

§ 671. Inspection services; refusal or withdrawal; hearing; business unfitness based upon certain convictions; other provisions for withdrawal of services unaffected; responsible connection with business; finality of Secretary's actions; judicial review; record

The Secretary may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this chapter) refuse to provide, or withdraw, inspection service under subchapter I of this chapter with respect to any establishment if he determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under subchapter I because the applicant or recipient, or anyone responsibly connected with the applicant or recipient, has been convicted, in any Federal or State court, of (1) any felony, or (2) more than one violation of any law, other than a felony, based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food. This section shall not affect in any way other provisions of this chapter for withdrawal of inspection services under subchapter I from establishments failing to maintain sanitary conditions or to destroy condemned carcasses, parts, meat or meat food products.

For the purpose of this section a person shall be deemed to be responsibly connected with the business if he was a partner, officer, director, holder, or owner of 10 per centum or more of its voting stock or employee in a managerial or executive capacity.

The determination and order of the Secretary with respect thereto under this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty days after the effective date of such order in the appropriate court as provided in section 674 of this title. Judicial review of any such order shall be upon the record upon which the determination and order are based.

(Mar. 4, 1907, ch. 2907, title IV, § 401, as added Pub. L. 90-201, § 16, Dec. 15, 1967, 81 Stat. 597; amended Pub. L. 99-641, title IV, § 403(b), Nov. 10, 1986, 100 Stat. 3568.)

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-641, § 403(b)(1), (2)(B), (C), temporarily designated provisions which related to authority to refuse or withdraw inspection service as subsec. (a), struck out “any felony, or (2)” after “of (1)”, and inserted “or (2) any felony” after “transactions in food”. See Effective and Termination Dates of 1986 Amendment note below.

Pub. L. 99-641, § 403(b)(2)(A), which directed that subsec. (a) be amended by substituting “applicant for” for “applicant, for”, could not be executed because “applicant, for” does not appear.

Subsecs. (b) to (e). Pub. L. 99-641, § 403(b)(6), temporarily added subsecs. (b) to (e). See Effective and Termination Dates of 1986 Amendment note below.

Subsec. (f). Pub. L. 99-641, § 403(b)(3), temporarily designated provisions which related to other provisions for withdrawal of inspection services as subsec. (f). See Effective and Termination Dates of 1986 Amendment note below.

Subsec. (g). Pub. L. 99-641, § 403(b)(4), temporarily designated provisions which related to responsible connection

with business as subsec. (g). See Effective and Termination Dates of 1986 Amendment note below.

Subsec. (h). Pub. L. 99-641, § 403(b)(5), temporarily designated provisions which related to finality of determination by Secretary and to judicial review as subsec. (h), substituted “Except as provided in subsection (e)(2) of this section, the determination” for “The determination” and “subsection (e) of this section” for “this section”. See Effective and Termination Dates of 1986 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1986 AMENDMENT

Section 403(b) of Pub. L. 99-641 provided that the amendment made by that section is effective only during the 6-year period beginning Nov. 10, 1986.

EFFECTIVE DATE

Subchapter effective Dec. 15, 1967, see section 20 of Pub. L. 90-201, set out as a note under section 601 of this title.

CONSTRUCTION AND EFFECT OF AMENDMENTS BY PUB. L. 99-641

For provisions relating to construction and effect of temporary amendments by section 403 of Pub. L. 99-641, see sections 403(e) and 404 of Pub. L. 99-641, set out as notes entitled “Inspection Services for Establishments Not Participating in Total Plant Quality-Control Program” and “Savings Provision”, respectively, under section 606 of this title.

§ 672. Administrative detention; duration; pending judicial proceedings; notification of governmental authorities; release

Whenever any carcass, part of a carcass, meat or meat food product of cattle, sheep, swine, goats, horses, mules, or other equines, or any product exempted from the definition of a meat food product, or any dead, dying, disabled, or diseased cattle, sheep, swine, goat, or equine is found by any authorized representative of the Secretary upon any premises where it is held for purposes of, or during or after distribution in, commerce or otherwise subject to subchapter I or II of this chapter, and there is reason to believe that any such article is adulterated or misbranded and is capable of use as human food, or that it has not been inspected, in violation of the provisions of subchapter I of this chapter or of any other Federal law or the laws of any State or Territory, or the District of Columbia, or that such article or animal has been or is intended to be, distributed in violation of any such provisions, it may be detained by such representative for a period not to exceed twenty days, pending action under section 673 of this title or notification of any Federal, State, or other governmental authorities having jurisdiction over such article or animal, and shall not be moved by any person, firm, or corporation from the place at which it is located when so detained, until released by such representative. All official marks may be required by such representative to be removed from such article or animal before it is released unless it appears to the satisfaction of the Secretary that the article or animal is eligible to retain such marks.

(Mar. 4, 1907, ch. 2907, title IV, § 402, as added Pub. L. 90-201, § 16, Dec. 15, 1967, 81 Stat. 598.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 159, 679 of this title.

§ 673. Seizure and condemnation

(a) Proceedings in rem; libel of information; jurisdiction; disposal by destruction or sale; proceeds into the Treasury; sales restrictions; bond; court costs and fees, storage, and other expenses against claimants; proceedings in admiralty; jury trial; United States as plaintiff

(1) Any carcass, part of a carcass, meat or meat food product of cattle, sheep, swine, goats, horses, mules or other equines, or any dead, dying, disabled, or diseased cattle, sheep, swine, goat, or equine, that is being transported in commerce or otherwise subject to subchapter I or II of this chapter, or is held for sale in the United States after such transportation, and that (A) is or has been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of this chapter, or (B) is capable of use as human food and is adulterated or misbranded, or (C) in any other way is in violation of this chapter, shall be liable to be proceeded against and seized and condemned, at any time, on a libel of information in any United States district court or other proper court as provided in section 674 of this title within the jurisdiction of which the article or animal is found.

(2) If the article or animal is condemned it shall, after entry of the decree, (A) be distributed in accordance with paragraph (5), or (B) be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of the United States, but the article or animal shall not be sold contrary to the provisions of this chapter, or the laws of the jurisdiction in which it is sold: *Provided*, That upon the execution and delivery of a good and sufficient bond conditioned that the article or animal shall not be sold or otherwise disposed of contrary to the provisions of this chapter, or the laws of the jurisdiction in which disposal is made, the court may direct that such article or animal be delivered to the owner thereof subject to such supervision by authorized representatives of the Secretary as is necessary to insure compliance with the applicable laws.

(3) When a decree of condemnation is entered against the article or animal and it is released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article or animal.

(4) The proceedings in such libel cases shall conform, as nearly as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

(5)(A) An article that is condemned under paragraph (1) may as the court may direct, after entry of the decree, be distributed without charge to nonprofit, private entities or to Federal, State, or local government entities engaged in the distribution of food without charge to individuals, if such article—

(i) has been inspected under this chapter and found to be wholesome and not to be adulter-

ated within the meaning of paragraphs (1) through (7) and (9) of section 601(m) of this title and a determination is made at the time of the entry of the decree that such article is wholesome and not so adulterated; and

(ii) is plainly marked “Not for Sale” on such article or its container.

(B) The United States may not be held legally responsible for any article that is distributed under subparagraph (A) to a nonprofit, private entity or to a Federal, State, or local government entity, if such article—

(i) was found after inspection under this chapter to be wholesome and not adulterated within the meaning of paragraphs (1) through (7) and (9) of section 601(m) of this title and a determination was made at the time of the entry of the decree that such article was wholesome and not so adulterated; and

(ii) was plainly marked “Not for Sale” on such article or its container.

(C) The person from whom such article was seized and condemned may not be held legally responsible for such article, if such article—

(i) was found after inspection under this chapter to be wholesome and not adulterated within the meaning of paragraphs (1) through (7) and (9) of section 601(m) of this title and a determination was made at the time of the entry of the decree that such article was wholesome and not so adulterated; and

(ii) was plainly marked “Not for Sale” on such article or its container.

(b) Condemnation or seizure under other provisions unaffected

The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this chapter, or other laws.

(Mar. 4, 1907, ch. 2907, title IV, §403, as added Pub. L. 90-201, §16, Dec. 15, 1967, 81 Stat. 598; amended Pub. L. 101-205, §1, Dec. 7, 1989, 103 Stat. 1829.)

AMENDMENTS

1989—Subsec. (a). Pub. L. 101-205 designated first sentence as par. (1) and redesignated cls. (1) to (3) as cls. (A) to (C), respectively, designated second sentence as par. (2) and inserted “(A) to be distributed in accordance with paragraph (5), or (B)” after “entry of the decree,” designated third and fourth sentences as pars. (3) and (4), respectively, and added par. (5).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 159, 672 of this title.

§ 674. Federal court jurisdiction of enforcement and injunction proceedings and other kinds of cases; limitations of section 607(e) of this title

The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other Territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this chapter, and shall have jurisdiction in all other kinds of cases arising under this chapter, except as provided in section 607(e) of this title.