

(Pub. L. 91-597, §10, Dec. 29, 1970, 84 Stat. 1627.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1037 of this title.

§ 1040. Recordkeeping requirements; persons required to maintain records; scope of disclosure; access to records

For the purpose of enforcing the provisions of this chapter and the regulations promulgated thereunder, all persons engaged in the business of transporting, shipping, or receiving any eggs or egg products in commerce or holding such articles so received, and all egg handlers, shall maintain such records showing, for such time and in such form and manner, as the Secretary of Agriculture or the Secretary of Health and Human Services may prescribe, to the extent that they are concerned therewith, the receipt, delivery, sale, movement, and disposition of all eggs and egg products handled by them, and shall, upon the request of a duly authorized representative of either of said Secretaries, permit him at reasonable times to have access to and to copy all such records.

(Pub. L. 91-597, §11, Dec. 29, 1970, 84 Stat. 1627; Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

CHANGE OF NAME

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1034, 1037, 1041, 1052 of this title.

§ 1041. Enforcement provisions

(a) Violations of section 1037; term of imprisonment and fine; scope of liability

Any person who commits any offense prohibited by section 1037 of this title shall upon conviction be subject to imprisonment for not more than one year, or a fine of not more than \$1,000, or both such imprisonment and fine, but if such violation involves intent to defraud, or any distribution or attempted distribution of any article that is known to be adulterated (except as defined in section 1033(a)(8) of this title), such person shall be subject to imprisonment for not more than three years or a fine of not more than \$10,000, or both. When construing or enforcing the provisions of section 1037 of this title, the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association within the scope of his employment or office shall in every case be deemed the act, omission, or failure of such individual, partnership, corporation, or association, as well as of such person.

(b) Penalties applicable to carriers or warehousemen

No carrier or warehouseman shall be subject to the penalties of this chapter, other than the penalties for violation of section 1040 of this title or subsection (c) of this section, by reason of his receipt, carriage, holding, or delivery, in

the usual course of business, as a carrier or warehouseman of eggs or egg products owned by another person unless the carrier or warehouseman has knowledge, or is in possession of facts which would cause a reasonable person to believe that such eggs or egg products were not eligible for transportation under, or were otherwise in violation of, this chapter, or unless the carrier or warehouseman refuses to furnish on request of a representative of the Secretary the name and address of the person from whom he received such eggs or egg products and copies of all documents, if there be any, pertaining to the delivery of the eggs or egg products to, or by, such carrier or warehouseman.

(c) Persons preventing enforcement of chapter; term of imprisonment and fine

Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this chapter shall be fined not more than \$5,000 or imprisoned not more than three years or both. Whoever, in the commission of any such act, uses a deadly or dangerous weapon, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this chapter shall be punished as provided under sections 1111 and 1112 of title 18.

(Pub. L. 91-597, §12, Dec. 29, 1970, 84 Stat. 1628; Pub. L. 102-237, title X, §1012(d), Dec. 13, 1991, 105 Stat. 1899.)

AMENDMENT OF SECTION

Pub. L. 102-237, title X, §1012(d), (h), Dec. 13, 1991, 105 Stat. 1899, 1901, provided that, effective 12 months after promulgation of final implementing regulations, this section is amended:

(1) in the first sentence of subsection (a) of this section, by striking “\$1,000” and inserting “\$5,000”;

(2) by designating the last sentence of subsection (a) of this section as subsection (d) of this section and transferring such subsection to the end of this section;

(3) by redesignating subsection (b) of this section as (e) and transferring such subsection to the end of this section;

(4) by redesignating subsection (c) as (b); and

(5) by inserting after subsection (b) of this section the following new subsection:

(c) Civil penalty

(1)(A) Except as otherwise provided in this subsection, any person who violates any provision of this chapter or any regulation issued under this chapter, other than a violation for which a criminal penalty has been imposed under this chapter, may be assessed a civil penalty by the Secretary of not more than \$5,000 for each such violation. Each violation to which this subparagraph applies shall be considered a separate offense.

(B) No penalty shall be assessed against any person under this subsection unless the person is given notice and opportunity for a hearing on the record before the Secretary in accordance with sections 554 and 556 of title 5.

(C) The amount of the civil penalty imposed under this subsection—