

The Secretary is authorized, in his discretion, to waive the requirement of clause 4 of section 142 of this title when issuing permits to operators of condenseries in which milk and/or cream is used when sterilization of the milk and/or cream is a necessary process: *Provided, however*, That no milk and/or cream shall be imported whose bacterial count per cubic centimeter in any event exceeds one million two hundred thousand: *Provided, further*, That such requirements shall not be waived unless the farm producing such milk to be imported is within a radius of fifteen miles of the condensery in which it is to be processed: *Provided further*, That if milk and/or cream imported when the requirements of clause 4 of section 142 of this title, have been so waived, is sold, used, or disposed of in its raw state or otherwise than as condensed milk by any person, the permit shall be revoked and the importer shall be subject to fine, imprisonment, or other penalty prescribed by this subchapter.

The Secretary is directed to waive the requirements of clauses 2 and 5 of section 142 of this title insofar as the same relate to milk when issuing permits to operators of, or to producers for delivery to, creameries and condensing plants in the United States within twenty miles of the point of production of the milk, and who import no raw milk except for pasteurization or condensing: *Provided*, That if milk imported when the requirements of clauses 2 and 5 of section 142 of this title have been so waived is sold, used, or disposed of in its raw state, or otherwise than as pasteurized, condensed, or evaporated milk by any person, the permit shall be revoked and the importer shall be subjected to fine, imprisonment, or other penalty prescribed by this subchapter.

The Secretary is authorized and directed to make and enforce such regulations as may in his judgment be necessary to carry out the purpose of this subchapter for the handling of milk and cream, for the inspection of milk, cream, cows, barns, and other facilities used in the production and handling of milk and/or cream and the handling, keeping, transporting, and importing of milk and/or cream: *Provided, however*, That unless and until the Secretary shall provide for inspections to ascertain that clauses 1, 2, and 3 of section 142 of this title have been complied with, the Secretary shall issue temporary permits to any applicants therefor to ship or transport milk and/or cream into the United States.

The Secretary is authorized to suspend or revoke any permit for the shipment of milk or cream into the United States when he shall find that the holder thereof has failed to comply with the provisions of or has violated this subchapter or any of the regulations made hereunder, or that the milk and/or cream brought or shipped by the holder of such permit into the United States is not produced and handled in conformity with, or that the quality thereof does not conform to, all of the provisions of section 142 of this title.

(Feb. 15, 1927, ch. 155, § 3, 44 Stat. 1102; 1940 Reorg. Plan No. IV, § 12, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1237; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; 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.

TRANSFER OF FUNCTIONS

For transfer of functions of Federal Security Administrator to Secretary of Health, Education, and Welfare [now Health and Human Services], and of Food and Drug Administration to Federal Security Agency, see notes set out under section 321 of this title.

§ 144. Unlawful receiving of imported milk or cream

It shall be unlawful for any person in the United States to receive milk or cream imported into the United States unless the importation is in accordance with the provisions of this subchapter.

(Feb. 15, 1927, ch. 155, § 4, 44 Stat. 1103.)

§ 145. Penalties

Any person who knowingly violates any provision of this subchapter shall, in addition to all other penalties prescribed by law, be punished by a fine of not less than \$50 nor more than \$2,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

(Feb. 15, 1927, ch. 155, § 5, 44 Stat. 1103.)

§ 146. Authorization of appropriations

There is authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of \$50,000 per annum, to enable the Secretary of Health and Human Services to carry out the provisions of this subchapter.

(Feb. 15, 1927, ch. 155, § 6, 44 Stat. 1103; 1940 Reorg. Plan No. IV, § 12, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1237; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

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TRANSFER OF FUNCTIONS

For transfer of functions of Federal Security Administrator to Secretary of Health, Education, and Welfare [now Health and Human Services], and of Food and Drug Administration to Federal Security Agency, see Transfer of Functions notes set out under section 321 of this title.

§ 147. Repeal of inconsistent laws

Any laws or parts of laws inconsistent with this subchapter are repealed.

(Feb. 15, 1927, ch. 155, § 7, 44 Stat. 1103.)

§ 148. Powers of State with respect to milk or cream lawfully imported

Nothing in this subchapter is intended nor shall be construed to affect the powers of any

State, or any political subdivision thereof, to regulate the shipment of milk or cream into, or the handling, sale, or other disposition of milk or cream in, such State or political subdivision after the milk and/or cream shall have been lawfully imported under the provisions of this subchapter.

(Feb. 15, 1927, ch. 155, § 8, 44 Stat. 1103.)

§ 149. Definitions

When used in this subchapter—

(a) The term “person” means an individual, partnership, association, or corporation.

(b) The term “United States” means the fifty States and the District of Columbia.

(Feb. 15, 1927, ch. 155, § 9, 44 Stat. 1103; Pub. L. 86-70, § 19, June 25, 1959, 73 Stat. 145; Pub. L. 86-624, § 15, July 12, 1960, 74 Stat. 415.)

AMENDMENTS

1960—Subsec. (b). Pub. L. 86-624 substituted “means the fifty States and the District of Columbia” for “means continental United States, including Alaska”.
1959—Subsec. (b). Pub. L. 86-70 inserted “, including Alaska” after “continental United States”.

CHAPTER 5—VIRUSES, SERUMS, TOXINS, ANTITOXINS, AND ANALOGOUS PRODUCTS

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| Sec. | |
| 151. | Preparation and sale of worthless or harmful products for domestic animals prohibited; preparation to be in compliance with rules at licensed establishments. |
| 152. | Importation regulated and prohibited. |
| 153. | Inspection of imports; denial of entry and destruction. |
| 154. | Regulations for preparation and sale; licenses. |
| 154a. | Special licenses for special circumstances; expedited procedure; conditions; exemptions; criteria. |
| 155. | Permits for importation. |
| 156. | Licenses conditioned on permitting inspection; suspension of licenses. |
| 157. | Inspection. |
| 158. | Offenses; punishment. |
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FEDERAL FOOD, DRUG, AND COSMETIC ACT

By virtue of act June 25, 1938, ch. 675, § 902(c), 52 Stat. 1059 [section 392(b) of this title], nothing contained in section 301 et seq. of this title shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of this chapter.

§ 151. Preparation and sale of worthless or harmful products for domestic animals prohibited; preparation to be in compliance with rules at licensed establishments

It shall be unlawful for any person, firm, or corporation to prepare, sell, barter, or exchange in the District of Columbia, or in the Territories, or in any place under the jurisdiction of the United States, or to ship or deliver for shipment in or from the United States, the District of Columbia, any territory of the United States, or any place under the jurisdiction of the United States, any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product intended for use in the treatment of domestic animals, and no person, firm, or corpora-

tion shall prepare, sell, barter, exchange, or ship as aforesaid any virus, serum, toxin, or analogous product manufactured within the United States and intended for use in the treatment of domestic animals, unless and until the said virus, serum, toxin, or analogous product shall have been prepared, under and in compliance with regulations prescribed by the Secretary of Agriculture, at an establishment holding an unsuspended and unrevoked license issued by the Secretary of Agriculture as hereinafter authorized.

(Mar. 4, 1913, ch. 145, § 1 [part], 37 Stat. 832; Pub. L. 99-198, title XVII, § 1768(a), Dec. 23, 1985, 99 Stat. 1654.)

CODIFICATION

The sections of this chapter are comprised of the sentences of the eighth paragraph under the heading “Bureau of Animal Industry,” in the Department of Agriculture Appropriation Act, 1914, as amended.

Another section 1768 of Pub. L. 99-198, cited as a credit to this section, amended section 136y of Title 7, Agriculture.

AMENDMENTS

1985—Pub. L. 99-198 substituted “in or from the United States, the District of Columbia, any territory of the United States, or any place under the jurisdiction of the United States” for “from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia”.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1768(f) of Pub. L. 99-198 provided that:

“(1) Except as provided in paragraph (2), the amendments made by this section [enacting sections 154a and 159 of this title and amending this section and sections 154 and 157 of this title] shall become effective on the date of enactment of this Act [Dec. 23, 1985].

“(2)(A) Subject to subparagraphs (B) through (D), in the case of a person, firm, or corporation preparing, selling, bartering, exchanging, or shipping a virus, serum, toxin, or analogous product during the 12-month period ending on the date of enactment of this Act [Dec. 23, 1985] solely for intrastate commerce or for exportation, such product shall not after such date of enactment, as a result of its not having been licensed or produced in a licensed establishment, be considered in violation of the eighth paragraph of the matter under the heading ‘BUREAU OF ANIMAL INDUSTRY’ of the Act entitled ‘An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and fourteen’, approved March 14, 1913 (as amended by this section) [this chapter], until the first day of the 49th month following the date of enactment of this Act.

“(B) The exemption granted by subparagraph (A) may be extended by the Secretary of Agriculture for a period up to 12 months in an individual case on a showing by a person, firm, or corporation of good cause and a good faith effort to comply with such eighth paragraph with due diligence.

“(C) The exemption granted by subparagraph (A) must be claimed by the person, firm, or corporation preparing such product by the first day of the 13th month following the date of enactment of this Act [Dec. 23, 1985], in the form and manner prescribed by the Secretary, unless the Secretary grants an extension of the time to claim such exemption in an individual case for good cause shown.

“(D) On the issuance by the Secretary of a license to such person, firm, or corporation for such product prior to the first day of the 49th month following the date of enactment of this Act [Dec. 23, 1985], or the end of an extension of the exemption granted by the Secretary, the exemption granted by subparagraph (A) shall terminate with respect to such product.”