

§ 2148. Repealed. Pub. L. 91-579, § 19, Dec. 24, 1970, 84 Stat. 1564

Section, Pub. L. 89-544, § 18, Aug. 24, 1966, 80 Stat. 352, prohibited any construction of the chapter which would authorize the Secretary to promulgate rules, regulations, or orders for the handling, care, treatment, or inspection of animals during actual research or experimentation. See section 2143 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective one year after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

§ 2149. Violations by licensees

(a) Temporary license suspension; notice and hearing; revocation

If the Secretary has reason to believe that any person licensed as a dealer, exhibitor, or operator of an auction sale subject to section 2142 of this title, has violated or is violating any provision of this chapter, or any of the rules or regulations or standards promulgated by the Secretary hereunder, he may suspend such person's license temporarily, but not to exceed 21 days, and after notice and opportunity for hearing, may suspend for such additional period as he may specify, or revoke such license, if such violation is determined to have occurred.

(b) Civil penalties for violation of any section, etc.; separate offenses; notice and hearing; appeal; considerations in assessing penalty; compromise of penalty; civil action by Attorney General for failure to pay penalty; district court jurisdiction; failure to obey cease and desist order

Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 2142 of this title, that violates any provision of this chapter, or any rule, regulation, or standard promulgated by the Secretary thereunder, may be assessed a civil penalty by the Secretary of not more than \$2,500 for each such violation, and the Secretary may also make an order that such person shall cease and desist from continuing such violation. Each violation and each day during which a violation continues shall be a separate offense. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing with respect to the alleged violation, and the order of the Secretary assessing a penalty and making a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States Court of Appeals. The Secretary shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the person involved, the gravity of the violation, the person's good faith, and the history of previous violations. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which such person is found or resides or transacts business, to collect the penalty, and

such court shall have jurisdiction to hear and decide any such action. Any person who knowingly fails to obey a cease and desist order made by the Secretary under this section shall be subject to a civil penalty of \$1,500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

(c) Appeal of final order by aggrieved person; limitations; exclusive jurisdiction of United States Courts of Appeals

Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 2142 of this title, aggrieved by a final order of the Secretary issued pursuant to this section may, within 60 days after entry of such an order, seek review of such order in the appropriate United States Court of Appeals in accordance with the provisions of sections 2341, 2343 through 2350 of title 28, and such court shall have exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary's order.

(d) Criminal penalties for violation; initial prosecution brought before United States magistrate judges; conduct of prosecution by attorneys of United States Department of Agriculture

Any dealer, exhibitor, or operator of an auction sale subject to section 2142 of this title, who knowingly violates any provision of this chapter shall, on conviction thereof, be subject to imprisonment for not more than 1 year, or a fine of not more than \$2,500, or both. Prosecution of such violations shall, to the maximum extent practicable, be brought initially before United States magistrate judges as provided in section 636 of title 28, and sections 3401 and 3402 of title 18, and, with the consent of the Attorney General, may be conducted, at both trial and upon appeal to district court, by attorneys of the United States Department of Agriculture.

(Pub. L. 89-544, § 19, Aug. 24, 1966, 80 Stat. 352; Pub. L. 91-579, § 20, Dec. 24, 1970, 84 Stat. 1564; Pub. L. 94-279, § 13, Apr. 22, 1976, 90 Stat. 420; Pub. L. 99-198, title XVII, § 1755, Dec. 23, 1985, 99 Stat. 1650; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

AMENDMENTS

1985—Subsec. (b). Pub. L. 99-198, § 1755(a), substituted “\$2,500 for each such violation” for “\$1,000 for each such violation” in first sentence and directed the substitution of “\$1,500 for each offense” for “\$500 for each offense” in sixth sentence, which was executed to the seventh sentence as the probable intent of Congress.

Subsec. (d). Pub. L. 99-198, § 1755(b), substituted “\$2,500” for “\$1,000”.

1976—Subsec. (a). Pub. L. 94-279 substituted provisions covering violations by licensees, temporary license suspension, notice and hearing, and license revocation for provisions relating to violations by dealers, exhibitors, operators of auction sales, cease and desist orders, license suspension, and civil penalties.

Subsec. (b). Pub. L. 94-279 substituted provisions covering civil penalties, notice and hearing, appeal, considerations in assessing penalties, compromising penalties, civil action by Attorney General for failure to pay penalty, district court jurisdiction, and failure to obey cease and desist orders for provisions relating to judicial review of final orders by the Secretary.

Subsec. (c). Pub. L. 94-279 substituted provisions covering appeal of final orders by aggrieved persons, limi-

tations, and exclusive jurisdiction of the United States Courts of Appeals for provisions relating to criminal penalties.

Subsec. (d). Pub. L. 94-279 added subsec. (d).

1970—Pub. L. 91-579 added exhibitors and operators of auction sales to the enumeration of covered persons, added civil penalties for failure to obey a cease and desist order of the Secretary, and changed the procedure for judicial review.

CHANGE OF NAME

“United States magistrate judges” substituted for “United States magistrates” in subsec. (d) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-198 effective one year after Dec. 23, 1985, see section 1759 of Pub. L. 99-198, set out as a note under section 2131 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-579 effective 30 days after Dec. 24, 1970, see section 23 of Pub. L. 91-579, set out as a note under section 2131 of this title.

§ 2150. Repealed. Pub. L. 94-279, § 14, Apr. 22, 1976, 90 Stat. 421

Section, Pub. L. 89-544, § 20, Aug. 24, 1966, 80 Stat. 353; Pub. L. 91-579, § 21, Dec. 24, 1970, 84 Stat. 1565, provided for issuance of cease and desist orders if Secretary had reason to believe that any research facility had violated any provision of this chapter, provided for a civil penalty, and provided appeal mechanism by which aggrieved person may have judicial review of such final order by Secretary. See section 2149 of this title.

§ 2151. Rules and regulations

The Secretary is authorized to promulgate such rules, regulations, and orders as he may deem necessary in order to effectuate the purposes of this chapter.

(Pub. L. 89-544, § 21, Aug. 24, 1966, 80 Stat. 353.)

§ 2152. Separability

If any provision of this chapter or the application of any such provision to any person or circumstances shall be held invalid, the remainder of this chapter and the application of any such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

(Pub. L. 89-544, § 22, Aug. 24, 1966, 80 Stat. 353.)

§ 2153. Fees and authorization of appropriations

The Secretary shall charge, assess, and cause to be collected reasonable fees for licenses issued. Such fees shall be adjusted on an equitable basis taking into consideration the type and nature of the operations to be licensed and shall be deposited and covered into the Treasury as miscellaneous receipts. There are hereby authorized to be appropriated such funds as Congress may from time to time provide: *Provided*, That there is authorized to be appropriated to the Secretary of Agriculture for enforcement by the Department of Agriculture of the provisions of section 2156 of this title an amount not to exceed \$100,000 for the transition quarter ending September 30, 1976, and not to exceed \$400,000 for each fiscal year thereafter.

(Pub. L. 89-544, § 23, Aug. 24, 1966, 80 Stat. 353; Pub. L. 94-279, § 18, Apr. 22, 1976, 90 Stat. 423.)

AMENDMENTS

1976—Pub. L. 94-279 authorized appropriations for the enforcement of section 2156 of this title.

§ 2154. Effective dates

The regulations referred to in sections 2140 and 2143 of this title shall be prescribed by the Secretary as soon as reasonable but not later than six months from August 24, 1966. Additions and amendments thereto may be prescribed from time to time as may be necessary or advisable. Compliance by dealers with the provisions of this chapter and such regulations shall commence ninety days after the promulgation of such regulations. Compliance by research facilities with the provisions of this chapter and such regulations shall commence six months after the promulgation of such regulations, except that the Secretary may grant extensions of time to research facilities which do not comply with the standards prescribed by the Secretary pursuant to section 2143 of this title provided that the Secretary determines that there is evidence that the research facilities will meet such standards within a reasonable time. Notwithstanding the other provisions of this section, compliance by intermediate handlers, and carriers, and other persons with those provisions of this chapter, as amended by the Animal Welfare Act Amendments of 1976, and those regulations promulgated thereunder, which relate to actions of intermediate handlers and carriers, shall commence 90 days after promulgation of regulations under section 2143 of this title, as amended, with respect to intermediate handlers and carriers, and such regulations shall be promulgated no later than 9 months after April 22, 1976; and compliance by dealers, exhibitors, operators of auction sales, and research facilities with other provisions of this chapter, as so amended, and the regulations thereunder, shall commence upon the expiration of 90 days after April 22, 1976: *Provided, however*, That compliance by all persons with subsections (b), (c), and (d) of section 2143 and with section 2156 of this title, as so amended, shall commence upon the expiration of said ninety-day period. In all other respects, said amendments shall become effective on April 22, 1976.

(Pub. L. 89-544, § 24, Aug. 24, 1966, 80 Stat. 353; Pub. L. 94-279, § 15, Apr. 22, 1976, 90 Stat. 421.)

REFERENCES IN TEXT

The Animal Welfare Act Amendments of 1976, referred to in text, is Pub. L. 94-279, Apr. 22, 1976, 90 Stat. 417, which enacted section 2156 of this title, amended sections 2131, 2132, 2134, 2136, 2139 to 2146, 2149, 2153 to 2155 of this title, and section 3001 of Title 39, Postal Service, repealed section 2150 of this title, and enacted provisions set out as notes under section 2131 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 3121 of this title and Tables.

Subsections (b), (c), and (d) of section 2143 of this title, referred to in text, were redesignated subsecs. (f), (g), and (h), respectively, and new subsecs. (b), (c), and (d) of section 2143 were enacted, by Pub. L. 99-198, title XVII, § 1752(a)(1), (c), Dec. 23, 1985, 99 Stat. 1645, 1647.