

retary determines, after consultation with an appropriate advisory committee provided for in section 454 of this title, that the State or territory does not have at least equal authority under its laws or such authority is not exercised in a manner to effectuate the purposes of this chapter, including the State or territory providing for the Secretary or his representative being afforded access to such places of business and the facilities, inventories, and records thereof, and the taking of reasonable samples, where he determines necessary in carrying out his responsibilities under this chapter; and in such case the provisions of paragraph (b), (c), or (d) of this section, respectively, shall apply to such persons to the same extent and in the same manner as if they were engaged in such business in or for commerce and the transactions involved were in commerce.

(Pub. L. 85-172, §11, Aug. 28, 1957, 71 Stat. 446; Pub. L. 90-492, §11, Aug. 18, 1968, 82 Stat. 801.)

AMENDMENTS

1968—Pub. L. 90-492 designated existing provisions as par. (b), added pars. (a), and (c) to (e), and in par. (b), as so designated, extended the types of persons required to maintain records necessary for the enforcement of this chapter, required such persons to give representatives of the Secretary access to their places of business, and opportunity to examine records, facilities, and inventories and to copy records and take inventory samples upon payment.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, except that par. (d) effective upon the expiration of sixty days after Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as a note under section 451 of this title.

§ 461. Offenses and punishment

(a) Violations; liability of agents, employees, and employers

Any person who violates the provisions of section 458, 459, 460, 463, or 466 of this title shall be fined not more than \$1,000 or imprisoned not more than one year, or both; but if such violation involves intent to defraud, or any distribution or attempted distribution of an article that is adulterated (except as defined in section 453(g)(8) of this title), such person shall be fined not more than \$10,000 or imprisoned not more than three years, or both. When construing or enforcing the provisions of said sections the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association within the scope of his employment or office shall in every case be deemed the act, omission, or failure of such individual, partnership, corporation, or association, as well as of such person.

(b) Liability of carrier

No carrier shall be subject to the penalties of this chapter, other than the penalties for violation of section 460 of this title, by reason of his receipt, carriage, holding, or delivery, in the usual course of business, as a carrier, of poultry or poultry products, owned by another person unless the carrier has knowledge, or is in possession of facts which would cause a reasonable person to believe that such poultry or poultry products were not inspected or marked in ac-

cordance with the provisions of this chapter or were otherwise not eligible for transportation under this chapter or unless the carrier refuses to furnish on request of a representative of the Secretary the name and address of the person from whom he received such poultry or poultry products, and copies of all documents, if any there be, pertaining to the delivery of the poultry or poultry products to such carrier.

(c) Assaulting, resisting, or impeding certain persons; murder; punishments

Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this chapter shall be fined not more than \$5,000 or imprisoned not more than three years, or both. Whoever, in the commission of any such acts, uses a deadly or dangerous weapon, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this chapter shall be punished as provided under sections 1111 and 1114 of title 18.

(Pub. L. 85-172, §12, Aug. 28, 1957, 71 Stat. 446; Pub. L. 90-492, §12, Aug. 18, 1968, 82 Stat. 802.)

AMENDMENTS

1968—Par. (a). Pub. L. 90-492, §12(a), inserted reference to violations of section 463 of this title, and substituted provisions that violators of the enumerated sections shall be fined not more than \$1,000 or imprisoned not more than one year, or both, but that in cases involving intent to defraud, or any distribution or attempt to distribute adulterated articles, except as defined in section 453(g) of this title, the violators shall be fined not more than \$10,000 or imprisoned not more than three years, or both, for provisions that violators shall be guilty of a misdemeanor and subject to imprisonment for not more than six months or a fine of not more than \$3,000, or both, with increased fines and imprisonment for any subsequent violations.

Par. (b). Pub. L. 90-492, §12(b), substituted "of poultry" for "of slaughtered poultry", "such poultry" for "such slaughtered poultry", and "otherwise not eligible" for "not otherwise eligible", and inserted provision that no carrier shall be subject to punishment unless the carrier refuses to furnish the name and address of the person from whom he received such poultry or poultry products, and copies of any documents pertaining to the delivery of the poultry or poultry products to such carrier.

Par. (c). Pub. L. 90-492, §12(c), added par. (c).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as a note under section 451 of this title.

§ 462. Reporting of violations; notice; opportunity to present views

Before any violation of this chapter is reported by the Secretary to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given reasonable notice of the alleged violation and opportunity to present his views orally or in writing with regard to such contemplated proceeding. Nothing in this chapter shall be construed as requiring the Secretary to report for criminal prosecution violations of this chapter whenever he believes that

the public interest will be adequately served and compliance with the chapter obtained by a suitable written notice or warning.

(Pub. L. 85-172, §13, Aug. 28, 1957, 71 Stat. 447.)

§ 463. Rules and regulations

(a) Storage and handling of poultry products; violation of regulations

The Secretary may by regulations prescribe conditions under which poultry products capable of use as human food, shall be stored or otherwise handled by any person engaged in the business of buying, selling, freezing, storing, or transporting, in or for commerce, or importing, such articles, whenever the Secretary deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer. Violation of any such regulation is prohibited.

(b) Other necessary rules and regulations

The Secretary shall promulgate such other rules and regulations as are necessary to carry out the provisions of this chapter.

(c) Oral presentation of views

In applying the provisions of section 553(c) of title 5 to proposed rule making under this chapter, an opportunity for the oral presentation of views shall be accorded all interested persons.

(Pub. L. 85-172, §14, Aug. 28, 1957, 71 Stat. 447; Pub. L. 90-492, §13, Aug. 18, 1968, 82 Stat. 803.)

AMENDMENTS

1968—Pub. L. 90-492 designated existing provisions as par. (b), added pars. (a) and (c), and in par. (b), as so designated, substituted "such other rules" for "such rules".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as a note under section 451 of this title.

§ 464. Exemptions

(a) Persons exempted

The Secretary shall, by regulation and under such conditions as to sanitary standards, practices, and procedures as he may prescribe, exempt from specific provisions of this chapter—

(1) retail dealers with respect to poultry products sold directly to consumers in individual retail stores, if the only processing operation performed by such retail dealers is the cutting up of poultry products on the premises where such sales to consumers are made;

(2) for such period of time as the Secretary determines that it would be impracticable to provide inspection and the exemption will aid in the effective administration of this chapter, any person engaged in the processing of poultry or poultry products for commerce and the poultry or poultry products processed by such person: *Provided, however*, That no such exemption shall continue in effect on and after January 1, 1970; and

(3) persons slaughtering, processing, or otherwise handling poultry or poultry products which have been or are to be processed as required by recognized religious dietary laws,

to the extent that the Secretary determines necessary to avoid conflict with such requirements while still effectuating the purposes of this chapter.

(b) Territorial exemption

The Secretary may, under such sanitary conditions as he may by regulations prescribe, exempt from the inspection requirements of this chapter the slaughter of poultry, and the processing of poultry products, by any person in any Territory not organized with a legislative body, solely for distribution within such Territory, when the Secretary determines that it is impracticable to provide such inspection within the limits of funds appropriated for administration of this chapter and that such exemption will aid in the effective administration of this chapter.

(c) Personal slaughtering; custom slaughtering; name and address of the poultry producer or processor in lieu of other labeling requirements; small enterprises; slaughterers or processors of specified number of turkeys; poultry producers raising poultry on own farms

(1) The Secretary shall, by regulation and under such conditions, including sanitary standards, practices, and procedures, as he may prescribe, exempt from specific provisions of this chapter—

(A) the slaughtering by any person of poultry of his own raising, and the processing by him and transportation in commerce of the poultry products exclusively for use by him and members of his household and his nonpaying guests and employees;

(B) the custom slaughter by any person of poultry delivered by the owner thereof for such slaughter, and the processing by such slaughterer and transportation in commerce of the poultry products exclusively for use, in the household of such owner, by him and members of his household and his nonpaying guests and employees: *Provided*, That such custom slaughterer does not engage in the business of buying or selling any poultry products capable of use as human food;

(C) the slaughtering and processing of poultry products in any State or Territory or the District of Columbia by any poultry producer on his own premises with respect to sound and healthy poultry raised on his premises and the distribution by any person solely within such jurisdiction of the poultry products derived from such operations, if, in lieu of other labeling requirements, such poultry products are identified with the name and address of such poultry producer, and if they are not otherwise misbranded, and are sound, clean, and fit for human food when so distributed; and

(D) the slaughtering of sound and healthy poultry or the processing of poultry products of such poultry in any State or territory or the District of Columbia by any poultry producer or other person for distribution by him solely within such jurisdiction directly to household consumers, restaurants, hotels, and boarding houses, for use in their own dining rooms, or in the preparation of meals for sales direct to consumers, if, in lieu of other label-