

transportation of such seed in interstate commerce, (ii) each container shall have stenciled upon it or bear a label containing a lot designation, and (iii) the invoice or other records accompanying and pertaining to such seed shall bear the various statements required for the respective seeds under section 1571(a), (b), and (i) of this title; or

(C) if consigned to a seed cleaning or processing establishment, to be cleaned or processed for seeding purposes: *Provided*, That (i) this fact is so stated in the invoice or other records accompanying and pertaining to such seed if the seed is in bulk or if the seed is in containers and in quantities of twenty thousand pounds or more, (ii) this fact is so stated on attached labels if the seed is in containers and in quantities less than twenty thousand pounds, and (iii) any such seed later to be labeled as to origin and/or variety shall be labeled as to origin and/or variety in accordance with rules and regulations prescribed under section 1592 of this title.

(c) Emergency preventing presentation of information

When the Secretary of Agriculture finds that, because of the time interval between seed harvesting and sowing, or because of an emergency beyond human control, the information required by this chapter as to the germination, and hard seed of certain kinds of seeds, cannot be given prior to transportation or delivery for transportation in interstate commerce, he may promulgate, with or without a hearing, rules and regulations providing that the provisions of section 1571(a) and (b) of this title as to the required labeling for germination and hard seed shall not apply for such period and to such kinds of seed as he may specify in his said rules and regulations.

(d) Intermixture of unidentified seeds; percentages of kind or kind and variety of seeds

The provisions of sections¹ 1571(a) and (b) of this title relative to the labeling of agricultural and vegetable seeds with the percentages of the kind or kind and variety of seeds shall not be deemed violated if there are seeds in the container or bulk which could not be, or were not, identified because of their indistinguishability in appearance from the seeds intended to be transported or delivered for transportation in interstate commerce: *Provided*, That the records of the person charged with the duty under said section of labeling or invoicing the seeds, kept in accordance with the rules and regulations of the Secretary of Agriculture, together with other pertinent facts, disclose that said person has taken reasonable precautions to insure the identity of the seeds to be that stated.

(e) Name of substance used in treatment of seeds

The provisions of section 1571(i) of this title relative to the labeling of agricultural and vegetable seeds with the name of any substance used in the treatment of seeds shall not be deemed violated if the substance or substances used in such treatment could not be or were not identi-

fied because of their indistinguishability from the substance or substances intended to be used in the treatment of the seeds: *Provided*, That the records of the person charged with the duty under said section of labeling or invoicing the seeds, kept in accordance with the rules and regulations of the Secretary of Agriculture, together with other pertinent facts, disclosed that said person has taken reasonable precautions to insure the identity of the substance or substances to be as stated.

(Aug. 9, 1939, ch. 615, title II, §203, 53 Stat. 1281; Pub. L. 85-581, §10, Aug. 1, 1958, 72 Stat. 477; Pub. L. 89-686, §12, Oct. 15, 1966, 80 Stat. 978.)

AMENDMENTS

1966—Subsec. (d). Pub. L. 89-686, §12(a), substituted “the kind or kind and variety of seeds”, “if there are seeds”, “: *Provided*, That”, and “reasonable precautions to insure the identity of the seed to be that stated” for “the kind or variety or type of seeds”, “if there be other seeds”, “, provided that”, and “proper precautions to insure the identity to be that stated”, respectively.

Subsec. (e). Pub. L. 89-686, §12(b), added subsec. (e).

1958—Subsec. (b). Pub. L. 85-581 inserted references to section 1571(i) of this title and eased labeling requirements with respect to shipment of seed in containers and in quantities of twenty thousand pounds or more.

EFFECTIVE DATE

See section 1610 of this title.

§ 1574. Disclaimers, limited warranties and non-warranties

The use of a disclaimer, limited warranty, or nonwarranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed shall not constitute a defense, or be used as a defense in any way, in any prosecution or other proceeding brought under the provisions of this chapter, or the rules and regulations made and promulgated thereunder. Nothing in this section is intended to preclude the use of a disclaimer, limited warranty, or nonwarranty clause as a defense in any proceeding not brought under this chapter.

(Aug. 9, 1939, ch. 615, title II, §204, 53 Stat. 1282; July 9, 1956, ch. 520, §2, 70 Stat. 508; Pub. L. 85-581, §11, Aug. 1, 1958, 72 Stat. 478.)

AMENDMENTS

1958—Pub. L. 85-581 precluded use of limited warranty clause as defense in prosecution or other proceeding brought under provisions of this chapter and stated that use of enumerated clauses as defenses in proceedings not brought under this chapter is not barred.

1956—Act July 9, 1956, substituted “or other proceeding” for “, or in any proceeding for confiscation of seeds,”.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendments made by act July 9, 1956, applicable only with respect to violations occurring after July 9, 1956, see note set out under section 1596 of this title.

EFFECTIVE DATE

See section 1610 of this title.

§ 1575. False advertising

It shall be unlawful for any person to disseminate, or cause to be disseminated, any false ad-

¹ So in original. Probably should be “section”.

vertisement concerning seed, by the United States mails, or in interstate or foreign commerce, in any manner or by any means, including radio broadcasts: *Provided, however*, That no person, advertising agency, or medium for the dissemination of advertising, except the person who transported, delivered for transportation, sold, or offered for sale seed to which the false advertisement relates, shall be liable under this section by reason of disseminating or causing to be disseminated any false advertisement, unless he or it has refused, on the request of the Secretary of Agriculture, to furnish the Secretary the name and post-office address of the person, or advertising agency, residing in the United States, who caused, directly or indirectly, the dissemination of such advertisement.

(Aug. 9, 1939, ch. 615, title II, §205, 53 Stat. 1282.)

EFFECTIVE DATE

See section 1610 of this title.

SUBCHAPTER III—FOREIGN COMMERCE

§ 1581. Prohibitions relating to importations

The importation into the United States is prohibited of—

(1) any agricultural or vegetable seeds if any such seed contains noxious-weed seeds or the labeling of which is false or misleading in any respect;

(2) screenings of any seeds subject to this subchapter (except that this shall not apply to screenings of wheat, oats, rye, barley, buckwheat, field corn, sorghum, broomcorn, flax, millet, proso, soybeans, cowpeas, field peas, or field beans, which are not imported for seeding purposes and are declared for cleaning, processing, or manufacturing purposes, and not for seeding purposes);

(3) any seed containing 10 per centum or more of any agricultural or vegetable seeds, 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.¹

(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 ap-

proved 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.

¹ So in original. The period probably should be a semicolon.