

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.

§ 217b. Statutory trust established; dealer**(a) Establishment****(1) In general**

All livestock purchased by a dealer in cash sales and all inventories of, or receivables or proceeds from, such livestock shall be held by such dealer in trust for the benefit of all unpaid cash sellers of such livestock until full payment has been received by such unpaid cash sellers.

(2) Exemption

Any dealer whose average annual purchases of livestock do not exceed \$100,000 shall be exempt from the provisions of this section.

(3) Effect of dishonored instruments

For purposes of determining full payment under paragraph (1), a payment to an unpaid cash seller shall not be considered to have been made if the unpaid cash seller receives a payment instrument that is dishonored.

(b) Preservation of trust

An unpaid cash seller shall lose the benefit of a trust under subsection (a) if the unpaid cash seller has not preserved the trust by giving written notice to the dealer involved and filing such notice with the Secretary—

(1) within 30 days of the final date for making a payment under section 228b of this title in the event that a payment instrument has not been received; or

(2) within 15 business days after the date on which the seller receives notice that the payment instrument promptly presented for payment has been dishonored.

(c) Notice to lien holders

When a dealer receives notice under subsection (b) of the unpaid cash seller's intent to preserve the benefits of the trust, the dealer shall, within 15 business days, give notice to all persons who have recorded a security interest in, or lien on, the livestock held in such trust.

(d) Cash sales defined

For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.

(e) Purchase of livestock subject to trust**(1) In general**

A person purchasing livestock subject to a dealer trust shall receive good title to the livestock if the person receives the livestock—

(A) in exchange for payment of new value; and

(B) in good faith without notice that the transfer is a breach of trust.

(2) Dishonored payment instrument

Payment shall not be considered to have been made if a payment instrument given in exchange for the livestock is dishonored.

(3) Transfer in satisfaction of antecedent debt

A transfer of livestock subject to a dealer trust is not for value if the transfer is in satisfaction of an antecedent debt or to a secured party pursuant to a security agreement.

(f) Enforcement

Whenever the Secretary has reason to believe that a dealer subject to this section has failed to perform the duties required by this section or whenever the Secretary has reason to believe that it will be in the best interest of unpaid cash sellers, the Secretary shall do one or more of the following—

(1) appoint an independent trustee to carry out the duties required by this section, preserve trust assets, and enforce the trust; or

(2) serve as independent trustee, preserve trust assets, and enforce the trust; or

(3) file suit in the United States district court for the district in which the dealer resides to enjoin the dealer's failure to perform the duties required by this section, preserve trust assets, and to enforce the trust. Attorneys employed by the Secretary may, with the approval of the Attorney General, represent the Secretary in any such suit. Nothing herein shall preclude unpaid sellers from filing suit to preserve or enforce the trust.

(Aug. 15, 1921, ch. 64, title III, §318, as added Pub. L. 116-260, div. N, title VII, §763, Dec. 27, 2020, 134 Stat. 2114.)

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