

of a continuing violation each day shall be deemed a separate offense. Such forfeiture shall be recoverable in a civil suit in the name of the United States.

(b) It shall be the duty of the various United States attorneys, under the direction of the Attorney General, to prosecute for the recovery of forfeitures. The costs and expense of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

(Aug. 15, 1921, ch. 64, title III, §314, 42 Stat. 167; June 25, 1948, ch. 646, §1, 62 Stat. 909.)

#### CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorneys" for "district attorneys" in subsec. (a). See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

### § 216. Proceedings to enforce orders; injunction

If any stockyard owner, market agency, or dealer fails to obey any order of the Secretary other than for the payment of money while the same is in effect, the Secretary, or any party injured thereby, or the United States by its Attorney General, may apply to the district court for the district in which such person has his principal place of business for the enforcement of such order. If after hearing the court determines that the order was lawfully made and duly served and that such person is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction or other proper process, mandatory or otherwise, to restrain such person, his officers, agents, or representatives from further disobedience of such order or to enjoin upon him or them obedience to the same.

(Aug. 15, 1921, ch. 64, title III, §315, 42 Stat. 167.)

#### FEDERAL RULES OF CIVIL PROCEDURE

Injunctions, see rule 65, Title 28, Appendix, Judiciary and Judicial Procedure.

### § 217. Proceedings for suspension of orders

For the purposes of this subchapter, the provisions of all laws relating to the suspending or restraining the enforcement, operation, or execution of, or the setting aside in whole or in part the orders of the Interstate Commerce Commission, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this subchapter, and to any person subject to the provisions of this subchapter.

(Aug. 15, 1921, ch. 64, title III, §316, 42 Stat. 168.)

#### ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 1302 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 1301 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 1301 of Title 49.

### § 217a. Fees for inspection of brands or marks

#### (a) Authorization by Secretary; registration as market agency

The Secretary may, upon written application made to him, and if he deems it necessary, authorize the charging and collection, at any stockyard subject to the provisions of this chapter, by any department or agency of any State in which branding or marking or both branding and marking livestock as a means of establishing ownership prevails by custom or statute, or by a duly organized livestock association of any such State, of a reasonable and nondiscriminatory fee for the inspection of brands, marks, and other identifying characteristics of livestock originating in or shipped from such State, for the purpose of determining the ownership of such livestock. No charge shall be made under any such authorization until the authorized department, agency, or association has registered as a market agency. No more than one such authorization shall be issued with respect to such inspection of livestock originating in or shipped from any one State. If more than one such application is filed with respect to such inspection of livestock originating in or shipped from any one State, the Secretary shall issue such authorization to the applicant deemed by him best qualified to perform the proposed service, on the basis of (1) experience, (2) financial responsibility, (3) extent and efficiency of organization, (4) possession of necessary records, and (5) any other factor relating to the ability of the applicant to perform the proposed service. The Secretary may receive and consider the recommendations of the commissioner, secretary, or director of agriculture, or other appropriate officer or agency of a State as to the qualifications of any applicant in such State. The decision of the Secretary as to the applicant best qualified shall be final.

#### (b) Applicability of section

The provisions of this subchapter, relating to the filing, publication, approval, modification, and suspension of any rate or charge for any stockyard service shall apply with respect to charges authorized to be made under this section.

#### (c) Collection and payment of charges

Charges authorized to be made under this section shall be collected by the market agency or other person receiving and disbursing the funds received from the sale of livestock with respect to the inspection of which such charge is made, and paid by it to the department, agency, or association performing such service.

#### (d) Revocation of authorization or registration

The Secretary may, if he deems it to be in the public interest, suspend, and after hearing, revoke any authorization and registration issued under the provisions of this section or any similar authorization and registration issued under any other provision of law. The order of the Secretary suspending or revoking any such authorization and registration shall not be subject to review.

(Aug. 15, 1921, ch. 64, title III, §317, as added June 19, 1942, ch. 421, 56 Stat. 372.)

## PRIOR PROVISIONS

Former provisions relating to fees for inspection of brands appearing upon livestock were contained in section 231 of this title.

## ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Secretary of Agriculture under this chapter, except orders issued under section 210(e) of this title and this section, see section 2342 of Title 28, Judiciary and Judicial Procedure.

## SUBCHAPTER IV—LIVE POULTRY DEALERS AND HANDLERS

**§§ 218 to 218d. Repealed. Pub. L. 100-173, § 10, Nov. 23, 1987, 101 Stat. 922**

Section 218, act Aug. 15, 1921, ch. 64, title V, § 501, as added Aug. 14, 1935, ch. 532, 49 Stat. 648, stated necessity to curb unfair, deceptive, and fraudulent practices relating to live poultry.

Section 218a, act Aug. 15, 1921, ch. 64, title V, § 502, as added Aug. 14, 1935, ch. 532, 49 Stat. 648, authorized Secretary to designate cities and markets where unfair practices exist, to require licensing, and to prescribe information to be contained in application license, and authorized penalty for dealing without license.

Section 218b, act Aug. 15, 1921, ch. 64, title V, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649, defined "live poultry dealer".

Section 218c, act Aug. 15, 1921, ch. 64, title V, § 504, as added Aug. 14, 1935, ch. 532, 49 Stat. 649, related to application of other provisions of this chapter to this subchapter and posting of rates, charges, and rentals in licensee's place of business.

Section 218d, act Aug. 15, 1921, ch. 64, title V, § 505, as added Aug. 14, 1935, ch. 532, 49 Stat. 649, related to suspension and revocation of licenses.

## EFFECTIVE DATE OF REPEAL

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

## SUBCHAPTER V—GENERAL PROVISIONS

**§ 221. Accounts and records of business; punishment for failure to keep**

Every packer, any swine contractor, and any live poultry dealer, stockyard owner, market agency, and dealer shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. Whenever the Secretary finds that the accounts, records, and memoranda of any such person do not fully and correctly disclose all transactions involved in his business, the Secretary may prescribe the manner and form in which such accounts, records, and memoranda shall be kept, and thereafter any such person who fails to keep such accounts, records, and memoranda in the manner and form prescribed or approved by the Secretary shall upon conviction be fined not more than \$5,000, or imprisoned not more than three years, or both.

(Aug. 15, 1921, ch. 64, title IV, § 401, 42 Stat. 168; Aug. 15, 1921, ch. 64, title V, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649; Pub. L. 100-173, § 6, Nov. 23, 1987, 101 Stat. 918; Pub. L. 107-171, title X, § 10502(b)(2)(C), May 13, 2002, 116 Stat. 510.)

## AMENDMENTS

2002—Pub. L. 107-171 inserted "any swine contractor, and" after "packer,".

1987—Pub. L. 100-173 substituted "any live poultry dealer," for "or any live poultry dealer or handler,".

1935—Act Aug. 15, 1921, title V, § 503, as added Aug. 14, 1935, inserted "or any live poultry dealer or handler" after "packer" wherever appearing.

## 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.

## LIENS OR SECURITY INTERESTS AGAINST LIVESTOCK; INTERAGENCY TASK FORCE TO RECOMMEND METHOD OF PROVIDING INFORMATION TO PURCHASERS; REPORT TO CONGRESS

Pub. L. 95-409, § 2, Oct. 2, 1978, 92 Stat. 887, required the Secretary of Agriculture to appoint a task force to recommend methods of providing information to purchasers of livestock concerning the existence of a lien or security interest against livestock and to submit a report to Congress not later than Feb. 1, 1979.

**§ 222. Federal Trade Commission powers adopted for enforcement of chapter**

For the efficient execution of the provisions of this chapter, and in order to provide information for the use of Congress, the provisions (including penalties) of sections 46 and 48 to 50 of title 15, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this chapter and to any person subject to the provisions of this chapter, whether or not a corporation. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this chapter in any part of the United States.

(Aug. 15, 1921, ch. 64, title IV, § 402, 42 Stat. 168; Aug. 15, 1921, ch. 64, title V, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

## AMENDMENTS

1935—Act Aug. 15, 1921, § 503, as added Aug. 14, 1935, purported to insert "or any live poultry dealer or handler" after "packer" but word "packer" does not appear in this section.

## TRANSFER OF FUNCTIONS

Executive and administrative functions of Federal Trade Commission, with certain reservations, transferred to Chairman of such Commission by 1950 Reorg. Plan No. 8, § 1, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264, set out in the Appendix to Title 5, Government Organization and Employees.

**§ 223. Responsibility of principal for act or omission of agent**

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by any packer, any swine contractor, and any live poultry dealer, stockyard owner, market agency, or dealer, within the scope of his employment or office, shall in every case also be deemed the act, omission, or failure of such packer, any swine contractor, and any live poultry dealer, stockyard owner, market agency, or dealer, as well as that of such agent, officer, or other person.

(Aug. 15, 1921, ch. 64, title IV, § 403, 42 Stat. 168; Aug. 15, 1921, ch. 64, title V, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649; amended Pub. L.