

**§ 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.

(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.)

**Statutory Notes and Related Subsidiaries**

## 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.)

**Court Rules**

## 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.)

**Statutory Notes and Related Subsidiaries**

## 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.)

**Editorial Notes**

**PRIOR PROVISIONS**

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

**Statutory Notes and Related Subsidiaries**

**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;

(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.