

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-173, §12, Nov. 23, 1987, 101 Stat. 923, provided that: "This Act and the amendments made by this Act [enacting sections 197 and 228b-1 to 228b-4 of this title, amending this section and sections 192, 209, 221, 223, 227, and 228a of this title, repealing sections 218 to 218d of this title, and enacting provisions set out as notes under sections 181 and 227 of this title] shall take effect 90 days after the date of the enactment of this Act [Nov. 23, 1987]."

SAVINGS PROVISION

Pub. L. 94-410, §10, Sept. 13, 1976, 90 Stat. 1252, provided that: "Pending proceedings shall not be abated by reason of any provision of this Act [enacting sections 196 and 228a to 228c of this title and amending this section and sections 183, 191 to 193, 201, 204, 207, 209, 210, 212, 213, 228, and 229 of this title], but shall be disposed of pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended [this chapter], and the Act of July 12, 1943 [section 204 of this title], in effect immediately prior to the effective date of this Act [Sept. 13, 1976]."

§ 183. When transaction deemed in commerce; "State" defined

For the purpose of this chapter (but not in anyway limiting the definition in section 182 of this title) a transaction in respect to any article shall be considered to be in commerce if such article is part of that current of commerce usual in the livestock and meat-packing industries, whereby livestock, meats, meat food products, livestock products, dairy products, poultry, poultry products, or eggs, are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State, or for slaughter of livestock within the State and the shipment outside the State of the products resulting from such slaughter. Articles normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter. For the purpose of this section the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nation.

(Aug. 15, 1921, ch. 64, title I, §2(b), 42 Stat. 160; Pub. L. 94-410, §3(c), Sept. 13, 1976, 90 Stat. 1249.)

CODIFICATION

Section is composed of subsec. (b) of section 2 of act Aug. 15, 1921. Subsec. (a) of section 2 is classified to section 182 of this title.

AMENDMENTS

1976—Pub. L. 94-410 substituted "livestock" for "live stock" and "live-stock" wherever appearing.

SUBCHAPTER II—PACKERS GENERALLY

PART A—GENERAL PROVISIONS

§ 191. "Packer" defined

When used in this chapter the term "packer" means any person engaged in the business (a) of buying livestock in commerce for purposes of slaughter, or (b) of manufacturing or preparing meats or meat food products for sale or ship-

ment in commerce, or (c) of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce.

(Aug. 15, 1921, ch. 64, title II, §201, 42 Stat. 160; Pub. L. 94-410, §2, Sept. 13, 1976, 90 Stat. 1249.)

AMENDMENTS

1976—Pub. L. 94-410 substituted definition of "packer" for former definition which included provisions dealing with direct or indirect control of specified businesses through stock ownership or otherwise.

§ 192. Unlawful practices enumerated

It shall be unlawful for any packer or swine contractor with respect to livestock, meats, meat food products, or livestock products in unmanufactured form, or for any live poultry dealer with respect to live poultry, to:

(a) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device; or

(b) Make or give any undue or unreasonable preference or advantage to any particular person or locality in any respect, or subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect; or

(c) Sell or otherwise transfer to or for any other packer, swine contractor, or any live poultry dealer, or buy or otherwise receive from or for any other packer, swine contractor, or any live poultry dealer, any article for the purpose or with the effect of apportioning the supply between any such persons, if such apportionment has the tendency or effect of restraining commerce or of creating a monopoly; or

(d) Sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any article for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce; or

(e) Engage in any course of business or do any act for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce; or

(f) Conspire, combine, agree, or arrange with any other person (1) to apportion territory for carrying on business, or (2) to apportion purchases or sales of any article, or (3) to manipulate or control prices; or

(g) Conspire, combine, agree, or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by subdivisions (a), (b), (c), (d), or (e).

(Aug. 15, 1921, ch. 64, title II, §202, 42 Stat. 161; Aug. 15, 1921, ch. 64, title V, §503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649; Pub. L. 85-909, §1(1), Sept. 2, 1958, 72 Stat. 1749; Pub. L. 94-410, §3(a), Sept. 13, 1976, 90 Stat. 1249; Pub. L. 100-173, §3, Nov. 23, 1987, 101 Stat. 917; Pub. L. 102-237, title X, §1008(1), Dec. 13, 1991, 105 Stat. 1898; Pub. L. 106-78, title IX, §912, Oct. 22, 1999, 113 Stat. 1205; Pub. L. 107-171, title X, §10502(b)(1), (2)(A), May 13, 2002, 116 Stat. 509, 510.)

AMENDMENT OF SECTION

For termination of amendment by section 942 of Pub. L. 106-78, see Termination Date of 1999 Amendment note below.

AMENDMENTS

2002—Pub. L. 107-171, §10502(b)(1), substituted “packer or swine contractor” for “packer” in introductory provisions.

Subsec. (c). Pub. L. 107-171, §10502(b)(2)(A), inserted “, swine contractor,” after “other packer” in two places.

1999—Subsec. (b). Pub. L. 106-78, §§912, 942, temporarily struck out “whatsoever” after “locality in any respect” and after “disadvantage in any respect”. See Termination Date of 1999 Amendment note below.

1991—Subsec. (c). Pub. L. 102-237 substituted a comma for period after second reference to “dealer”.

1987—Pub. L. 100-173, §3(1), substituted “for any packer with respect to livestock, meats, meat food products, or livestock products in unmanufactured form, or for any live poultry dealer with respect to live poultry, to” for “with respect to livestock, meats, meat food products, livestock products in unmanufactured form, poultry, or poultry products for any packer or any live poultry dealer or handler to” in introductory provisions.

Par. (c). Pub. L. 100-173, §3(2), struck out reference to poultry handlers wherever appearing and substituted “such persons” for “such packers”.

1976—Pub. L. 94-410 struck out “in commerce” wherever appearing.

1958—Pub. L. 85-909 inserted “with respect to livestock, meats, meat food products, livestock products in unmanufactured form, poultry, or poultry products” after “unlawful”.

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.

TERMINATION DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-78 to terminate Sept. 30, 2020, see section 942 of Pub. L. 106-78, as amended, set out in a Livestock Mandatory Reporting note under section 1635 of this title.

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.

§ 193. Procedure before Secretary for violations

(a) Complaint; hearing; intervention

Whenever the Secretary has reason to believe that any packer or swine contractor has violated or is violating any provision of this subchapter, he shall cause a complaint in writing to be served upon the packer or swine contractor, stating his charges in that respect, and requiring the packer or swine contractor to attend and testify at a hearing at a time and place designated therein, at least thirty days after the service of such complaint; and at such time and place there shall be afforded the packer or swine contractor a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such regulations as the Secretary may prescribe. Any person for good cause shown may on application be allowed by the Secretary to intervene in such proceeding, and appear in person or by counsel. At any time prior to the close of the hearing the Secretary

may amend the complaint; but in case of any amendment adding new charges the hearing shall, on the request of the packer or swine contractor, be adjourned for a period not exceeding fifteen days.

(b) Report and order; penalty

If, after such hearing, the Secretary finds that the packer or swine contractor has violated or is violating any provisions of this subchapter covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the packer or swine contractor an order requiring such packer or swine contractor to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture. The Secretary may also assess a civil penalty of not more than \$10,000 for each such violation. In determining the amount of the civil penalty to be assessed under this section, the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business. If, after the lapse of the period allowed for appeal or after the affirmance of such penalty, the person against whom the civil penalty is assessed fails to pay such penalty, the Secretary may refer the matter to the Attorney General who may recover such penalty by an action in the appropriate district court of the United States.

(c) Amendment of report or order

Until the record in such hearing has been filed in a court of appeals of the United States, as provided in section 194 of this title, the Secretary at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the packer or swine contractor to be heard, may amend or set aside the report or order, in whole or in part.

(d) Service of process

Complaints, orders, and other processes of the Secretary under this section may be served in the same manner as provided in section 45 of title 15.

(Aug. 15, 1921, ch. 64, title II, §203, 42 Stat. 161; June 25, 1948, ch. 646, §32(a), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Pub. L. 85-791, §6(a), Aug. 28, 1958, 72 Stat. 944; Pub. L. 94-410, §3(b), Sept. 13, 1976, 90 Stat. 1249; Pub. L. 107-171, title X, §10502(b)(1), May 13, 2002, 116 Stat. 509.)

AMENDMENTS

2002—Subsecs. (a) to (c). Pub. L. 107-171 substituted “packer or swine contractor” for “packer” wherever appearing.

1976—Subsec. (b). Pub. L. 94-410 inserted provisions dealing with authority of Secretary to assess a civil penalty for violations and, upon failure to pay, procedure for recovery of such penalty.

1958—Subsec. (c). Pub. L. 85-791 struck out “a transcript of” after “until”.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted “court of appeals” for “circuit court of appeals”.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain ex-