

minimum or both" for "as both the maximum and minimum", and inserted proviso relating to prescription by the Secretary of rates or charges on a percentage or per head basis at the election of the owner or agency or any other basis unless violative of section 206 of this title.

Subsec. (b). Pub. L. 95-409, §1(b)(3), substituted "other than the rate or charge or rates or charges" for "more or less than the rate or charge".

1939—Subsec. (a). Act Aug. 10, 1939, substituted "as both" for "or the".

Subsec. (b)(2). Act Aug. 10, 1939, substituted "more or less than the rate or charge so prescribed" for "other than the rate or charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be".

### § 212. Prescribing rates and practices to prevent discrimination between intrastate and interstate commerce

Whenever in any investigation under the provisions of this subchapter, or in any investigation instituted by petition of the stockyard owner, market agency, or dealer concerned, which petition is authorized to be filed, the Secretary after full hearing finds that any rate, charge, regulation, or practice of any stockyard owner, market agency, or dealer, for or in connection with the buying or selling on a commission basis or otherwise, receiving, marketing, feeding, holding, delivery, shipment, weighing, or handling, not in commerce, of livestock, causes any undue or unreasonable advantage, prejudice, or preference as between persons or localities in intrastate commerce in livestock on the one hand and interstate or foreign commerce in livestock on the other hand, or any undue, unjust, or unreasonable discrimination against interstate or foreign commerce in livestock, which is hereby forbidden and declared to be unlawful, the Secretary shall prescribe the rate, charge, regulation, or practice thereafter to be observed, in such manner as, in his judgment, will remove such advantage, preference, or discrimination. Such rates, charges, regulations, or practices shall be observed while in effect by the stockyard owners, market agencies, or dealers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

(Aug. 15, 1921, ch. 64, title III, §311, 42 Stat. 167; Pub. L. 85-909, §2(4), Sept. 2, 1958, 72 Stat. 1750; Pub. L. 94-410, §3(c), Sept. 13, 1976, 90 Stat. 1249.)

#### AMENDMENTS

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

1958—Pub. L. 85-909 substituted "stockyard owner, market agency, or dealer" for "stockyard owner or market agency" wherever occurring, and "stockyard owners, market agencies, or dealers" for "stockyard owners or market agencies".

### § 213. Prevention of unfair, discriminatory, or deceptive practices

(a) It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with determining whether persons should be authorized to operate at the stockyards, or with the receiv-

ing, marketing, buying, or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing, or handling of livestock.

(b) Whenever complaint is made to the Secretary by any person, or whenever the Secretary has reason to believe, that any stockyard owner, market agency, or dealer is violating the provisions of subsection (a), the Secretary after notice and full hearing may make an order that he shall cease and desist from continuing such violation to the extent that the Secretary finds that it does or will exist. 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.

(Aug. 15, 1921, ch. 64, title III, §312, 42 Stat. 167; Pub. L. 85-909, §2(5), Sept. 2, 1958, 72 Stat. 1750; Pub. L. 90-446, §1(e), July 31, 1968, 82 Stat. 475; Pub. L. 94-410, §3, Sept. 13, 1976, 90 Stat. 1249.)

#### AMENDMENTS

1976—Subsec. (a). Pub. L. 94-410, §3(a), (c), struck out "in commerce" after "or handling" and substituted "livestock" for "live stock".

Subsec. (b). Pub. L. 94-410, §3(b), 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.

1968—Subsec. (a). Pub. L. 90-446 inserted "determining whether persons should be authorized to operate at stockyards, or with" after "in connection with".

1958—Subsec. (a). Pub. L. 85-909 struck out "at a stockyard" after "in commerce".

### § 214. Effective date of orders

Except as otherwise provided in this chapter all orders of the Secretary under this subchapter, other than orders for the payment of money, shall take effect within such reasonable time, not less than five days, as is prescribed in the order, and shall continue in force until his further order, or for a specified period of time, according as is prescribed in the order, unless such order is suspended or modified or set aside by the Secretary or is suspended or set aside by a court of competent jurisdiction.

(Aug. 15, 1921, ch. 64, title III, §313, 42 Stat. 167.)

### § 215. Failure to obey orders; punishment

(a) Any stockyard owner, market agency, or dealer who knowingly fails to obey any order made under the provisions of sections 211, 212, or 213 of this title shall forfeit to the United States the sum of \$500 for each offense. Each distinct violation shall be a separate offense, and in case 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.