

## SHORT TITLE OF 1968 AMENDMENT

Section 1 of Pub. L. 90-492 provided: "That this Act [enacting sections 467a to 467f and 470 of this title, amending this section and sections 452 to 461, 463 to 465, and 467 of this title, and enacting provisions set out as notes under this section] may be cited as the 'Wholesome Poultry Products Act'."

## SHORT TITLE

Section 1 of Pub. L. 85-172 provided: "That this Act [enacting this chapter and provisions set out as notes under this section] may be cited as the 'Poultry Products Inspection Act'."

## SEPARABILITY

Section 19 of Pub. L. 90-492 provided that: "If any provisions of this Act or of the amendments made hereby [see Short Title of 1968 Amendment note above] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and the remaining amendments and of the application of such provision to other persons and circumstances shall not be affected thereby."

Section 28, formerly section 21, of Pub. L. 85-172, as renumbered by Pub. L. 90-492, § 17, Aug. 18, 1968, 82 Stat. 805, provided that: "If any provision of this Act [this chapter] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby."

## FOOD ADDITIVES AMENDMENT OF 1958

Pub. L. 85-929, § 7, Sept. 6, 1958, 72 Stat. 1789, provided that: "Nothing in this Act [amending sections 321, 331, 342, 346, and 348 of this title and section 210 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 321 and 342 of this title] shall be construed to exempt any meat or meat food product or any person from any requirement imposed by or pursuant to the Poultry Products Inspection Act (21 U.S.C. 451 and the following) [this chapter] or the Meat Inspection Act of March 4, 1907, 34 Stat. 1260, as amended and extended (21 U.S.C. 71 and the following) [see section 601 et seq. of this title]."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 321, 454 of this title.

## ACT REFERRED TO IN OTHER SECTIONS

The Wholesome Poultry Products Act is referred to in section 1053 of this title.

**§ 452. Congressional declaration of policy**

It is hereby declared to be the policy of the Congress to provide for the inspection of poultry and poultry products and otherwise regulate the processing and distribution of such articles as hereinafter prescribed to prevent the movement or sale in interstate or foreign commerce of, or the burdening of such commerce by, poultry products which are adulterated or misbranded. It is the intent of Congress that when poultry and poultry products are condemned because of disease, the reason for condemnation in such instances shall be supported by scientific fact, information, or criteria, and such condemnation under this chapter shall be achieved through uniform inspection standards and uniform applications thereof.

(Pub. L. 85-172, § 3, Aug. 28, 1957, 71 Stat. 441; Pub. L. 90-492, § 3, Aug. 18, 1968, 82 Stat. 792.)

## AMENDMENTS

1968—Pub. L. 90-492 inserted provisions declaring the policy of Congress to be to otherwise regulate the proc-

essing and distribution of poultry and poultry products as hereinafter prescribed so as to prevent the movement or sale in interstate commerce of, or the burdening of such commerce by poultry products which are adulterated or misbranded, and provisions that declared the policy of Congress to be that condemnation of diseased poultry and poultry products shall be achieved through uniform inspection standards and supported by scientific fact or criteria, and struck out provisions that declared the policy of Congress to be to provide for inspection by the inspection service to prevent the movement in interstate commerce or foreign commerce or in a designated major consuming area of poultry products which are unwholesome, adulterated, or otherwise unfit for human food.

## EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as a note under section 451 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 454 of this title.

**§ 453. Definitions**

For purposes of this chapter—

(a) The term "commerce" means commerce between any State, any territory, or the District of Columbia, and any place outside thereof; or within any territory not organized with a legislative body, or the District of Columbia.

(b) Except as otherwise provided in this chapter, the term "State" means any State of the United States and the Commonwealth of Puerto Rico.

(c) The term "territory" means Guam, the Virgin Islands of the United States, American Samoa, and any other territory or possession of the United States, excluding the Canal Zone.

(d) The term "United States" means the States, the District of Columbia, and the territories of the United States.

(e) The term "poultry" means any domesticated bird, whether live or dead.

(f) The term "poultry product" means any poultry carcass, or part thereof; or any product which is made wholly or in part from any poultry carcass or part thereof, excepting products which contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry, and which are exempted by the Secretary from definition as a poultry product under such conditions as the Secretary may prescribe to assure that the poultry ingredients in such products are not adulterated and that such products are not represented as poultry products.

(g) The term "adulterated" shall apply to any poultry product under one or more of the following circumstances:

(1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(2)(A) if it bears or contains (by reason of administration of any substance to the live poultry or otherwise) any added poisonous or added deleterious substance (other than one

which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the Secretary, make such article unfit for human food;

(B) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 346a of this title;

(C) if it bears or contains any food additive which is unsafe within the meaning of section 348 of this title;

(D) if it bears or contains any color additive which is unsafe within the meaning of section 379e of this title: *Provided*, That an article which is not otherwise deemed adulterated under clause (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations of the Secretary in official establishments;

(3) if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

(4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(5) if it is, in whole or in part, the product of any poultry which has died otherwise than by slaughter;

(6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(7) if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 348 of this title;

(8) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(h) The term "misbranded" shall apply to any poultry product under one or more of the following circumstances:

(1) if its labeling is false or misleading in any particular;

(2) if it is offered for sale under the name of another food;

(3) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter, the name of the food imitated;

(4) if its container is so made, formed, or filled as to be misleading;

(5) unless it bears a label showing (A) the name and the place of business of the manufacturer, packer, or distributor; and (B) an accurate statement of the quantity of the product in terms of weight, measure, or numerical

count: *Provided*, That under clause (B) of this subparagraph (5), reasonable variations may be permitted, and exemptions as to small packages or articles not in packages or other containers may be established by regulations prescribed by the Secretary;

(6) if any word, statement, or other information required by or under authority of this chapter to appear on the label or other labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(7) if it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulations of the Secretary under section 457 of this title unless (A) it conforms to such definition and standard, and (B) its label bears the name of the food specified in the definition and standard and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food;

(8) if it purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations of the Secretary under section 457 of this title, and it falls below the standard to fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

(9) if it is not subject to the provisions of subparagraph (7), unless its label bears (A) the common or usual name of the food, if any there be, and (B) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the Secretary, be designated as spices, flavorings, and colorings without naming each: *Provided*, That to the extent that compliance with the requirements of clause (B) of this subparagraph (9) is impracticable or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Secretary;

(10) if it purports to be or is represented for special dietary uses unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Secretary, after consultation with the Secretary of Health and Human Services, determines to be, and by regulations prescribes as, necessary in order fully to inform purchasers as to its value for such uses;

(11) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative unless it bears labeling stating that fact: *Provided*, That, to the extent that compliance with the requirements of this subparagraph (11) is impracticable, exemptions shall be established by regulations promulgated by the Secretary; or

(12) if it fails to bear on its containers, and in the case of nonconsumer packaged carcasses (if the Secretary so requires) directly

thereon, as the Secretary may by regulations prescribe, the official inspection legend and official establishment number of the establishment where the article was processed, and, unrestricted by any of the foregoing, such other information as the Secretary may require in such regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition.

(i) The term “Secretary” means the Secretary of Agriculture or his delegate.

(j) The term “person” means any individual, partnership, corporation, association, or other business unit.

(k) The term “inspector” means: (1) an employee or official of the United States Government authorized by the Secretary to inspect poultry and poultry products under the authority of this chapter, or (2) any employee or official of the government of any State or territory or the District of Columbia authorized by the Secretary to inspect poultry and poultry products under authority of this chapter, under an agreement entered into between the Secretary and the appropriate State or other agency.

(l) The term “official mark” means the official inspection legend or any other symbol prescribed by regulation of the Secretary to identify the status of any article or poultry under this chapter.

(m) The term “official inspection legend” means any symbol prescribed by regulations of the Secretary showing that an article was inspected for wholesomeness in accordance with this chapter.

(n) The term “official certificate” means any certificate prescribed by regulations of the Secretary for issuance by an inspector or other person performing official functions under this chapter.

(o) The term “official device” means any device prescribed or authorized by the Secretary for use in applying any official mark.

(p) The term “official establishment” means any establishment as determined by the Secretary at which inspection of the slaughter of poultry, or the processing of poultry products, is maintained under the authority of this chapter.

(q) The term “inspection service” means the official Government service within the Department of Agriculture designated by the Secretary as having the responsibility for carrying out the provisions of this chapter.

(r) The term “container” or “package” includes any box, can, tin, cloth, plastic, or other receptacle, wrapper, or cover.

(s) The term “label” means a display of written, printed, or graphic matter upon any article or the immediate container (not including packaged liners) of any article; and the term “labeling” means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

(t) The term “shipping container” means any container used or intended for use in packaging the product packed in an immediate container.

(u) The term “immediate container” includes any consumer package; or any other container

in which poultry products, not consumer packaged, are packed.

(v) The term “capable of use as human food” shall apply to any carcass, or part or product of a carcass, of any poultry, unless it is denatured or otherwise identified as required by regulations prescribed by the Secretary to deter its use as human foods, or it is naturally inedible by humans.

(w) The term “processed” means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed.

(x) The term “Federal Food, Drug, and Cosmetic Act” means the Act so entitled, approved June 25, 1938 (52 Stat. 1040) [21 U.S.C. 301 et seq.], and Acts amendatory thereof or supplementary thereto.

(y) The terms “pesticide chemical,” “food additive,” “color additive,” and “raw agricultural commodity” shall have the same meanings for purposes of this chapter as under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.].

(z) The term “poultry products broker” means any person engaged in the business of buying or selling poultry products on commission, or otherwise negotiating purchases or sales of such articles other than for his own account or as an employee of another person.

(aa) The term “renderer” means any person engaged in the business of rendering carcasses, or parts or products of the carcasses, of poultry, except rendering conducted under inspection or exemption under this chapter.

(bb) The term “animal food manufacturer” means any person engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of poultry.

(Pub. L. 85-172, § 4, Aug. 28, 1957, 71 Stat. 441; Pub. L. 87-498, June 25, 1962, 76 Stat. 110; Pub. L. 90-492, § 4, Aug. 18, 1968, 82 Stat. 792; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 102-571, title I, § 107(13), Oct. 29, 1992, 106 Stat. 4499.)

#### REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in pars. (x) and (y), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

#### AMENDMENTS

1992—Subsec. (g)(2)(D). Pub. L. 102-571 substituted “379e” for “376”.

1968—Pub. L. 90-492 inserted definitions of “State”, “territory”, “United States”, “misbranded”, “official mark”, “official inspection legend”, “official certificate”, “official device”, “capable of use as human food”, “processed”, “Federal Food, Drug, and Cosmetic Act”, “pesticide chemical”, “poultry products broker”, “renderer”, and “animal food manufacturer”, revised definitions of “commerce”, “poultry”, “poultry product”, “adulterated”, “Secretary”, “inspector”, “container” or “package”, “label”, and “immediate container”, reenacted without change definitions of “person”, “official establishment”, “inspection service”, and “shipping container”, and deleted definition of “wholesome”, “unwholesome”, and “official inspection mark”.

1962—Par. (a). Pub. L. 87-498 struck out references to Territories or possessions, and inserted definition of “State”.

## CHANGE OF NAME

“Secretary of Health and Human Services” substituted for “Secretary of Health, Education, and Welfare” in par. (h)(10) pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

## EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as a note under section 451 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 454, 457, 461, 464, 467b of this title; title 15 sections 2052, 2602.

**§ 454. Federal and State cooperation in development and administration of State poultry product inspection programs**

**(a) State laws; planning, technical and financial assistance; advisory committees**

It is the policy of the Congress to protect the consuming public from poultry products that are adulterated or misbranded and to assist in efforts by State and other government agencies to accomplish this objective. In furtherance of this policy—

(1) The Secretary is authorized, whenever he determines that it would effectuate the purposes of this chapter, to cooperate with the appropriate State agency in developing and administering a State poultry product inspection program in any State which has enacted a mandatory State poultry product inspection law that imposes ante mortem and post mortem inspection, reinspection and sanitation requirements that are at least equal to those under this chapter, with respect to all or certain classes of persons engaged in the State in slaughtering poultry or processing poultry products for use as human food solely for distribution within such State.

(2) The Secretary is further authorized, whenever he determines that it would effectuate the purposes of this chapter, to cooperate with appropriate State agencies in developing and administering State programs under State laws containing authorities at least equal to those provided in section 460 of this title; and to cooperate with other agencies of the United States in carrying out any provisions of this chapter. In carrying out the provisions of this chapter, the Secretary may conduct such examinations, investigations, and inspections as he determines practicable through any officer or employee of any State or Territory or the District of Columbia commissioned by the Secretary for such purpose.

(3) Cooperation with State agencies under this section may include furnishing to the appropriate State agency (i) advisory assistance in planning and otherwise developing an adequate State program under the State law; and (ii) technical and laboratory assistance and training (including necessary curricular and instructional materials and equipment), and financial and other aid for administration of such a program. The amount to be contributed to any State by the Secretary under this section from Federal funds for any year shall not exceed 50 per centum of the estimated total

cost of the cooperative program; and the Federal funds shall be allocated among the States desiring to cooperate on an equitable basis. Such cooperation and payment shall be contingent at all times upon the administration of the State program in a manner which the Secretary, in consultation with the appropriate advisory committee appointed under subparagraph (4), deems adequate to effectuate the purposes of this section.

(4) The Secretary may appoint advisory committees consisting of such representatives of appropriate State agencies as the Secretary and the State agencies may designate to consult with him concerning State and Federal programs with respect to poultry product inspection and other matters within the scope of this chapter, including evaluating State programs for purposes of this chapter, and obtaining better coordination and more uniformity among the State programs and between the Federal and State programs and adequate protection of consumers.

**(b) Appropriate State agency; performance of functions by subordinate governmental unit**

The appropriate State agency with which the Secretary may cooperate under this chapter shall be a single agency in the State which is primarily responsible for the coordination of the State programs having objectives similar to those under this chapter. When the State program includes performance of certain functions by a municipality or other subordinate governmental unit, such unit shall be deemed to be a part of the State agency for purposes of this section.

**(c) Intrastate activities; designation of State for regulation; publication of designation; exempted operations; termination of designation; review of operations in nondesignated States; annual report**

(1) If the Secretary has reason to believe, by thirty days prior to the expiration of two years after August 18, 1968, that a State has failed to develop or is not enforcing, with respect to all establishments within its jurisdiction (except those that would be exempted from Federal inspection under subparagraph (2) of this paragraph (c)) at which poultry are slaughtered, or poultry products are processed for use as human food, solely for distribution within such State, and the products of such establishments, requirements at least equal to those imposed under sections 451 to 453, 455 to 459, 461 to 467d of this title, he shall promptly notify the Governor of the State of this fact. If the Secretary determines, after consultation with the Governor of the State, or representative selected by him, that such requirements have not been developed and activated, he shall promptly after the expiration of such two-year period designate such State as one in which the provisions of said sections of this chapter shall apply to operations and transactions wholly within such State: *Provided*, That if the Secretary has reason to believe that the State will activate such requirements within one additional year, he may delay such designation for said period, and not designate the State, if he determines at the end of the year that the State then has such require-