

mation required under section 453(h) of this title, and provisions, whenever the Secretary determines such action to be practicable and necessary, requiring nonconsumer packaged carcasses at the time they leave the official establishment to bear the information required under the aforementioned section, for provisions requiring shipping containers to bear the official mark and the approved plant number of the official establishment in which the contents were processed, provisions requiring immediate containers to bear the official inspection mark, the name of the product, a statement of ingredients, the net weight or other appropriate measure of the contents, the name and address of the processor, and the approved plant number of the official establishment in which the contents were processed, and provisions authorizing the Secretary to make reasonable variations and grant exemptions from the foregoing labeling requirements.

Par. (b). Pub. L. 90-492 added par. (b). Provisions of former par. (b) were redesignated as pars. (c) and (d).

Par. (c). Pub. L. 90-492 redesignated part of provisions of former par. (b) as (c) and made changes in phraseology.

Par. (d). Pub. L. 90-492 redesignated part of provisions of former par. (b) as (d) and extended the authority of the Secretary to withhold from use products which have false or misleading markings or containers.

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in par. (b) 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.

§ 458. Prohibited acts

(a) No person shall—

(1) slaughter any poultry or process any poultry products which are capable of use as human food at any establishment processing any such articles for commerce, except in compliance with the requirements of this chapter;

(2) sell, transport, offer for sale or transportation, or receive for transportation, in commerce, (A) any poultry products which are capable of use as human food and are adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation; or (B) any poultry products required to be inspected under this chapter unless they have been so inspected and passed;

(3) do, with respect to any poultry products which are capable of use as human food, any act while they are being transported in commerce or held for sale after such transportation, which is intended to cause or has the effect of causing such products to be adulterated or misbranded;

(4) sell, transport, offer for sale or transportation, or receive for transportation, in commerce or from an official establishment, any slaughtered poultry from which the blood, feathers, feet, head, or viscera have not been removed in accordance with regulations promulgated by the Secretary, except as may be authorized by regulations of the Secretary;

(5) use to his own advantage, or reveal other than to the authorized representatives of the

United States Government or any State or other government in their official capacity, or as ordered by a court in any judicial proceedings, any information acquired under the authority of this chapter concerning any matter which is entitled to protection as a trade secret.

(b) No brand manufacturer, printer, or other person shall cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the Secretary.

(c) No person shall—

(1) forge any official device, mark, or certificate;

(2) without authorization from the Secretary use any official device, mark, or certificate, or simulation thereof, or alter, detach, deface, or destroy any official device, mark, or certificate;

(3) contrary to the regulations prescribed by the Secretary, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(4) knowingly possess, without promptly notifying the Secretary or his representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label or any carcass of any poultry, or part or product thereof, bearing any counterfeit, simulated, forged, or improperly altered official mark;

(5) knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the Secretary; or

(6) knowingly represent that any article has been inspected and passed, or exempted, under this chapter when, in fact, it has respectively, not been so inspected and passed, or exempted.

(Pub. L. 85-172, § 9, Aug. 28, 1957, 71 Stat. 445; Pub. L. 90-492, § 9, Aug. 18, 1968, 82 Stat. 800.)

AMENDMENTS

1968—Pub. L. 90-492 made revisions in form and phraseology, added to the enumerated prohibited acts slaughtering poultry or processing any poultry products capable of use as human food, except in compliance with the requirements of this chapter, selling and transporting adulterated or misbranded poultry products or uninspected poultry products, adulterating or misbranding poultry products while they are being transported in commerce or held for sale after such transportation, treating carcasses not in accordance with regulations promulgated by the Secretary, possessing, without notifying the Secretary, any official device or any counterfeit, simulated, etc., official certificate, or any device or label bearing any counterfeit, simulated, etc., official mark, and making false representations and statements, and clarified application to brand manufacturers and printers of existing provisions prohibiting the counterfeiting of official marks, labels, or certificates.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, except that amendment of pars. (a)(2)(A) and (a)(3) effective upon the expiration of sixty days after Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as a note under section 451 of this title.

§ 459. Compliance by all establishments

No establishment processing poultry or poultry products for commerce otherwise subject to this chapter shall process any poultry or poultry product except in compliance with the requirements of this chapter.

(Pub. L. 85-172, §10, Aug. 28, 1957, 71 Stat. 446; Pub. L. 90-492, §10, Aug. 18, 1968, 82 Stat. 801.)

AMENDMENTS

1968—Pub. L. 90-492 substituted “otherwise subject to this chapter” for “in or for marketing in a designated major consuming area”.

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.

§ 460. Miscellaneous activities subject to regulation**(a) Prohibition of inspection of articles not intended for use as human food; denaturation or other identification prior to distribution in commerce; inedible articles**

Inspection shall not be provided under this chapter at any establishment for the slaughter of poultry or the processing of any carcasses or parts or products of poultry, which are not intended for use as human food, but such articles shall, prior to their offer for sale or transportation in commerce, unless naturally inedible by humans, be denatured or otherwise identified as prescribed by regulations of the Secretary to deter their use for human food. No person shall buy, sell, transport, or offer for sale or transportation, or receive for transportation, in commerce, or import, any poultry carcasses or parts or products thereof which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Secretary or are naturally inedible by humans.

(b) Recordkeeping requirements; persons liable; scope of disclosure; access to places of business; examination of records, facilities, and inventories; copies; samples

The following classes of persons shall, for such period of time as the Secretary may by regulations prescribe, not to exceed two years unless otherwise directed by the Secretary for good cause shown, keep such records as are properly necessary for the effective enforcement of this chapter in order to insure against adulterated or misbranded poultry products for the American consumer; and all persons subject to such requirements shall, at all reasonable times, upon notice by a duly authorized representative of the Secretary, afford such representative access to their places of business and opportunity to examine the facilities, inventory, and records thereof, to copy all such records, and to take reasonable samples of their inventory upon payment of the fair market value therefor—

(1) Any person that engages in the business of slaughtering any poultry or processing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any poultry, for commerce, for use as human food or animal food;

(2) Any person that engages in the business of buying or selling (as poultry products brokers, wholesalers or otherwise), or transporting, in commerce, or storing in or for commerce, or importing, any carcasses, or parts or products of carcasses, of any poultry;

(3) Any person that engages in business, in or for commerce, as a renderer, or engages in the business of buying, selling, or transporting, in commerce, or importing, any dead, dying, disabled, or diseased poultry or parts of the carcasses of any poultry that died otherwise than by slaughter.

(c) Registration of business, name of person, and trade names

No person shall engage in business, in or for commerce, as a poultry products broker, renderer, or animal food manufacturer, or engage in business in commerce as a wholesaler of any carcasses, or parts or products of the carcasses, of any poultry, whether intended for human food or other purposes, or engage in business as a public warehouseman storing any such articles in or for commerce, or engage in the business of buying, selling, or transporting in commerce, or importing, any dead, dying, disabled, or diseased poultry, or parts of the carcasses of any poultry that died otherwise than by slaughter, unless when required by regulations of the Secretary, he has registered with the Secretary his name, and the address of each place of business at which, and all trade names under which, he conducts such business.

(d) Regulation of transactions, transportation, or importation of dead, dying, disabled or diseased poultry or carcasses to prevent use as human food

No person engaged in the business of buying, selling, or transporting in commerce, or importing, dead, dying, disabled, or diseased poultry, or any parts of the carcasses of any poultry that died otherwise than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for transportation, in commerce, or import, any dead, dying, disabled, or diseased poultry or parts of the carcasses of any poultry that died otherwise than by slaughter, unless such transaction, transportation or importation is made in accordance with such regulations as the Secretary may prescribe to assure that such poultry, or the unwholesome parts or products thereof, will be prevented from being used for human food.

(e) Federal provisions applicable to State or Territorial business transactions of a local nature and not subject to local authority

The authority conferred on the Secretary by paragraph (b), (c), or (d) of this section with respect to persons engaged in the specified kinds of business in or for commerce may be exercised with respect to persons engaged, in any State or organized territory, in such kinds of business but not in or for commerce, whenever the Secretary determines, after consultation with an appropriate advisory committee provided for in section 454 of this title, that the State or territory does not have at least equal authority under its laws or such authority is not exercised in a manner to effectuate the purposes of this

chapter, including the State or territory providing for the Secretary or his representative being afforded access to such places of business and the facilities, inventories, and records thereof, and the taking of reasonable samples, where he determines necessary in carrying out his responsibilities under this chapter; and in such case the provisions of paragraph (b), (c), or (d) of this section, respectively, shall apply to such persons to the same extent and in the same manner as if they were engaged in such business in or for commerce and the transactions involved were in commerce.

(Pub. L. 85-172, §11, Aug. 28, 1957, 71 Stat. 446; Pub. L. 90-492, §11, Aug. 18, 1968, 82 Stat. 801.)

AMENDMENTS

1968—Pub. L. 90-492 designated existing provisions as par. (b), added pars. (a), and (c) to (e), and in par. (b), as so designated, extended the types of persons required to maintain records necessary for the enforcement of this chapter, required such persons to give representatives of the Secretary access to their places of business, and opportunity to examine records, facilities, and inventories and to copy records and take inventory samples upon payment.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-492 effective Aug. 18, 1968, except that par. (d) effective upon the expiration of sixty days after Aug. 18, 1968, see section 20 of Pub. L. 90-492, set out as a note under section 451 of this title.

§ 461. Offenses and punishment

(a) Violations; liability of agents, employees, and employers

Any person who violates the provisions of section 458, 459, 460, 463, or 466 of this title shall be fined not more than \$1,000 or imprisoned not more than one year, or both; but if such violation involves intent to defraud, or any distribution or attempted distribution of an article that is adulterated (except as defined in section 453(g)(8) of this title), such person shall be fined not more than \$10,000 or imprisoned not more than three years, or both. When construing or enforcing the provisions of said sections 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) Liability of carrier

No carrier shall be subject to the penalties of this chapter, other than the penalties for violation of section 460 of this title, by reason of his receipt, carriage, holding, or delivery, in the usual course of business, as a carrier, of poultry or poultry products, owned by another person unless the carrier has knowledge, or is in possession of facts which would cause a reasonable person to believe that such poultry or poultry products were not inspected or marked in accordance with the provisions of this chapter or were otherwise not eligible for transportation under this chapter or unless the carrier refuses to furnish on request of a representative of the Secretary the name and address of the person from whom he received such poultry or poultry

products, and copies of all documents, if any there be, pertaining to the delivery of the poultry or poultry products to such carrier.

(c) Assaulting, resisting, or impeding certain persons; murder; punishments

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 acts, 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 1114 of title 18.

(Pub. L. 85-172, §12, Aug. 28, 1957, 71 Stat. 446; Pub. L. 90-492, §12, Aug. 18, 1968, 82 Stat. 802.)

AMENDMENTS

1968—Par. (a). Pub. L. 90-492, §12(a), inserted reference to violations of section 463 of this title, and substituted provisions that violators of the enumerated sections shall be fined not more than \$1,000 or imprisoned not more than one year, or both, but that in cases involving intent to defraud, or any distribution or attempt to distribute adulterated articles, except as defined in section 453(g) of this title, the violators shall be fined not more than \$10,000 or imprisoned not more than three years, or both, for provisions that violators shall be guilty of a misdemeanor and subject to imprisonment for not more than six months or a fine of not more than \$3,000, or both, with increased fines and imprisonment for any subsequent violations.

Par. (b). Pub. L. 90-492, §12(b), substituted "of poultry" for "of slaughtered poultry", "such poultry" for "such slaughtered poultry", and "otherwise not eligible" for "not otherwise eligible", and inserted provision that no carrier shall be subject to punishment unless the carrier refuses to furnish the name and address of the person from whom he received such poultry or poultry products, and copies of any documents pertaining to the delivery of the poultry or poultry products to such carrier.

Par. (c). Pub. L. 90-492, §12(c), added par. (c).

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.

§ 462. Reporting of violations; notice; opportunity to present views

Before any violation of this chapter is reported by the Secretary to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given reasonable notice of the alleged violation and opportunity to present his views orally or in writing with regard to such contemplated proceeding. Nothing in this chapter shall be construed as requiring the Secretary to report for criminal prosecution violations of this chapter whenever he believes that the public interest will be adequately served and compliance with the chapter obtained by a suitable written notice or warning.

(Pub. L. 85-172, §13, Aug. 28, 1957, 71 Stat. 447.)