules and regulations prescribed under section 1592 of this title certifying that such seed would be used only for seed production by or for the importer or consignee.

1966—Subsec. (a). Pub. L. 89-686, §15, authorized Secretary of Agriculture to apply statistical sampling and inspection techniques to samples and screenings to determine whether the pure-live seed requirement of any kind of seed is being met and to advise importer of each lot of seed not examined for pure-live seed percentage.

Subsec. (d)(3). Pub. L. 89-686, §16, added par. (3).

Subsec. (e). Pub. L. 89-686, §17, added subsec. (e).

1958—Subsec. (a). Pub. L. 85-851, §13, inserted “owner or” before “consignee” wherever appearing, except in the two provisos, changed first proviso to bring its wording in line with practices generally followed with other commodities illegally placed into consumption, and provided in second proviso for reimbursement of all costs to the Federal Government incident to supervision required under this chapter.

Subsec. (d). Pub. L. 85-581, §14, added subsec. (d).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103-465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100-449 effective on the date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on the date the Agreement ceases to be in force, see section 501(a), (c), of Pub. L. 100-449, set out in a note under section 2112 of Title 19, Customs Duties.

EFFECTIVE DATE

See section 1610 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under this subchapter to the Secretary of Homeland Security, and for treatment of related references, see sections 231, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**§§ 1583, 1584. Repealed. Pub. L. 97-439, §5(b)(4), Jan. 8, 1983, 96 Stat. 2288**

Section 1583, act Aug. 9, 1939, ch. 615, title III, §303, 53 Stat. 1283, related to adulterated seed.

Section 1584, acts Aug. 9, 1939, ch. 615, title III, §304, 53 Stat. 1284; Oct. 15, 1966, Pub. L. 89-686, §18, 80 Stat. 979, related to seed unfit for seeding purposes.

**§ 1585. Certain seeds not adapted for general agricultural use**

Whenever the Secretary of Agriculture, after a public hearing, determines that seed of alfalfa or red clover from any foreign country is not adapted for general agricultural use in the United States, the Secretary shall publish the determination and the reasons for the determination.

(Aug. 9, 1939, ch. 615, title III, §303, as added Pub. L. 103-465, title IV, §441(3), Dec. 8, 1994, 108 Stat. 4973.)

PRIOR PROVISIONS

A prior section 1585, act Aug. 9, 1939, ch. 615, title III, §303, formerly §305, 53 Stat. 1284; renumbered §303, Jan. 8, 1983, Pub. L. 97-439, §5(b)(4), 96 Stat. 2288, related to requirement that certain seeds containing alfalfa and/or red clover be stained, prior to repeal by Pub. L. 103-465, title IV, §441(3), Dec. 8, 1994, 108 Stat. 4973.

EFFECTIVE DATE

Section effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103-465, set out as a note under section 3601 of Title 19, Customs Duties.

TRANSFER OF FUNCTIONS

For transfer of functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under this subchapter to the Secretary of Homeland Security, and for treatment of related references, see sections 231, 551(d), 552(d), and 557

of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**§ 1586. Certain acts prohibited**

It shall be unlawful for any person—

(a) To sell or offer for sale—

(1) any seed for seeding purposes if imported under this subchapter for other than seeding purposes;

(2) any screenings of any seeds for seeding purposes if imported under this subchapter for other than seeding purposes; or

(3) any seed which is prohibited entry under the provisions of this chapter.

(b) To make any false or misleading representation with respect to any seed subject to this subchapter being imported into the United States or offered for import: *Provided*, That this subsection shall not be deemed violated by any person if the false or misleading representation is the name of a variety indistinguishable in appearance from the seed being imported or offered for import and the records and other pertinent facts reveal that such person relied in good faith upon representations with respect to the name of the indistinguishable variety made by the shipper of the seed.

(Aug. 9, 1939, ch. 615, title III, §304, formerly §306, 53 Stat. 1285; Pub. L. 85-581, §15, Aug. 1, 1958, 72 Stat. 479; renumbered §304, Pub. L. 97-439, §5(b)(4), Jan. 8, 1983, 96 Stat. 2288; Pub. L. 103-465, title IV, §441(4), Dec. 8, 1994, 108 Stat. 4973.)

AMENDMENTS

1994—Subsec. (a)(4) to (7). Pub. L. 103-465, §441(4)(A), struck out pars. (4) to (7) which read as follows:

“(4) any seed which has been stained to resemble seed stained in accordance with the provisions of this chapter and the rules and regulations made and promulgated thereunder;

“(5) any seed stained under the provisions of this chapter and the rules and regulations made and promulgated thereunder, when mixed with seed of the same kind produced in the United States;

“(6) any seed stained with different colors;

“(7) any seed stained under the provisions of this chapter, the labeling of which states that such seed is adapted.”

Subsecs. (b), (c). Pub. L. 103-465, §441(4)(B), (C), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “To change the proportion of seeds stained under the provisions of this chapter and the rules and regulations made and promulgated thereunder or to alter, modify, conceal, or remove in any manner or by any means the color of such stained seeds.”

1958—Subsec. (c). Pub. L. 85-581 added subsec. (c).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103-465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE DATE

See section 1610 of this title.