

construed as authorizing the manufacture, compounding, processing, possession, sale, delivery, or other disposal of any drug in any State in contravention of the laws of such State.

“(b) No provision of this Act nor any amendment made by it shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision or amendment operates to the exclusion of any State law on the same subject matter, unless there is a direct and positive conflict between such provision or amendment and such State law so that the two cannot be reconciled or consistently stand together.

“(c) No amendment made by this Act shall be construed to prevent the enforcement in the courts of any State of any statute of such State prescribing any criminal penalty for any act made criminal by any such amendment.”

#### EFFECT OF DRUG AMENDMENTS OF 1962 ON STATE LAWS

Pub. L. 87-781, title II, §202, Oct. 10, 1962, 76 Stat. 793, provided that: “Nothing in the amendments made by this Act [enacting sections 358 to 360, amending sections 321, 331, 332, 348, 351 to 353, 355, 357, 372, 374, 379e, and 381 of this title, and enacting provisions set out as notes under sections 321, 331, 332, 352, 355, 360, and 374 of this title] to the Federal Food, Drug, and Cosmetic Act [this chapter] shall be construed as invalidating any provision of State law which would be valid in the absence of such amendments unless there is a direct and positive conflict between such amendments and such provision of State law.”

#### DEFINITIONS

Pub. L. 105-115, §2, Nov. 21, 1997, 111 Stat. 2297, provided that: “In this Act [see Short Title of 1997 Amendment note set out under section 301 of this title], the terms ‘drug’, ‘device’, ‘food’, and ‘dietary supplement’ have the meaning given such terms in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).”

#### § 321a. “Butter” defined

For the purposes of the Food and Drug Act of June 30, 1906 (Thirty-fourth Statutes at Large, page 768) “butter” shall be understood to mean the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter, and containing not less than 80 per centum by weight of milk fat, all tolerances having been allowed for. (Mar. 4, 1923, ch. 268, 42 Stat. 1500.)

#### REFERENCES IN TEXT

The Food and Drug Act of June 30, 1906, referred to in text, is act June 30, 1906, ch. 3915, 34 Stat. 768, which was classified to subchapter I (§1 et seq.) of chapter 1 of this title, was repealed (except for section 14a which was transferred to section 376 of this title) by act June 25, 1938, ch. 675, §1002(a), formerly §902(a), 52 Stat. 1059; renumbered §1002(a), Pub. L. 111-31, div. A, title I, §101(b)(2), June 22, 2009, 123 Stat. 1784, and is covered by this chapter.

#### CODIFICATION

Section, which was not enacted as part of the Federal Food, Drug, and Cosmetic Act which comprises this chapter, was formerly classified to section 6 of this title. Section 1002(a) of act June 25, 1938, set out as an Effective Date note under section 301 of this title, provided that this section should remain in force and effect and be applicable to the provisions of this chapter.

#### § 321b. “Package” defined

The word “package” where it occurs the second and last time in the act entitled “An act to

amend section 8 of an act entitled, ‘An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes,’ approved March 3, 1913, shall include and shall be construed to include wrapped meats inclosed in papers or other materials as prepared by the manufacturers thereof for sale.

(July 24, 1919, ch. 26, 41 Stat. 271.)

#### REFERENCES IN TEXT

An act approved March 3, 1913, referred to in text, is act Mar. 3, 1913, ch. 117, 37 Stat. 732, which amended section 10 of this title. For complete classification of this Act to the Code, see Tables.

“An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes”, referred to in text, is act June 30, 1906, ch. 3915, 34 Stat. 768, which was classified to subchapter I (§1 et seq.) of chapter 1 of this title, was repealed (except for section 14a which was transferred to section 376 of this title) by act June 25, 1938, ch. 675, §1002(a), formerly §902(a), 52 Stat. 1059; renumbered §1002(a), Pub. L. 111-31, div. A, title I, §101(b)(2), June 22, 2009, 123 Stat. 1784, and is covered by this chapter.

#### CODIFICATION

Section, which was not enacted as part of the Federal Food, Drug, and Cosmetic Act which comprises this chapter, was formerly classified to the last sentence of paragraph third of section 10 of this title. Section 1002(a) of act June 25, 1938, set out as an Effective Date note under section 301 of this title, provided that this section should remain in force and effect and be applicable to the provisions of this chapter.

#### § 321c. Nonfat dry milk; “milk” defined

For the purposes of the Federal Food, Drug, and Cosmetic Act of June 26, 1938, (ch. 675, sec. 1, 52 Stat. 1040) [21 U.S.C. 301 et seq.] nonfat dry milk is the product resulting from the removal of fat and water from milk, and contains the lactose, milk proteins, and milk minerals in the same relative proportions as in the fresh milk from which made. It contains not over 5 per centum by weight of moisture. The fat content is not over 1½ per centum by weight unless otherwise indicated.

The term “milk”, when used herein, means sweet milk of cows.

(Mar. 2, 1944, ch. 77, 58 Stat. 108; July 2, 1956, ch. 495, 70 Stat. 486.)

#### REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act of June 26, 1938 (ch. 675, sec. 1, 52 Stat. 1040), referred to in text, probably means act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to this chapter (§301 et seq.). For complete classification of this Act to the Code, see section 301 of this title and Tables.

#### CODIFICATION

Section was not enacted as a part of the Federal Food, Drug, and Cosmetic Act which comprises this chapter, but was made applicable thereto.

#### AMENDMENTS

1956—Act July 2, 1956, substituted “nonfat dry milk” for “nonfat dry milk solids or defatted milk solids”.