

§ 209. Liability to individuals for violations; enforcement generally

(a) If any person subject to this chapter violates any of the provisions of this chapter, or of any order of the Secretary under this chapter, relating to the purchase, sale, or handling of livestock, the purchase or sale of poultry, or relating to any poultry growing arrangement or swine production contract, he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation.

(b) Such liability may be enforced either (1) by complaint to the Secretary as provided in section 210 of this title, or (2) by suit in any district court of the United States of competent jurisdiction; but this section shall not in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this chapter are in addition to such remedies.

(Aug. 15, 1921, ch. 64, title III, §308, 42 Stat. 165; Pub. L. 94-410, §6, Sept. 13, 1976, 90 Stat. 1250; Pub. L. 100-173, §5, Nov. 23, 1987, 101 Stat. 918; Pub. L. 107-171, title X, §10502(b)(2)(B), May 13, 2002, 116 Stat. 510.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-171 inserted “or swine production contract” after “poultry growing arrangement”.

1987—Subsec. (a). Pub. L. 100-173 inserted “the purchase or sale of poultry, or relating to any poultry growing arrangement,” after “livestock.”

1976—Subsec. (a). Pub. L. 94-410 struck out references to violations of specific sections and added packers to categories of regulated persons against whom private action could be brought for violation of chapter.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-173 effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100-173, set out as a note under section 182 of this title.

§ 210. Proceedings before Secretary for violations

(a) Complaint; response; satisfaction or investigation

Any person complaining of anything done or omitted to be done by any stockyard owner, market agency, or dealer (hereinafter in this section referred to as the “defendant”) in violation of the provisions of this subchapter, or of an order of the Secretary made under this subchapter, may, at any time within ninety days after the cause of action accrues, apply to the Secretary by petition which shall briefly state the facts, whereupon the complaint thus made shall be forwarded by the Secretary to the defendant, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be specified by the Secretary. If the defendant within the time specified makes reparation for the injury alleged to be done he shall be relieved of liability to the complainant only for the particular violation thus complained of. If the defendant does not satisfy the complaint within the time specified, or there appears to be any reasonable ground for investigating the complaint, it shall be the duty of the Secretary to investigate the matters complained of in such manner and by such means as he deems proper.

(b) Complaints forwarded by agencies of a State or Territory

The Secretary, at the request of the livestock commissioner, board of agriculture, or other agency of a State or Territory, having jurisdiction over stockyards in such State or Territory, shall investigate any complaint forwarded by such agency in like manner and with the same authority and powers as in the case of a complaint made under subsection (a).

(c) Inquiries instituted by Secretary

The Secretary may at any time institute an inquiry on his own motion, in any case and as to any matter or thing concerning which a complaint is authorized to be made to or before the Secretary, by any provision of this subchapter, or concerning which any question may arise under any of the provisions of this subchapter, or relating to the enforcement of any of the provisions of this subchapter. The Secretary shall have the same power and authority to proceed with any inquiry instituted upon his own motion as though he had been appealed to by petition, including the power to make and enforce any order or orders in the case or relating to the matter or thing concerning which the inquiry is had, except orders for the payment of money.

(d) Damage to complainant not required

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

(e) Award and payment of damages

If after hearing on a complaint the Secretary determines that the complainant is entitled to an award of damages, the Secretary shall make an order directing the defendant to pay to the complainant the sum to which he is entitled on or before a day named.

(f) Enforcement of orders

If the defendant does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may within one year of the date of the order file in the district court of the United States for the district in which he resides or in which is located the principal place of business of the defendant or in any State court having general jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages, and the order of the Secretary in the premises. Such suit in the district court shall proceed in all respects like other civil suits for damages except that the findings and orders of the Secretary shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs in the district court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney’s fee to be taxed and collected as a part of the costs of the suit.

(Aug. 15, 1921, ch. 64, title III, §309, 42 Stat. 165; Pub. L. 94-410, §3(c), Sept. 13, 1976, 90 Stat. 1249.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-410 substituted “live-stock” for “live-stock” after “request of the”.