

graph), and every other person operating as a dealer (as defined in this subchapter) under such rules and regulations as he may prescribe, to secure the performance of their obligations, and whenever, after due notice and hearing, the Secretary finds any registrant is insolvent or has violated any provisions of this chapter he may issue an order suspending such registrant for a reasonable specified period. Such order of suspension shall take effect within not less than five days, unless suspended or modified or set aside by the Secretary or a court of competent jurisdiction. If the Secretary finds any packer is insolvent, he may after notice and hearing issue an order under the provisions of section 193 of this title requiring such packer to cease and desist from purchasing livestock while insolvent, or while insolvent purchasing livestock except under such conditions as the Secretary may prescribe to effectuate the purposes of this chapter. (July 12, 1943, ch. 215, 57 Stat. 422; Pub. L. 94-410, §§1, 4, Sept. 13, 1976, 90 Stat. 1249.)

CODIFICATION

Section was enacted as part of the Department of Agriculture Appropriation Act, 1944, act July 12, 1943, and not as part of the Packers and Stockyards Act, 1921, which comprises this chapter.

AMENDMENTS

1976—Pub. L. 94-410 inserted provisions exempting market agencies and packers whose average annual purchases do not exceed \$500,000 from bonding requirement and authorizing Secretary, after notice and hearing, to issue cease and desist orders to insolvent packers prohibiting the purchase of livestock except under conditions prescribed by Secretary, respectively.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

July 22, 1942, ch. 516, 56 Stat. 689.
 July 1, 1941, ch. 267, 55 Stat. 432.
 June 25, 1940, ch. 421, 54 Stat. 557.
 June 30, 1939, ch. 253, title I, 53 Stat. 970.
 June 16, 1938, ch. 464, title I, 52 Stat. 721.
 June 29, 1937, ch. 404, 50 Stat. 406.
 June 4, 1936, ch. 489, 49 Stat. 1432.
 May 17, 1935, ch. 131, title I, 49 Stat. 257.
 Mar. 26, 1934, ch. 89, 48 Stat. 477.
 Mar. 3, 1933, ch. 203, 47 Stat. 1441.
 July 7, 1932, ch. 443, 47 Stat. 620.
 Feb. 23, 1931, ch. 278, 46 Stat. 1252.
 May 27, 1930, ch. 341, 46 Stat. 402.
 Feb. 16, 1929, ch. 227, 45 Stat. 1198.
 May 16, 1928, ch. 572, 45 Stat. 547.
 Jan. 18, 1927, ch. 39, 44 Stat. 1002.
 May 11, 1926, ch. 286, 44 Stat. 527.
 Feb. 10, 1925, ch. 200, 43 Stat. 851.
 June 5, 1924, ch. 266, 43 Stat. 460.

§ 205. General duty as to services; revocation of registration

All stockyard services furnished pursuant to reasonable request made to a stockyard owner or market agency at such stockyard shall be reasonable and nondiscriminatory and stockyard services which are furnished shall not be refused on any basis that is unreasonable or unjustly discriminatory: *Provided*, That in any State where the weighing of livestock at a stockyard is conducted by a duly authorized department or agency of the State, the Secretary, upon application of such department or agency,

may register it as a market agency for the weighing of livestock received in such stockyard, and upon such registration such department or agency and the members thereof shall be amenable to all the requirements of this chapter, and upon failure of such department or agency or the members thereof to comply with the orders of the Secretary under this chapter he is authorized to revoke the registration of such department or agency and to enforce such revocation as provided in section 216 of this title.

(Aug. 15, 1921, ch. 64, title III, §304, 42 Stat. 164; May 5, 1926, ch. 240, 44 Stat. 397; Pub. L. 90-446, §1(c), July 31, 1968, 82 Stat. 474.)

AMENDMENTS

1968—Pub. L. 90-446 inserted provision requiring that stockyard services which are furnished not be refused on any basis that is unreasonable or unjustly discriminatory.

1926—Act May 5, 1926, inserted proviso.

§ 206. Rates and charges generally; discrimination

All rates or charges made for any stockyard services furnished at a stockyard by a stockyard owner or market agency shall be just, reasonable, and nondiscriminatory, and any unjust, unreasonable, or discriminatory rate or charge is prohibited and declared to be unlawful: *Provided*, That rates and charges based upon percentages of the gross sales prices of livestock shall not be prohibited merely because they are based upon such percentages rather than on a per head basis.

(Aug. 15, 1921, ch. 64, title III, §305, 42 Stat. 164; Pub. L. 95-409, §1(a), Oct. 2, 1978, 92 Stat. 886.)

AMENDMENTS

1978—Pub. L. 95-409 inserted proviso that rates and charges based upon percentages of gross sales of livestock shall not be prohibited merely because based on such percentages rather than on a per head basis.

§ 207. Schedule of rates

(a) Filing; public inspection

Within sixty days after the Secretary has given public notice that a stockyard is within the definition of section 202 of this title, by posting copies of such notice in the stockyard, the stockyard owner and every market agency at such stockyard shall file with the Secretary, and print and keep open to public inspection at the stockyard, schedules showing all rates and charges for the stockyard services furnished by such person at such stockyard. If a market agency commences business at the stockyard after the expiration of such sixty days such schedules must be filed before any stockyard services are furnished.

(b) Detail required; form

Such schedules shall plainly state all such rates and charges in such detail as the Secretary may require, and shall also state any rules or regulations which in any manner change, affect, or determine any part or the aggregate of such rates or charges, or the value of the stockyard services furnished. The Secretary may deter-

mine and prescribe the form and manner in which such schedules shall be prepared, arranged, and posted, and may from time to time make such changes in respect thereto as may be found expedient.

(c) Changes

No changes shall be made in the rates or charges so filed and published, except after ten days' notice to the Secretary and to the public filed and published as aforesaid, which shall plainly state the changes proposed to be made and the time such changes will go into effect; but the Secretary may, for good cause shown, allow changes on less than ten days' notice, or modify the requirements of this section in respect to publishing, posting, and filing of schedules, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

(d) Rejection by Secretary

The Secretary may reject and refuse to file any schedule tendered for filing which does not provide and give lawful notice of its effective date, and any schedule so rejected by the Secretary shall be void and its use shall be unlawful.

(e) Determination of lawfulness; hearing; suspension

Whenever there is filed with the Secretary any schedule, stating a new rate or charge, or a new regulation or practice affecting any rate or charge, the Secretary may either upon complaint or upon his own initiative without complaint, at once, and if he so orders without answer or other formal pleading by the person filing such schedule, but upon reasonable notice, enter upon a hearing concerning the lawfulness of such rate, charge, regulation, or practice, and pending such hearing and decision thereon the Secretary, upon filing with such schedule and delivering to the person filing it a statement in writing of his reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, regulation, or practice, but not for a longer period than thirty days beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, regulation, or practice goes into effect, the Secretary may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If any such hearing cannot be concluded within the period of suspension the Secretary may extend the time of suspension for a further period not exceeding thirty days, and if the proceeding has not been concluded and an order made at the expiration of such thirty days, the proposed change of rate, charge, regulation, or practice shall go into effect at the end of such period.

(f) Suspension of operations; compliance

After the expiration of the sixty days referred to in subsection (a)¹ no person shall carry on the business of a stockyard owner or market agency unless the rates and charges for the stockyard services furnished at the stockyard have been

filed and published in accordance with this section and the orders of the Secretary made thereunder; nor charge, demand, or collect a greater or less or different compensation for such services than the rates and charges specified in the schedules filed and in effect at the time; nor refund or remit in any manner any portion of the rates or charges so specified (but this shall not prohibit a cooperative association of producers from bona fide returning to its members, on a patronage basis, its excess earnings on their livestock, subject to such regulations as the Secretary may prescribe); nor extend to any person at such stockyard any stockyard services except such as are specified in such schedules.

(g) Penalty

Whoever fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall be liable to a penalty of not more than \$500 for each such offense, and not more than \$25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(h) Intentional violations; penalty

Whoever willfully fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall on conviction be fined not more than \$1,000, or imprisoned not more than one year, or both.

(Aug. 15, 1921, ch. 64, title III, §306, 42 Stat. 164; Pub. L. 94-410, §3(c), Sept. 13, 1976, 90 Stat. 1249.)

AMENDMENTS

1976—Subsec. (f). Pub. L. 94-410 substituted "livestock" for "live stock" after "earnings on their".

§ 208. Unreasonable or discriminatory practices generally; rights of stockyard owner of management and regulation

(a) It shall be the duty of every stockyard owner and market agency to establish, observe, and enforce just, reasonable, and nondiscriminatory regulations and practices in respect to the furnishing of stockyard services, and every unjust, unreasonable, or discriminatory regulation or practice is prohibited and declared to be unlawful.

(b) It shall be the responsibility and right of every stockyard owner to manage and regulate his stockyard in a just, reasonable, and nondiscriminatory manner, to prescribe rules and regulations and to require those persons engaging in or attempting to engage in the purchase, sale, or solicitation of livestock at such stockyard to conduct their operations in a manner which will foster, preserve, or insure an efficient, competitive public market. Such rules and regulations shall not prevent a registered market agency or dealer from rendering service on other markets or in occasional and incidental off-market transactions.

(Aug. 15, 1921, ch. 64, title III, §307, 42 Stat. 165; Pub. L. 90-446, §1(d), July 31, 1968, 82 Stat. 475.)

AMENDMENTS

1968—Pub. L. 90-446 designated existing provisions as subsec. (a) and added subsec. (b).

¹ So in original. Probably should be followed by a comma.