bles, melons, dairy, or poultry products or any perishable farm products of any kind or character, hereinafter referred to as produce, in interstate commerce, or in the District of Columbia, for or on behalf of another, who without good and sufficient cause therefor shall destroy or abandon, discard as refuse or dump any produce directly or indirectly or through collusion with any person, or who shall knowingly and with intent to defraud make any false report or statement to the person, firm, association, or corporation from whom any produce was received, concerning the handling, condition, quality, quantity, sale, or disposition thereof or who shall knowingly and with intent to defraud fail truly and correctly to account therefor shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than $100 and not more than $3,000, or by imprisonment for a period of not exceeding one year, or both, at the discretion of the court.

(Mar. 3, 1927, ch. 309, § 1, 44 Stat. 1355.)

CODIFICATION

Section constitutes part of section 1 of act Mar. 3, 1927. Remainder of section 1 was classified to section 492 of this title.

§ 492. Repealed. Aug. 9, 1955, ch. 632, § 2, 69 Stat. 553

Section, act Mar. 3, 1927, ch. 309, § 1, 44 Stat. 1355, related to investigation of quality and condition of produce received in interstate commerce. See section 1622(h) of this title.

§ 493. Enforcement of provisions; prosecution of cases

The Secretary of Agriculture is authorized and directed to enforce this chapter. It is made the duty of all United States attorneys to prosecute cases arising under this chapter, subject to the supervision and control of the Department of Justice.

(Mar. 3, 1927, ch. 309, § 2, 44 Stat. 1355.)

§ 494. Rules and regulations; cooperation with States, etc., officers and employees; expenditures

The Secretary of Agriculture may make such rules and regulations as he may deem advisable to carry out the provisions of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and may call upon any Federal department, board, or commission for assistance in carrying out the purposes of this chapter; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law and make such expenditure for rent, outside the District of Columbia, printing, telegrams, telephones, books of reference, books of law, periodicals, newspapers, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be deemed necessary to the administration of this chapter in the District of Columbia and elsewhere.

(Mar. 3, 1927, ch. 309, § 3, 44 Stat. 1355.)

CODIFICATION

Section constitutes part of section 3 of act Mar. 3, 1927. Remainder of section 3 is classified to sections 495 and 496 of this title.

§ 495. Authorization of appropriations

There is authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary after the fiscal year beginning July 1, 1927 to carry out the purposes of this chapter.

(Mar. 3, 1927, ch. 309, § 3, 44 Stat. 1355.)

CODIFICATION

Section constitutes part of section 3 of act Mar. 3, 1927. Remainder of section 3 is classified to sections 494 and 496 of this title.

§ 496. Validity of other statutes dealing with same subject

This chapter shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects as this chapter, but it is intended that all such statutes shall remain in full force and effect, except insofar only as they are inconsistent herewith or repugnant hereto.

(Mar. 3, 1927, ch. 309, § 3, 44 Stat. 1355.)

CODIFICATION

Section constitutes part of section 3 of act Mar. 3, 1927. Remainder of section 3 is classified to sections 494 and 495 of this title.

§ 497. Separability

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of the chapter and the applicability of such provisions to other persons and circumstances shall not be affected thereby.

(Mar. 3, 1927, ch. 309, § 4, 44 Stat. 1356.)

CHAPTER 20A—PERISHABLE AGRICULTURAL COMMODITIES

Sec.

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499p. Liability of licensees for acts and omissions of agents.
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§ 499a. Short title and definitions

(a) Short title

This chapter may be cited as the ''Perishable Agricultural Commodities Act, 1930''.

(b) Definitions

For purposes of this chapter:

(1) The term ''person'' includes individuals, partnerships, corporations, and associations.

(2) The term ''Secretary'' means the Secretary of Agriculture.

(3) The term ''interstate or foreign commerce'' means commerce between any State or Territory, or the District of Columbia and any place outside thereof; or between points within the same State or Territory, or the District of Columbia but through any place outside thereof; or within the District of Columbia.

(4) The term ''perishable agricultural commodity''—

(A) Means any of the following, whether or not frozen or packed in ice: Fresh fruits and fresh vegetables of every kind and character; and

(B) Includes cherries in brine as defined by the Secretary in accordance with trade usages.

(5) The term ''commission merchant'' means any person engaged in the business of receiving in interstate or foreign commerce any perishable agricultural commodity for sale, on commission, or for or on behalf of another.

(6) The term ''dealer'' means any person engaged in the business of buying or selling in wholesale or jobbing quantities, as defined by the Secretary, any perishable agricultural commodity in interstate or foreign commerce, except that (A) no producer shall be considered as a ''dealer'' in respect to sales of any such commodity of his own raising; (B) no person buying any such commodity solely for sale at retail shall be considered as a ''dealer'' until the invoice cost of his purchases of perishable agricultural commodities in any calendar year are in excess of $230,000; and (C) no person buying any commodity other than potatoes for canning and/or processing within the State where grown shall be considered a ''dealer'' whether or not the canned or processed product is to be shipped in interstate or foreign commerce, unless such product is frozen or packed in ice, or consists of cherries in brine, within the meaning of paragraph (4) of this section. Any person not considered as a ''dealer'' under clauses (A), (B), and (C) may elect to secure a license under the provisions of section 499c of this title, and in such case and while the license is in effect such person shall be considered as a ''dealer''.

(7) The term ''broker'' means any person engaged in the business of negotiating sales and purchases of any perishable agricultural commodity in interstate or foreign commerce for or on behalf of the vendor or the purchaser, respectively, except that no person shall be deemed to be a ''broker'' if such person is an independent agent negotiating sales for and on behalf of the vendor and if the only sales of such commodities negotiated by such person are sales of frozen fruits and vegetables having an invoice value not in excess of $230,000 in any calendar year.

(8) A transaction in respect of any perishable agricultural commodity shall be considered in interstate or foreign commerce if such commodity is part of that current of commerce usual in the trade in that commodity whereby such commodity and/or the products of such commodity are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where sale is either for shipment to another State, or for processing within the State and the shipment outside the State of the products resulting from such processing. Commodities normally in such current of commerce shall not be considered out of such commerce through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter.

(9) The term ''responsibly connected'' means affiliated or connected with a commission merchant, dealer, or broker as (A) partner in a partnership, or (B) officer, director, or holder of more than 10 per centum of the outstanding stock of a corporation or association. A person shall not be deemed to be responsibly connected if the person demonstrates by a preponderance of the evidence that the person was not actively involved in the activities resulting in a violation of this chapter and that the person either was only nominally a partner, officer, director, or shareholder of a violating licensee or entity subject to license or was not an owner of a violating licensee or entity subject to license which was the alter ego of its owners.

(10) The terms ''employ'' and ''employment'' mean any affiliation of any person with the business operations of a licensee, with or without compensation, including ownership or self-employment.

(11) The term ''retailer'' means a person that is a dealer engaged in the business of selling any perishable agricultural commodity at retail.

(12) The term ''grocery wholesaler'' means a person that is a dealer primarily engaged in the full-line wholesale distribution and resale of grocery and related nonfood items (such as perishable agricultural commodities, dry groceries, general merchandise, meat, poultry, and seafood, and health and beauty care items) to retailers. However, such term does not include a person described in the preceding sentence if the person is primarily engaged in the wholesale distribution and resale of perishable agricultural commodities rather than other grocery and related nonfood items.

(13) The term ''collateral fees and expenses'' means any promotional allowances, rebates, service or materials fees paid or provided, directly or indirectly, in connection with the distribution or marketing of any perishable agricultural commodity.

(June 10, 1930, ch. 436, § 1, 46 Stat. 531; Apr. 13, 1934, ch. 120, § 1, 48 Stat. 584; Aug. 20, 1937, ch. 719, § 1, 50 Stat. 725; June 29, 1940, ch. 456, §§ 1, 2, 54 Stat. 696; Pub. L. 87–725, §§ 1, 2, Oct. 1, 1962, 76 Stat. 673; Pub. L. 91–107, §§ 1, 2, Nov. 4, 1969, 83 Stat. 182; Pub. L. 95–562, § 1, Nov. 1, 1978, 92 Stat. 2381; Pub. L. 97–98, title XI, § 1115(a), Dec. 22, 1981, 95 Stat. 1269; Pub. L. 102–237, title X, § 1011(1), Dec. 13, 1991, 105 Stat. 1898; Pub. L. 104–48, §§ 2, 9(a), 12(a), Nov. 15, 1995, 109 Stat. 424, 429, 430.)

CODIFICATION

Section was formerly classified to section 551 of this title.

AMENDMENTS

1995—Subsec. (b)(9). Pub. L. 104–48, § 12(a), inserted at end ''A person shall not be deemed to be responsibly connected if the person demonstrates by a preponderance of the evidence that the person was not actively involved in the activities resulting in a violation of this chapter and that the person either was only nominally a partner, officer, director, or shareholder of a violating licensee or entity subject to license or was not an owner of a violating licensee or entity subject to license which was the alter ego of its owners.''

Subsec. (b)(11), (12). Pub. L. 104–48, § 2, added pars. (11) and (12).

Subsec. (b)(13). Pub. L. 104–48, § 9(a), added par. (13).

1991—Pub. L. 102–237 inserted section catchline, added subsec. (a), designated existing provisions as subsec. (b), and in subsec. (b), inserted heading, substituted ''For purposes of this chapter:'' for ''When used in this chapter—'' and periods for semicolons at the end of pars. (1) to (6) and (9).

1981—Pars. (6), (7). Pub. L. 97–98 substituted ''$230,000'' for ''$200,000''.

1978—Par. (6)(B). Pub. L. 95–562, § 1(a)(1), substituted ''$200,000'' for ''$100,000''.

Par. (6)(C). Pub. L. 95–562, § 1(b), inserted ''other than potatoes'' after ''commodity''.

Par. (7). Pub. L. 95–562, § 1(a)(2), substituted ''$200,000'' for ''$100,000''.

1969—Par. (6)(B). Pub. L. 91–107, § 1, substituted ''$100,000'' for ''$90,000''.

Par. (7). Pub. L. 91–107, § 2, substituted ''$100,000'' for ''$90,000''.

1962—Par. (6). Pub. L. 87–725, § 1, substituted ''wholesale or jobbing quantities'' for ''carloads'', the requirement that the dealer's invoice cost of his purchases in any calendar year exceed $90,000 for the requirement that his purchases in such year exceed 20 carloads, and struck out definition of ''in carloads''.

Par. (7). Pub. L. 87–725, § 1, excluded from definition of ''broker'', persons who are independent agents negotiating sales for vendors and whose sales are of frozen fruits and vegetables having an invoice value not exceeding $90,000 in any calendar year.

Pars. (9), (10). Pub. L. 87–725, § 2, added pars. (9) and (10).

1940—Par. (4). Act June 29, 1940, § 1, designated existing provisions as cl. (A) and added cl. (B).

Par. (6)(C). Act June 29, 1940, § 2, inserted '', or consists of cherries in brine,'' after ''ice''.

1937—Par. (6)(C). Act Aug. 20, 1937, inserted ''unless such product is frozen or packed in ice within the meaning of paragraph 4 of this section'' after ''foreign commerce''.

1934—Par. (6)(C). Act Apr. 13, 1934, added cl. (C).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 1(a) of Pub. L. 95–562 provided that the amendment made by that section is effective Jan. 1, 1979.

SHORT TITLE OF 1995 AMENDMENT

Section 1(a) of Pub. L. 104–48 provided that: ''This Act [amending this section and sections 499b, 499c to 499f, and 499h of this title and repealing provisions set out as a note under section 499f of this title] may be cited as the 'Perishable Agricultural Commodities Act Amendments of 1995'.''

STUDY OF DOMESTIC FRUIT AND VEGETABLE INDUSTRY

Pub. L. 101–624, title XIII, §§ 1301–1305, Nov. 28, 1990, 104 Stat. 3559, 3560, provided that:

''SEC. 1301. FINDINGS.

''Congress finds that—

''(1) fruits, vegetables, and specialty crops are a vital and important source of nutrition for the general health and welfare of the people of the United States; and

''(2) fruits and vegetables are recommended as an essential part of a healthy, nutritious diet by numerous health officials and organizations including the Surgeon General of the United States; the National Institutes of Health; the National Cancer Institute; the American Heart Association; the Committee on Diet, Nutrition and Cancer of the National Academy of Sciences; the Department of Agriculture; and the Department of Health and Human Services.

''SEC. 1302. PURPOSES.

''The purposes of this subtitle [subtitle A (§§ 1301–1309) of Pub. L. 101–624, enacting section 499b–1 of this title, amending sections 608c and 608e–1 of this title, and enacting this note] are to—

''(1) improve the Nation's dietary and nutritional standards by promoting domestically produced wholesome and nutritious fruit and vegetable products;

''(2) increase the public awareness as to the difficulties domestic producers experience regarding the production, harvesting, and marketing of these products; and

''(3) aid in the development of new technology and techniques that will assist domestic producers in meeting the challenges of increased demands for fruit and vegetable products in the future.

''SEC. 1303. DECLARATION.

''Congress declares that the domestic production of fruits and vegetables is an integral part of this Nation's farm policy.

''SEC. 1304. STUDY OF THE FRUIT AND VEGETABLE INDUSTRY.

''(a) STUDY.—

''(1) IN GENERAL.—The Secretary of Agriculture shall conduct a study to determine the state of the domestic fruit and vegetable industry. In conducting such study, the Secretary of Agriculture shall consult with such agencies or departments, as determined necessary by the Secretary of Agriculture, including the Environmental Protection Agency, the Department of Health and Human Services, the Department of Commerce, the Department of Labor, and the Department of Education.

''(2) CONTENTS.—The study conducted under paragraph (1) shall include—

''(A) a review of the availability of an adequate labor supply for maintaining and harvesting of fruits and vegetables;

''(B) a review of the availability of crop insurance or disaster assistance for fruit and vegetable producers;

''(C) a review of scientific and technological advances in the areas of genetics, biotechnology, integrated pest management, post harvest protection, and other scientific developments related to the production and marketing of fruits and vegetables;

''(D) an examination of the availability of safe and effective chemicals for use in the production of fruits and vegetables, and an evaluation of the value of national uniformity to both consumers and producers;

''(E) a review of the requirements and cost of labeling fruits and vegetables in the industry, and the benefits that would result from the labeling of such products; and

''(F) a review of Federal educational programs that teach the importance of fruits and vegetables to a proper diet.

''(b) REPORT.—Not later than 18 months after the date of enactment of this title [Nov. 28, 1990], the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the results of the study described in subsection (a). Such report shall include—

''(1) the recommendations of the Secretary concerning the manner in which producers of domestic fruit and vegetable commodities that are not receiving assistance under the programs that provide market enhancement assistance (such as the export enhancement program under subtitle B of title XI of the Food Security Act of 1985 (7 U.S.C. 1736p et seq.) to producers of domestic fruit and vegetable commodities, could participate in such programs; and

''(2) the recommendations to the Secretary concerning the establishment of additional programs of the type described in paragraph (1) to assist producers of domestic fruit and vegetable commodities in increasing their production and in expanding domestic and foreign markets for the products of such producers.

''SEC. 1305. COUNTRY OF ORIGIN LABELING PROGRAMS.

''(a) GROWN IN THE U.S. PROGRAM.—The Secretary of Agriculture (hereafter referred to in this section as the 'Secretary') shall implement a program defining the conditions under which non-perishable agricultural products may be designated as 'grown in the U.S.'.

''(b) PILOT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall implement a 2-year pilot program during which time perishable agricultural products (fresh fruits and vegetables) are labeled or marked as to their country of origin. This program shall be conducted nationwide. After the 2-year period, the Secretary shall conduct a study to determine the results of the program. The Secretary shall submit to the Congress the results of the study within 18 months from the date of completion of the program.

''(2) DETAILS OF THE PILOT PROGRAM.—

''(A) DESIGNATION OF COUNTRY OF ORIGIN.—The program shall require that the country of origin of perishable agricultural products be indicated on any such products or on the package, display, holding unit, or bin by means of a label, stamp, mark, placard, or other clear and visible indication at the point of sale by any commission merchant, dealer, broker, or grocer. A sign near the products shall be an acceptable indication of the country of origin.

''(B) APPLICATION OF PROGRAM.—

''(i) IMPORTED AND DOMESTIC PRODUCTS.—The program shall apply to imported and domestic perishable agricultural products (including fresh fruits and vegetables).

''(ii) IMPORTED PERISHABLE AGRICULTURAL PRODUCTS.—The labeling program shall apply to imported perishable agricultural products that enter the United States marked as to the country of origin and that are in compliance with section 304(a) of the Tariff Act of 1930 [19 U.S.C. 1304(a)].

''(C) EXEMPTIONS.—The Secretary may provide for exemptions for products that are exempted, under section 304(a)(3)(J) of the Tariff Act of 1930, from the country of origin marking requirements of that Act [19 U.S.C. 1202 et seq.].

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''

POTATO DEALERS

Section 1(b) of Pub. L. 95–562 provided in part that no person buying potatoes for processing solely within the State where grown shall be deemed or considered to be a dealer under par. (6) of this section as amended by section 1(b) of Pub. L. 95–562 until Jan. 1, 1982.

§ 499b. Unfair conduct

It shall be unlawful in or in connection with any transaction in interstate or foreign commerce:

(1) For any commission merchant, dealer, or broker to engage in or use any unfair, unreasonable, discriminatory, or deceptive practice in connection with the weighing, counting, or in any way determining the quantity of any perishable agricultural commodity received, bought, sold, shipped, or handled in interstate or foreign commerce.

(2) For any dealer to reject or fail to deliver in accordance with the terms of the contract without reasonable cause any perishable agricultural commodity bought or sold or contracted to be bought, sold, or consigned in interstate or foreign commerce by such dealer.

(3) For any commission merchant to discard, dump, or destroy without reasonable cause, any perishable agricultural commodity received by such commission merchant in interstate or foreign commerce.

(4) For any commission merchant, dealer, or broker to make, for a fraudulent purpose, any false or misleading statement in connection with any transaction involving any perishable agricultural commodity which is received in interstate or foreign commerce by such commission merchant, or bought or sold, or contracted to be bought, sold, or consigned, in such commerce by such dealer, or the purchase or sale of which in such commerce is negotiated by such broker; or to fail or refuse truly and correctly to account and make full payment promptly in respect of any transaction in any such commodity to the person with whom such transaction is had; or to fail, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with any such transaction; or to fail to maintain the trust as required under section 499e(c) of this title. However, this paragraph shall not be considered to make the good faith offer, solicitation, payment, or receipt of collateral fees and expenses, in and of itself, unlawful under this chapter.

(5) For any commission merchant, dealer, or broker to misrepresent by word, act, mark, stencil, label, statement, or deed, the character, kind, grade, quality, quantity, size, pack, weight, condition, degree of maturity, or State, country, or region of origin of any perishable agricultural commodity received, shipped, sold, or offered to be sold in interstate or foreign commerce. However, any commission merchant, dealer, or broker who has violated—

(A) any provision of this paragraph may, with the consent of the Secretary, admit the violation or violations; or

(B) any provision of this paragraph relating to a misrepresentation by mark, stencil, or label shall be permitted by the Secretary to admit the violation or violations if such violation or violations are not repeated or flagrant;

and pay, in the case of a violation under either clause (A) or (B) of this paragraph, a monetary penalty not to exceed $2,000 in lieu of a formal proceeding for the suspension or revocation of license, any payment so made to be deposited into the Treasury of the United States as miscellaneous receipts. A person other than the first licensee handling misbranded perishable agricultural commodities shall not be held liable for a violation of this paragraph by reason of the conduct of another if the person did not have knowledge of the violation or lacked the ability to correct the violation.

(6) For any commission merchant, dealer, or broker, for a fraudulent purpose, to remove, alter, or tamper with any card, stencil, stamp, tag, or other notice placed upon any container or railroad car containing any perishable agricultural commodity, if such card, stencil, stamp, tag, or other notice contains a certificate or statement under authority of any Federal or State inspector or in compliance with any Federal or State law or regulation as to the grade or quality of the commodity contained in such container or railroad car or the State or country in which such commodity was produced.

(7) For any commission merchant, dealer or broker, without the consent of an inspector, to make, cause, or permit to be made any change by way of substitution or otherwise in the contents of a load or lot of any perishable agricultural commodity after it has been officially inspected for grading and certification, but this shall not prohibit re-sorting and discarding inferior produce.

(June 10, 1930, ch. 436, § 2, 46 Stat. 532; Apr. 13, 1934, ch. 120, §§ 2, 3, 48 Stat. 585; June 19, 1936, ch. 602, § 1, 49 Stat. 1533; Aug. 20, 1937, ch. 719, §§ 2–4, 50 Stat. 725, 726; June 29, 1940, ch. 456, §§ 3, 4, 54 Stat. 696; Apr. 6, 1942, ch. 211, 56 Stat. 200; July 30, 1956, ch. 786, § 1, 70 Stat. 726; Pub. L. 93–369, Aug. 10, 1974, 88 Stat. 423; Pub. L. 97–352, § 1, Oct. 18, 1982, 96 Stat. 1667; Pub. L. 98–273, § 2, May 7, 1984, 98 Stat. 166; Pub. L. 104–48, §§ 9(b), 10, Nov. 15, 1995, 109 Stat. 430.)

CODIFICATION

Section was formerly classified to section 552 of this title.

AMENDMENTS

1995—Pub. L. 104–48, § 9(b)(1), substituted ''commerce:'' for ''commerce—'' in introductory provisions.

Pars. (1) to (3). Pub. L. 104–48, § 9(b)(2), substituted period for semicolon at end.

Par. (4). Pub. L. 104–48, § 9(b)(2), (3), substituted period for semicolon after ''section 499e(c) of this title'' and inserted at end ''However, this paragraph shall not be considered to make the good faith offer, solicitation, payment, or receipt of collateral fees and expenses, in and of itself, unlawful under this chapter.''

Par. (5). Pub. L. 104–48, §§ 9(b)(2), 10, substituted ''foreign commerce. However,'' for ''foreign commerce: *Provided*, That'', substituted period for semicolon after ''miscellaneous receipts'', and inserted at end ''A person other than the first licensee handling misbranded perishable agricultural commodities shall not be held liable for a violation of this paragraph by reason of the conduct of another if the person did not have knowledge of the violation or lacked the ability to correct the violation.''

Par. (6). Pub. L. 104–48, § 9(b)(2), substituted period for semicolon at end.

1984—Par. (4). Pub. L. 98–273 inserted ''or to fail to maintain the trust as required under section 499e(c) of this title;''.

1982—Par. (5). Pub. L. 97–352 substituted ''*Provided*, That any commission merchant, dealer, or broker who has violated (A) any provision of this paragraph may, with the consent of the Secretary, admit the violation or violations; or (B) any provision of this paragraph relating to a misrepresentation by mark, stencil, or label shall be permitted by the Secretary to admit the violation or violations if such violation or violations are not repeated or flagrant; and pay, in the case of a violation under either clause (A) or (B) of this paragraph,'' for ''*Provided*, That any commission merchant, dealer, or broker who has violated this paragraph may, with the consent of the Secretary, admit the violation or violations and pay''.

1974—Par. (5). Pub. L. 93–369 inserted proviso for consent admission of violations, payment of monetary penalty not in excess of $2,000 in lieu of formal proceedings for suspension or revocation of license, and for deposit of the payments into the Treasury of the United States as miscellaneous receipts.

1956—Par. (5). Act July 30, 1956, struck out ''for a fraudulent purpose'' after ''broker'', and included misrepresentation of region of origin.

1942—Par. (4). Act Apr. 6, 1942, inserted ''and make full payment'' and ''or to fail, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with any such transaction''.

1940—Par. (1). Act June 29, 1940, § 3, among other changes, inserted ''dealer'' after ''merchant''.

Par. (5). Act June 29, 1940, inserted ''quantity, size, pack, weight'' after ''quality''.

1937—Par. (5). Act Aug. 20, 1937, § 2, among other changes, inserted ''mark, stencil, label, statement'' after ''act'' and ''the character, kind, grade, quality, condition, degree of maturity'' after ''or deed''.

Par. (6). Act Aug. 20, 1937, § 3, inserted ''or in compliance with any Federal or State law or regulation'' after ''inspector''.

Par. (7). Act Aug. 20, 1937, § 4, added par. (7).

1936—Par. (4). Act June 17, 1936, struck out ''or concerning the condition of the market for'' after ''involving''.

1934—Par. (2). Act Apr. 13, 1934, § 2, inserted ''or consigned'' after ''sold''.

Par. (4). Act Apr. 13, 1934, § 3, substituted ''in connection with any transaction involving or concerning'' for ''concerning the condition, quality, quantity or disposition of'' and inserted ''or consigned'' after ''contracted to be bought or sold''.

§ 499b–1. Products produced in distinct geographic areas

(a) In general

In the case of a perishable agricultural commodity (as defined under the Perishable Agricultural Commodity Act (7 U.S.C. 499a(4))—[1]

(1) subject to a Federal marketing order under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.);

(2) traditionally identified as being produced in a distinct geographic area, State, or region; and

[1] See References in Text note below.

(3) the unique identity, based on such distinct geographic area, of which has been promoted with funds collected through producer contributions pursuant to such marketing order,

no person may use the unique name or geographical designation of such commodity to promote the sale of a similar commodity produced outside such area, State, or region.

(b) Penalties

A violation of this section shall be considered a violation of paragraphs (4) and (5) of section 2 of the Perishable Agricultural Commodities Act (7 U.S.C. 499b(4) and (5)).

(c) Reimbursement

A person bringing a complaint under this section shall reimburse the Secretary of Agriculture for any and all costs associated with the enforcement of this section.

(d) Prohibition

The Secretary of Agriculture shall not increase any fees charged under the Perishable Agricultural Commodities Act [7 U.S.C. 499a et seq.] to offset costs associated with the operation of this section.

(e) Regulations

The Secretary shall promulgate regulations to carry out this section.

(Pub. L. 101–624, title XIII, § 1309, Nov. 28, 1990, 104 Stat. 3562.)

REFERENCES IN TEXT

The Perishable Agricultural Commodity Act, and the Perishable Agricultural Commodities Act, referred to in subsecs. (a), (b), and (d), probably mean the Perishable Agricultural Commodities Act, 1930, act June 10, 1930, ch. 436, 46 Stat. 531, as amended, which is classified generally to this chapter (§ 499a et seq.). For complete classification of this Act to the Code, see section 499a(a) of this title and Tables.

7 U.S.C. 499a(4), referred to in subsec. (a), was redesignated 7 U.S.C. 499a(b)(4) by Pub. L. 102–237, title X, § 1011(1)(A), Dec. 13, 1991, 105 Stat. 1898.

The Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.), referred to in subsec. (a)(1), is act June 3, 1937, ch. 296, 50 Stat. 246, as amended, which is classified principally to chapter 26A (§ 671 et seq.) of this title. For complete classification of this Act to the Code, see section 674 of this title and Tables. The Agricultural Marketing Agreement Act of 1937 reenacted and amended the Agricultural Adjustment Act, title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§ 601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Perishable Agricultural Commodities Act, 1930 which comprises this chapter.

§ 499c. Licenses

(a) License required; penalties for violations

After December 10, 1930, no person shall at any time carry on the business of a commission merchant dealer, or broker without a license valid and effective at such time. Any person who violates any provision of this subsection shall be liable to a penalty of not more than $1,000 for each such offense and not more than $250 for each day it continues, which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

Any person violating this provision may, upon a showing satisfactory to the Secretary of Agriculture, or his authorized representative, that such violation was not willful but was due to inadvertence, be permitted by the Secretary, or such representative, to settle his liability in the matter by the payment of the fees due for the period covered by such violation and an additional sum, not in excess of $250, to be fixed by the Secretary of Agriculture or his authorized representative. Such payment shall be deposited in the Treasury of the United States in the same manner as regular license fees.

(b) Application and fees for licenses

(1) Application for license

Any person desiring any such license shall make application to the Secretary. The Secretary may by regulation prescribe the information to be contained in such application and to be furnished thereafter.

(2) License fees

Upon the filing of an application under paragraph (1), the applicant shall pay such license fees, both individually and in the aggregate, as the Secretary determines necessary to meet the reasonably anticipated expenses for administering this chapter and the Act to prevent the destruction or dumping of farm produce, approved March 3, 1927 (7 U.S.C. 491–497). Thereafter, the licensee shall pay such license fees annually or at such longer interval as the Secretary may prescribe. The Secretary shall take due account of savings to the program when determining an appropriate interval for renewal of licenses. The Secretary shall establish and alter license fees only by rulemaking under section 553 of title 5, except that the Secretary may not alter the fees required under paragraph (3) or (4) for retailers and grocery wholesalers that are dealers. Effective on November 15, 1995, and until such time as the Secretary alters such fees by rule, an individual license fee shall equal $550 per year, plus $200 for each branch or additional business facility operated by the applicant in excess of nine such facilities, as determined by the Secretary, subject to an annual aggregate limit of $4,000 per licensee. Any increase in license fees prescribed by the Secretary under this paragraph shall not take effect unless the Secretary determines that, without such increase, the funds on hand as of the end of the fiscal year in which the increase takes effect will be less than 25 percent of the projected budget to administer this chapter and such Act for the next fiscal year. In no case may a license fee increase by the Secretary take effect before the end of the three-year period beginning on November 15, 1995.

(3) One-time fee for retailers and grocery wholesalers that are dealers

During the three-year period beginning on November 15, 1995, a retailer or grocery wholesaler making an initial application for a li-

cense under this section shall pay the license fee required under subparagraph (A), (B), or (C) of paragraph (4) for license renewals in the year in which the initial application is made. After the end of such period, a retailer or grocery wholesaler making an initial application for a license under this section shall pay an administrative fee equal to $100. In either case, a retailer or grocery wholesaler paying a fee under this paragraph shall not be required to pay any fee for renewal of the license for subsequent years.

(4) Gradual elimination of annual fees for retailers and grocery wholesalers that are dealers

In the case of a retailer or grocery wholesaler that holds a license under this section as of November 15, 1995, payments for the renewal of the license shall be made pursuant to the following schedule:

(A) For anniversary dates occurring during the one-year period beginning on November 15, 1995, the licensee shall pay a renewal fee in an amount equal to 100 percent of the applicable renewal fee (subject to the $4,000 aggregate limit on such payments) in effect under this subsection on the day before November 15, 1995.

(B) For anniversary dates occurring during the one-year period beginning at the end of the period in subparagraph (A), the licensee shall pay a renewal fee in an amount equal to 75 percent of the amount paid by the licensee under subparagraph (A).

(C) For anniversary dates occurring during the one-year period beginning at the end of the period in subparagraph (B), the licensee shall pay a renewal fee in an amount equal to 50 percent of the amount paid by the licensee under subparagraph (A).

(D) After the end of the three-year period beginning on November 15, 1995, the licensee shall not be required to pay any fee if the licensee seeks renewal of the license.

(5) Perishable Agricultural Commodities Act Fund

Such fee, when collected, shall be deposited in the Treasury of the United States as a special fund, without fiscal year limitation, to be designated as the ''Perishable Agricultural Commodities Act Fund'', which shall be available for all expenses necessary to the administration of this chapter and the Act approved March 3, 1927, referred to above. Any reserve funds in the Perishable Agricultural Commodities Act Fund may be invested by the Secretary in insured or fully-collateralized interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. Any interest earned on such reserve funds shall be credited to the Perishable Agricultural Commodities Act Fund and shall be available for the same purposes as the fees deposited in such fund. Financial statements prescribed by the Director of the Office of Management and Budget for the last completed fiscal year, and as estimated for the current and ensuing fiscal years, shall be included in the budget as submitted to the Congress annually.

(c) Use of trade names

A licensee may conduct business in more than one trade name or change the name under which business is conducted without requiring an additional or new license. The Secretary may disapprove the use of a trade name if, in his opinion, the use of the trade name by the licensee would be deceptive, misleading, or confusing to the trade, and the Secretary may, after notice and opportunity for a hearing, suspend for a period not to exceed ninety days the license of any licensee who continues to use a trade name which the Secretary has disapproved for use by such licensee. The Secretary may refuse to issue a license to an applicant if he finds that the trade name in which the applicant proposes to do business would be deceptive, misleading, or confusing to the trade if used by such applicant.

(June 10, 1930, ch. 436, § 3, 46 Stat. 533; Aug. 20, 1937, ch. 719, § 5, 50 Stat. 726; June 15, 1950, ch. 254, § 1, 64 Stat. 217; July 30, 1956, ch. 786, § 2(a), 70 Stat. 726; Pub. L. 87–725, §§ 3, 4, Oct. 1, 1962, 76 Stat. 673, 674; Pub. L. 91–107, § 3, Nov. 4, 1969, 83 Stat. 182; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; Pub. L. 95–562, § 2, Nov. 1, 1978, 92 Stat. 2381; Pub. L. 97–98, title XI, § 1115(b), Dec. 22, 1981, 95 Stat. 1269; Pub. L. 100–414, § 1, Aug. 22, 1988, 102 Stat. 1102; Pub. L. 101–624, title XIII, § 1361, Nov. 28, 1990, 104 Stat. 3568; Pub. L. 104–48, §§ 3–4(b), 5(a), Nov. 15, 1995, 109 Stat. 425–427.)

REFERENCES IN TEXT

The Act to prevent the destruction or dumping of farm produce, approved March 3, 1927, referred to in subsec. (b)(2), (5), is act Mar. 3, 1927, ch. 309, 44 Stat. 1355, as amended, which is classified generally to chapter 20 (§ 491 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 553 of this title.

AMENDMENTS

1995—Pub. L. 104–48, § 3(b)(1), reenacted section catchline without change.

Subsec. (a). Pub. L. 104–48, §§ 3(b)(1), 5(a), inserted heading and substituted ''$1,000'' for ''$500'' in first paragraph and ''$250'' for ''$25'' in two places.

Subsec. (b). Pub. L. 104–48, § 3(b)(2), inserted heading.

Subsec. (b)(1). Pub. L. 104–48, § 3(a)(1), (2), inserted heading, realigned margins, and struck out after second sentence ''Upon the filing of the application, and annually thereafter, the applicant shall pay such fee as the Secretary determines necessary to meet the reasonably anticipated expenses for administering this chapter and the Act to prevent the destruction or dumping of farm produce, approved March 3, 1927 (7 U.S.C. 491–497), but in no event shall such fee exceed $400, plus $200 for each branch or additional business facility operated by the applicant in excess of nine such facilities, as determined by the Secretary. Total annual fees for any applicant shall not exceed $4,000 in the aggregate.''

Subsec. (b)(2). Pub. L. 104–48, § 4(a), added par. (2).

Subsec. (b)(3), (4). Pub. L. 104–48, § 3(a)(5), added pars. (3) and (4).

Subsec. (b)(5). Pub. L. 104–48, §§ 3(a)(3), (4), 4(b), designated provisions of subsec. (b) relating to Perishable Agricultural Commodities Act Fund as par. (5), inserted heading, realigned margins, and struck out ''The amount of money accumulated and on hand in the special fund at the end of any fiscal year shall not exceed 25 percent of the projected budget for the next follow-

ing fiscal year.'' after ''fees deposited in such fund.'' and ''The Secretary shall give public notice of any increase to be made in the annual fee prescribed by him hereunder and shall allow a reasonable time prior to the effective date of such increase for interested persons to file their views on or objections to such increase.'' after ''budget as submitted to the Congress annually.''

Subsec. (c). Pub. L. 104–48, § 3(b)(3), inserted heading.

1990—Subsec. (b). Pub. L. 101–624 substituted ''. Any reserve funds in the Perishable Agricultural Commodities Act Fund may be invested by the Secretary in insured or fully-collateralized interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. Any interest earned on such reserve funds shall be credited to the Perishable Agricultural Commodities Act Fund and shall be available for the same purposes as the fees deposited in such fund. The'' for ''*: Provided*, That the'' and ''. Financial'' for ''*: Provided further*, That financial''.

1988—Subsec. (b). Pub. L. 100–414 substituted ''$400, plus $200'' for ''$300, plus $150'' and ''$4,000'' for ''$3,000''.

1981—Subsec. (b). Pub. L. 97–98 substituted ''$300'', ''$150'', and ''$3,000'' for ''$150'', ''$50'', and ''$1,000'', respectively.

1978—Subsec. (b). Pub. L. 95–562 substituted ''in such application and to be furnished thereafter'' for ''in such application'' and ''$150, plus $50 for each branch or additional business facility operated by the applicant in excess of nine such facilities, as determined by the Secretary'' for ''$100'', and inserted provisions limiting the total annual fees for any applicant to an amount not to exceed $1,000 in the aggregate and limiting the amount of money in the special fund at the end of any fiscal year to an amount not to exceed 25 percent of the projected budget for the next following fiscal year.

1969—Subsec. (b). Pub. L. 91–107 increased limitation on fees from $50 to $100.

1962—Subsec. (b). Pub. L. 87–725, § 3, increased annual fee from a maximum of $25, to such fee as the Secretary determines necessary to meet the expenses of administering this chapter and the Act approved March 3, 1927, but not exceeding $50, directed the Secretary to give public notice of any increase in the annual fee and to allow reasonable time before the effective date of such increase for submission of views on, or objections to, such increase, and struck out references to the availability of the Perishable Agricultural Commodities Act Fund for administrative expenses of sections 581 to 589 of this title.

Subsec. (c). Pub. L. 87–725, § 4, added subsec. (c).

1956—Subsec. (b). Act July 30, 1956, increased fee from $15 annually to not more than $25 annually.

1950—Subsec. (b). Act June 15, 1950, increased fee from $10 to $15 annually, provided for its disposition in fund, made fund available for administrative expenses, and provided for financial statements.

1937—Subsec. (a). Act Aug. 20, 1937, added second par.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President by section 101 of 1970 Reorg. Plan No. 2. Section 102 of 1970 Reorg. Plan No. 2 redesignated Bureau of the Budget as Office of Management and Budget and offices of Director of Bureau of the Budget, Deputy Director of Bureau of the Budget, and Assistant Directors of Bureau of the Budget as Director of Office of Management and Budget, Deputy Director of Office of Management and Budget, and Assistant Directors of Office of Management and Budget, respectively. Section 103 of 1970 Reorg. Plan No. 2 transferred all records, property, personnel, and funds of Bureau to Office of Management and Budget. See part I of Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees.

§ 499d. Issuance of license

(a) Authority to do business; termination; renewal

Whenever an applicant has paid the prescribed fee the Secretary, except as provided elsewhere in this chapter, shall issue to such applicant a license, which shall entitle the licensee to do business as a commission merchant and/or dealer and/or broker unless and until it is suspended or revoked by the Secretary in accordance with the provisions of this chapter, or is automatically suspended under section 499g(d) of this title, but said license shall automatically terminate on the anniversary date of the license at the end of the annual or multiyear period covered by the license fee unless the licensee submits the required renewal application and pays the applicable renewal fee (if such fee is required): *Provided*, That notice of the necessity of renewing the license and of paying the renewal fee (if such fee is required) shall be mailed at least thirty days before the anniversary date: *Provided, further*, That if the renewal fee (if required) is not paid by the anniversary date the licensee may obtain a renewal of that license at any time within thirty days by paying the fee provided in section 499c(b) of this title, plus $50, which shall be deposited in the Perishable Agricultural Commodities Act fund provided for by section 499c(b) of this title: *And provided further*, That the license of any licensee shall terminate upon said licensee, or in case the licensee is a partnership, any partner, being discharged as a bankrupt, unless the Secretary finds upon examination of the circumstances of such bankruptcy, which he shall examine if requested to do so by said licensee, that such circumstances do not warrant such termination.

(b) Refusal of license; grounds

The Secretary shall refuse to issue a license to an applicant if he finds that the applicant, or any person responsibly connected with the applicant, is prohibited from employment with a licensee under section 499h(b) of this title or is a person who, or is or was responsibly connected with a person who—

(A) has had his license revoked under the provisions of section 499h of this title within two years prior to the date of the application or whose license is currently under suspension;

(B) within two years prior to the date of application has been found after notice and opportunity for hearing to have committed any flagrant or repeated violation of section 499b of this title, but this provision shall not apply to any case in which the license of the person found to have committed such violation was suspended and the suspension period has expired or is not in effect;

(C) within two years prior to the date of the application, has been found guilty in a Federal court of having violated the provisions of sections 491, 493 to 497 of this title, relating to the prevention of destruction and dumping of farm produce; or

(D) has failed, except in the case of bankruptcy and subject to his right of appeal under section 499g(c) of this title, to pay any reparation order issued against him within two years prior to the date of the application.

(c) Issuance of license upon furnishing bond; issuance after three years without bond; effect of termination of bond; increase or decrease in amount; payment of increase

An applicant ineligible for a license by reason of the provisions of subsection (b) of this section may, upon the expiration of the two-year period applicable to him, be issued a license by the Secretary if such applicant furnishes a surety bond in the form and amount satisfactory to the Secretary as assurance that his business will be conducted in accordance with this chapter and that he will pay all reparation orders which may be issued against him in connection with transactions occurring within four years following the issuance of the license, subject to his right of appeal under section 499g(c) of this title. In the event such applicant does not furnish such a surety bond, the Secretary shall not issue a license to him until three years have elapsed after the date of the applicable order of the Secretary or decision of the court on appeal. If the surety bond so furnished is terminated for any reason without the approval of the Secretary the license shall be automatically canceled as of the date of such termination and no new license shall be issued to such person during the four-year period without a new surety bond covering the remainder of such period. The Secretary, based on changes in the nature and volume of business conducted by a bonded licensee, may require an increase or authorize a reduction in the amount of the bond. A bonded licensee who is notified by the Secretary to provide a bond in an increased amount shall do so within a reasonable time to be specified by the Secretary, and upon failure of the licensee to provide such bond his license shall be automatically suspended until such bond is provided. The Secretary may not issue a license to an applicant under this subsection if the applicant or any person responsibly connected with the applicant is prohibited from employment with a licensee under section 499h(b) of this title.

(d) Withholding license pending investigation

The Secretary may withhold the issuance of a license to an applicant, for a period not to exceed thirty days pending an investigation, for the purpose of determining (a) whether the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this chapter or was convicted of a felony in any State or Federal court, or (b) whether the application contains any materially false or misleading statement or involves any misrepresentation, concealment, or withholding of facts respecting any violation of the chapter by any officer, agent, or employee of the applicant. If after investigation the Secretary believes that the applicant should be refused a license, the applicant shall be given an opportunity for hearing within sixty days from the date of the application to show cause why the license should not be refused. If after the hearing the Secretary finds that the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this chapter or was convicted of a felony in any State or Federal court, or because the application contains a materially false or misleading statement made by the applicant or by its representative on its behalf, or involves a misrepresentation, concealment, or withholding of facts respecting any violation of the chapter by any officer, agent, or employee, the Secretary may refuse to issue a license to the applicant.

(e) Refusal of license

The Secretary may refuse to issue a license to an applicant if he finds that the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, has, within three years prior to the date of the application, been adjudicated or discharged as a bankrupt, or was a general partner of a partnership or officer or holder of more than 10 per centum of the stock of a corporation adjudicated or discharged as a bankrupt, and if he finds that the circumstances of such bankruptcy warrant such a refusal, unless the applicant furnishes a bond of such nature and amount as may be determined by the Secretary or other assurance satisfactory to the Secretary that the business of the applicant will be conducted in accordance with this chapter.

(June 10, 1930, ch. 436, § 4, 46 Stat. 533; Apr. 13, 1934, ch. 120, §§ 4–7, 48 Stat. 585, 586; June 19, 1936, ch. 602, § 2, 49 Stat. 1533; Aug. 20, 1937, ch. 719, § 6, 50 Stat. 726; June 15, 1950, ch. 254, § 2, 64 Stat. 218; July 30, 1956, ch. 786, §§ 2(b), 3, 4, 70 Stat. 726; Pub. L. 87–725, §§ 5–7, Oct. 1, 1962, 76 Stat. 674; Pub. L. 95–598, title III, § 303, Nov. 6, 1978, 92 Stat. 2673; Pub. L. 102–237, title X, § 1011(2), Dec. 13, 1991, 105 Stat. 1898; Pub. L. 104–48, §§ 4(c), 5(b), 12(c), Nov. 15, 1995, 109 Stat. 427, 431.)

CODIFICATION

Section was formerly classified to section 554 of this title.

AMENDMENTS

1995—Subsec. (a). Pub. L. 104–48, §§ 4(c), 5(b), substituted ''the anniversary date of the license at the end of the annual or multiyear period covered by the license fee unless the licensee submits the required renewal application and pays the applicable renewal fee (if such fee is required)'' for ''any anniversary date thereof unless the annual fee has been paid'' in provisions before first proviso, ''the necessity of renewing the license and of paying the renewal fee (if such fee is required)'' for ''the necessity of paying the annual fee'' in first proviso and ''renewal fee (if required)'' for ''annual fee'' and ''plus $50'' for ''plus $5'' in second proviso.

Subsec. (b). Pub. L. 104–48, § 12(c)(1), inserted ''is prohibited from employment with a licensee under section

499h(b) of this title or'' after ''with the applicant,'' in introductory provisions.

Subsec. (c). Pub. L. 104–48, § 12(c)(2), inserted at end ''The Secretary may not issue a license to an applicant under this subsection if the applicant or any person responsibly connected with the applicant is prohibited from employment with a licensee under section 499h(b) of this title.''

1991—Subsec. (a). Pub. L. 102–237 substituted ''annual'' for ''anual'' before ''fee has been paid''.

1978—Subsec. (a). Pub. L. 95–598, § 303(a), inserted '', unless the Secretary finds upon examination of the circumstances of such bankruptcy, which he shall examine if requested to do so by said licensee, that such circumstances do not warrant such termination''.

Subsec. (e). Pub. L. 95–598, § 303(b), inserted ''and if he finds that the circumstances of such bankruptcy warrant such a refusal,''.

1962—Subsec. (a). Pub. L. 87–725, § 5, inserted proviso that the license of any licensee shall terminate, if he, or in case the licensee is a partnership, any partner, is discharged as a bankrupt.

Subsec. (b). Pub. L. 87–725, § 6, amended subsection generally, and among other changes, required refusal of a license upon showing responsible connection by the applicant, or by any person responsibly connected with him, with a person guilty of the specified conduct, without requiring that the applicant was responsible in whole or in part for such conduct, and upon the grounds specified in clause (C) relating to being found guilty in a Federal court of having violated the provisions of sections 491, 493 to 497 of this title, provided that the provisions regarding flagrant or repeated violation of section 499b of this title shall not apply where the license in such case was suspended and the suspension period has expired or is not in effect, and eliminated provisions which, notwithstanding the grounds for refusal specified in the section, permitted the Secretary to issue a license upon the applicant furnishing a bond or other satisfactory assurance that his business would be conducted in accordance with this chapter, and that he would pay reparation orders previously issued against him or which could be issued against him within two years after receiving the license, but such license could not be issued until after the expiration of one year from the revocation or from the finding that the applicant was responsible, for any flagrant or repeated violation of section 499b of this title.

Subsec. (c). Pub. L. 87–725, § 7, substituted provisions which permit a license to be issued to an applicant ineligible under subsec. (b) of this section, upon expiration of the two year period applicable to him, if he furnishes a surety bond as assurance that his business will be conducted in accordance with this chapter and that he will pay all reparation orders issued against him in connection with transactions occurring within four years following issuance of license, subject to appeal under section 499g(c) of this title, or if no bond is given, permit issuance of the license after three years from the applicable order, or decision of the court on appeal, and which provide that if a bond is terminated without the Secretary's approval, the license is automatically canceled and cannot be re-issued during the four year period without a new bond, that the Secretary may order an increase or a reduction in the bond, and that a licensee notified to increase the bond must do so in a reasonable time or his license will be suspended until such bond is provided, for provisions which required the Secretary to refuse a license to an applicant, or if the applicant was a partnership, or an association or a corporation, to a partner or officer or any person holding a responsible position therein, respectively, found within two years of being guilty of violating sections 491 to 497 or 499n(b) of this title.

1956—Subsec. (a). Act July 30, 1956, § 2(b), substituted ''the fee provided in section 499c(b) of this title, plus $5'' for ''a fee of $20''.

Subsec. (d). Act July 30, 1956, § 3, included within term ''applicant'' any general partner of a partnership, and officers or holders of more than 10 per centum of the stock of a corporation, and permitted the Secretary to refuse to issue a license to an applicant who was convicted of a felony in any State or Federal court.

Subsec. (e). Act July 30, 1956, § 4, added subsec. (e).

1950—Subsec. (a). Act June 15, 1950, increased fee for late registration from $15 to $20, and provided for its disposition in the fund.

1937—Subsec. (a). Act Aug. 20, 1937, inserted first and second provisos.

Subsec. (b). Act Aug. 20, 1937, among other changes, inserted ''Such bond shall be in an amount sufficient in the judgment of the Secretary of Agriculture to insure payment of such reparation orders'' at the end.

Subsecs. (c), (d). Act Aug. 20, 1937, amended subsecs. (c) and (d) generally.

1936—Subsec. (b). Act June 19, 1936, among other changes, inserted ''if he finds'' after ''or (3)'' and ''or (5)'' after ''section 499b''.

1934—Subsec. (b). Act Apr. 13, 1934, § 4, among other changes, added cls. (3) and (4).

Subsecs. (c) to (e). Act Apr. 13, 1934, §§ 5–7, added subsecs. (c) to (e).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

§ 499e. Liability to persons injured

(a) Amount of damages

If any commission merchant, dealer, or broker violates any provision of section 499b of this title he shall be liable to the person or persons injured thereby for the full amount of damages (including any handling fee paid by the injured person or persons under section 499f(a)(2) of this title) sustained in consequence of such violation.

(b) Remedies

Such liability may be enforced either (1) by complaint to the Secretary as hereinafter provided, or (2) by suit in any court of competent jurisdiction; but this section shall not in any way abridge or alter the remedies now existing at common law or by statute, and the provisions of this chapter are in addition to such remedies.

(c) Trust on commodities and sales proceeds for benefit of unpaid suppliers, sellers, or agents; preservation of trust; jurisdiction of courts

(1) It is hereby found that a burden on commerce in perishable agricultural commodities is caused by financing arrangements under which commission merchants, dealers, or brokers, who have not made payment for perishable agricultural commodities purchased, contracted to be purchased, or otherwise handled by them on behalf of another person, encumber or give lenders a security interest in, such commodities, or on inventories of food or other products derived from such commodities, and any receivables or proceeds from the sale of such commodities or products, and that such arrangements are contrary to the public interest. This subsection is intended to remedy such burden on commerce in perishable agricultural commodities and to protect the public interest.

(2) Perishable agricultural commodities received by a commission merchant, dealer, or broker in all transactions, and all inventories of food or other products derived from perishable

agricultural commodities, and any receivables or proceeds from the sale of such commodities or products, shall be held by such commission merchant, dealer, or broker in trust for the benefit of all unpaid suppliers or sellers of such commodities or agents involved in the transaction, until full payment of the sums owing in connection with such transactions has been received by such unpaid suppliers, sellers, or agents. Payment shall not be considered to have been made if the supplier, seller, or agent receives a payment instrument which is dishonored. The provisions of this subsection shall not apply to transactions between a cooperative association, as defined in section 1141j(a) of title 12, and its members.

(3) The unpaid supplier, seller, or agent shall lose the benefits of such trust unless such person has given written notice of intent to preserve the benefits of the trust to the commission merchant, dealer, or broker within thirty calendar days (i) after expiration of the time prescribed by which payment must be made, as set forth in regulations issued by the Secretary, (ii) after expiration of such other time by which payment must be made, as the parties have expressly agreed to in writing before entering into the transaction, or (iii) after the time the supplier, seller, or agent has received notice that the payment instrument promptly presented for payment has been dishonored. The written notice to the commission merchant, dealer, or broker shall set forth information in sufficient detail to identify the transaction subject to the trust. When the parties expressly agree to a payment time period different from that established by the Secretary, a copy of any such agreement shall be filed in the records of each party to the transaction and the terms of payment shall be disclosed on invoices, accountings, and other documents relating to the transaction.

(4) In addition to the method of preserving the benefits of the trust specified in paragraph (3), a licensee may use ordinary and usual billing or invoice statements to provide notice of the licensee's intent to preserve the trust. The bill or invoice statement must include the information required by the last sentence of paragraph (3) and contain on the face of the statement the following: ''The perishable agricultural commodities listed on this invoice are sold subject to the statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sale of these commodities until full payment is received.''.

(5) The several district courts of the United States are vested with jurisdiction specifically to entertain (i) actions by trust beneficiaries to enforce payment from the trust, and (ii) actions by the Secretary to prevent and restrain dissipation of the trust.

(June 10, 1930, ch. 436, § 5, 46 Stat. 534; Aug. 20, 1937, ch. 719, § 7, 50 Stat. 728; Pub. L. 98–273, § 1, May 7, 1984, 98 Stat. 165; Pub. L. 102–237, title X, § 1011(3), Dec. 13, 1991, 105 Stat. 1898; Pub. L. 104–48, §§ 6, 8(b), Nov. 15, 1995, 109 Stat. 427, 429.)

CODIFICATION

Section was formerly classified to section 555 of this title.

AMENDMENTS

1995—Subsec. (a). Pub. L. 104–48, § 8(b), inserted ''(including any handling fee paid by the injured person or persons under section 499f(a)(2) of this title)'' after ''damages''.

Subsec. (c)(3). Pub. L. 104–48, § 6(a), (b), struck out ''and has filed such notice with the Secretary'' before ''within thirty calendar days'' in first sentence and inserted after first sentence ''The written notice to the commission merchant, dealer, or broker shall set forth information in sufficient detail to identify the transaction subject to the trust.''

Subsec. (c)(4), (5). Pub. L. 104–48, § 6(c), added par. (4) and redesignated former par. (4) as (5).

1991—Subsec. (c)(2). Pub. L. 102–237 substituted '', as'' for ''(as'' before ''defined''.

1984—Subsec. (c). Pub. L. 98–273 added subsec. (c).

1937—Subsec. (a). Act Aug. 20, 1937, struck out ''paragraph (1), (2), (3), or (4) of'' after ''provisions of''.

§ 499f. Complaints, written notifications, and investigations

(a) Reparation complaints

(1) Petition; process

Any person complaining of any violation of any provision of section 499b of this title by any commission merchant, dealer, or broker may, at any time within nine months after the cause of action accrues, apply to the Secretary by petition, which shall briefly state the facts, whereupon, if, in the opinion of the Secretary, the facts therein contained warrant such action, a copy of the complaint thus made shall be forwarded by the Secretary to the commission merchant, dealer, or broker, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be prescribed by the Secretary.

(2) Filing and handling fees

A person submitting a petition to the Secretary under paragraph (1) shall include a filing fee of $60 per petition. If the Secretary determines under paragraph (1) that the facts contained in the petition warrant further action, the person or persons submitting the petition shall submit to the Secretary a handling fee of $300. The Secretary may not forward a copy of the complaint to the commission merchant, dealer, or broker involved until after the Secretary receives the required handling fee. The Secretary shall deposit fees submitted under this paragraph into the Perishable Agricultural Commodities Act Fund provided for by section 499c(b) of this title. The Secretary may alter the fees specified in this paragraph by rulemaking under section 553 of title 5.

(b) Disciplinary violations

Any officer or agency of any State or Territory having jurisdiction over commission merchants, dealers, or brokers in such State or Territory and any other interested person (other than an employee of an agency of the Department of Agriculture administering this chapter) may file, in accordance with rules prescribed by the Secretary, a written notification of any alleged violation of this chapter by any commis-

sion merchant, dealer, or broker. In addition, any official certificates of the United States Government or States or Territories of the United States and trust notices filed pursuant to section 499e of this title shall constitute written notification for the purposes of conducting an investigation under subsection (c) of this section. The identity of any person filing a written notification under this subsection shall be considered to be confidential information. The identity of such person, and any portion of the notification to the extent that it would indicate the identity of such person, are specifically exempt from disclosure under section 552 of title 5 (commonly known as the Freedom of Information Act), as provided in subsection (b)(3) of such section.

(c) Investigation of complaints and notifications

(1) Commencing or expanding an investigation

If there appears to be, in the opinion of the Secretary, reasonable grounds for investigating a complaint made under subsection (a) of this section or a written notification made under subsection (b) of this section, the Secretary shall investigate such complaint or notification. In the course of the investigation, if the Secretary determines that violations of this chapter are indicated other than the alleged violations specified in the complaint or notification that served as the basis for the investigation, the Secretary may expand the investigation to include such additional violations.

(2) Issuance of complaint by Secretary; process

In the opinion of the Secretary, if an investigation under this subsection substantiates the existence of violations of this chapter, the Secretary may cause a complaint to be issued. The Secretary shall have the complaint served by registered mail or certified mail or otherwise on the person concerned and afford such person an opportunity for a hearing thereon before a duly authorized examiner of the Secretary in any place in which the subject of the complaint is engaged in business. However, in complaints wherein the amount claimed as damages does not exceed $30,000, a hearing need not be held and proof in support of the complaint and in support of respondent's answer may be supplied in the form of depositions or verified statements of fact.

(3) Special notification requirements for certain investigations

Whenever the Secretary initiates an investigation on the basis of a written notification made under subsection (b) of this section or expands such an investigation, the Secretary shall promptly notify the subject of the investigation of the existence of the investigation and the nature of the alleged violations of this chapter to be investigated. Not later than 180 days after providing the initial notification, the Secretary shall provide the subject of the investigation with notice of the status of the investigation, including whether the Secretary intends to issue a complaint under paragraph (2), terminate the investigation, or continue or expand the investigation. The Secretary shall provide additional status reports at the request of the subject of the investigation and shall promptly notify the subject of the investigation whenever the Secretary terminates the investigation.

(d) Decisions on complaints

After opportunity for hearing on complaints where the damages claimed exceed the sum of $30,000 has been provided or waived and on complaints where damages claimed do not exceed the sum of $30,000 not requiring hearing as provided herein, the Secretary shall determine whether or not the commission merchant, dealer, or broker has violated any provision of section 499b of this title.

(e) Bond required for certain complaints

In case a complaint is made by a nonresident of the United States, or by a resident of the United States to whom the claim of a nonresident of the United States has been assigned, the complainant shall be required, before any formal action is taken on his complaint, to furnish a bond in double the amount of the claim conditioned upon the payment of costs, including a reasonable attorney's fee for the respondent if the respondent shall prevail, and any reparation award that may be issued by the Secretary of Agriculture against the complainant on any counter claim by respondent: *Provided*, That the Secretary shall have authority to waive the furnishing of a bond by a complainant who is a resident of a country which permits the filing of a complaint by a resident of the United States without the furnishing of a bond.

(June 10, 1930, ch. 436, § 6, 46 Stat. 534; Apr. 13, 1934, ch. 120, §§ 8–10, 48 Stat. 586, 587; Aug. 20, 1937, ch. 719, §§ 8, 9, 50 Stat. 728; Pub. L. 86–507, § 1(4), June 11, 1960, 74 Stat. 200; Pub. L. 87–725, § 8, Oct. 1, 1962, 76 Stat. 675; Pub. L. 92–231, § 1, Feb. 15, 1972, 86 Stat. 38; Pub. L. 97–98, title XI, § 1115(c), Dec. 22, 1981, 95 Stat. 1270; Pub. L. 97–352, § 2, Oct. 18, 1982, 96 Stat. 1667; Pub. L. 102–237, title X, § 1011(4), Dec. 13, 1991, 105 Stat. 1898; Pub. L. 104–48, §§ 7, 8(a), Nov. 15, 1995, 109 Stat. 428, 429.)

CODIFICATION

Section was formerly classified to section 556 of this title.

AMENDMENTS

1995—Pub. L. 104–48, § 7(d)(1), substituted ''Complaints, written notifications, and investigations'' for ''Complaint and investigation'' in section catchline.

Subsec. (a). Pub. L. 104–48, § 8(a), inserted subsec. heading, designated existing provisions as par. (1), inserted par. (1) heading, and added par. (2).

Subsec. (b). Pub. L. 104–48, § 7(a), inserted heading and amended text generally. Prior to amendment, text read as follows: ''Any officer or agency of any State or Territory having jurisdiction over commission merchants, dealers, or brokers in such State or Territory and any employee of the United States Department of Agriculture or any interested person may file, in accordance with rules and regulations of the Secretary, a complaint of any violation of any provision of this chapter by any commission merchant, dealer, or broker and may request an investigation of such complaint by the Secretary.''

Subsec. (c). Pub. L. 104–48, § 7(b), inserted heading and amended text generally. Prior to amendment, text read as follows: ''If there appear to be, in the opinion of the Secretary, any reasonable grounds for investigating any complaint made under this section, the Secretary

shall investigate such complaint and may, if in his opinion the facts warrant such action, have said complaint served by registered mail or by certified mail or otherwise on the person concerned and afford such person an opportunity for a hearing thereon before a duly authorized examiner of the Secretary in any place in which the said person is engaged in business: *Provided*, That in complaints wherein the amount claimed as damages does not exceed the sum of $15,000, a hearing need not be held and proof in support of the complaint and in support of respondent's answer may be supplied in the form of depositions or verified statements of fact.''

Subsec. (d). Pub. L. 104–48, § 7(c), (d)(2), inserted heading and substituted ''$30,000'' for ''$15,000'' in two places in text.

Subsec. (e). Pub. L. 104–48, § 7(d)(3), inserted heading.

1991—Subsecs. (c), (d). Pub. L. 102–237 inserted a period at end of subsec. (c) and substituted a period for semicolon at end of subsec. (d).

1982—Subsec. (e). Pub. L. 97–352 inserted ''or by a resident of the United States to whom the claim of a nonresident of the United States has been assigned,'' after ''In case a complaint is made by a nonresident of the United States,''.

1981—Subsecs. (c), (d). Pub. L. 97–98 substituted ''$15,000'' for ''$3,000''.

1972—Subsec. (c). Pub. L. 92–231 substituted ''$3,000'' for ''$1,500''.

Subsec. (d). Pub. L. 92–231 substituted ''$3,000'' for ''$1,500'' wherever appearing.

1962—Subsec. (c). Pub. L. 87–725 substituted ''$1,500'' for ''$500''.

Subsec. (d). Pub. L. 87–725 substituted ''$1,500'' for ''$500'' wherever appearing.

1960—Subsec. (c). Pub. L. 86–507 inserted ''or by certified mail'' after ''registered mail''.

1937—Subsec. (b). Act Aug. 20, 1937, § 8, substituted ''section 499b of this title'' for ''this chapter''.

Subsec. (e). Act Aug. 20, 1937, § 9, inserted ''and any reparation award that may be issued by the Secretary of Agriculture against the complainant on any counter claim by respondent'' and proviso.

1934—Subsec. (c). Act Apr. 13, 1934, § 8, inserted proviso.

Subsec. (d). Act Apr. 13, 1934, § 9, substituted ''complaints'' for ''a complaint'' after ''on'' and inserted ''where damages claimed do not exceed the sum of $500 not requiring hearing as provided herein'' after ''complaints''.

Subsec. (e). Act Apr. 13, 1934, § 10, among other changes, inserted ''formal'' before ''action''.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 3 of Pub. L. 97–352 provided that: ''The amendment made by section 2 [amending this section] shall not apply with respect to complaints made under section 6(e) of the Perishable Agricultural Commodities Act, 1930 [subsec. (e) of this section], before the date of enactment of this Act [Oct. 18, 1982].''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

FILING AND HANDLING FEES DURING FISCAL YEARS 1995 AND 1996

Pub. L. 103–276, § 1, July 5, 1994, 108 Stat. 1406, during fiscal years 1995 and 1996, directed Secretary of Agriculture to require filing fee of $60 per petition for petitions alleging violation of section 499b of this title and handling fee of $300 for petitions that warrant further action, which handling fee was to be included in determining amount of damages, with both fees to be deposited into the Perishable Agricultural Commodities Act Fund, prior to repeal by Pub. L. 104–48, § 8(c), Nov. 15, 1995, 109 Stat. 429. See subsec. (a)(2) of this section.

§ 499g. Reparation order

(a) Determination by Secretary of Agriculture of amount of damages; order for payment

If after a hearing on a complaint made by any person under section 499f of this title, or without hearing as provided in subsections (c) and (d) of section 499f of this title, or upon failure of the party complained against to answer a complaint duly served within the time prescribed, or to appear at a hearing after being duly notified, the Secretary determines that the commission merchant, dealer, or broker has violated any provision of section 499b of this title, he shall, unless the offender has already made reparation to the person complaining, determine the amount of damage, if any, to which such person is entitled as a result of such violation and shall make an order directing the offender to pay to such person complaining such amount on or before the date fixed in the order. The Secretary shall order any commission merchant, dealer, or broker who is the losing party to pay the prevailing party, as reparation or additional reparation, reasonable fees and expenses incurred in connection with any such hearing. If, after the respondent has filed his answer to the complaint, it appears therein that the respondent has admitted liability for a portion of the amount claimed in the complaint as damages, the Secretary under such rules and regulations as he shall prescribe, unless the respondent has already made reparation to the person complaining, may issue an order directing the respondent to pay to the complainant the undisputed amount on or before the date fixed in the order, leaving the respondent's liability for the disputed amount for subsequent determination. The remaining disputed amount shall be determined in the same manner and under the same procedure as it would have been determined if no order had been issued by the Secretary with respect to the undisputed sum.

(b) Failure to comply with order of Secretary; suit to enforce liability; order as evidence; costs and fees

If any commission merchant, dealer, or broker does not pay the reparation award within the time specified in the Secretary's order, the complainant, or any person for whose benefit such order was made, may within three years of the date of the order file in the district court of the United States for the district in which he resides or in which is located the principal place of business of the commission merchant, dealer, or broker, or in any State court having general jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages and the order of the Secretary in the premises. The orders, writs, and processes of the district courts may in these cases run, be served, and be returnable anywhere in the United States. Such suit in the district court shall proceed in all respects like other civil suits for damages, except that the findings and orders of the Secretary shall be prima-facie evidence of the facts therein stated, and the petitioner shall not be liable for costs in the district court, nor for costs at any subsequent state of the proceedings, unless they accrue upon his appeal. If the petitioner finally

prevails, he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit.

(c) Appeal from reparation order; proceedings

Either party adversely affected by the entry of a reparation order by the Secretary may, within thirty days from and after the date of such order, appeal therefrom to the district court of the United States for the district in which said hearing was held: *Provided*, That in cases handled without a hearing in accordance with subsections (c) and (d) of section 499f of this title or in which a hearing has been waived by agreement of the parties, appeal shall be to the district court of the United States for the district in which the party complained against is located. Such appeal shall be perfected by the filing with the clerk of said court a notice of appeal, together with a petition in duplicate which shall recite prior proceedings before the Secretary and shall state the grounds upon which the petitioner relies to defeat the right of the adverse party to recover the damages claimed, with proof of service thereof upon the adverse party. Such appeal shall not be effective unless within thirty days from and after the date of the reparation order the appellant also files with the clerk a bond in double the amount of the reparation awarded against the appellant conditioned upon the payment of the judgment entered by the court, plus interest and costs, including a reasonable attorney's fee for the appellee, if the appellee shall prevail. Such bond shall be in the form of cash, negotiable securities having a market value at least equivalent to the amount of bond prescribed, or the undertaking of a surety company on the approved list of sureties issued by the Treasury Department of the United States. The clerk of court shall immediately forward a copy thereof to the Secretary of Agriculture, who shall forthwith prepare, certify, and file in said court a true copy of the Secretary's decision, findings of fact, conclusions, and order in said case, together with copies of the pleadings upon which the case was heard and submitted to the Secretary. Such suit in the district court shall be a trial de novo and shall proceed in all respects like other civil suits for damages, except that the findings of fact and order or orders of the Secretary shall be prima-facie evidence of the facts therein stated. Appellee shall not be liable for costs in said court and if appellee prevails he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of his costs. Such petition and pleadings certified by the Secretary upon which decision was made by him shall upon filing in the district court constitute the pleadings upon which said trial de novo shall proceed subject to any amendment allowed in that court.

(d) Suspension of license for failure to obey reparation order or appeal

Unless the licensee against whom a reparation order has been issued shows to the satisfaction of the Secretary within five days from the expiration of the period allowed for compliance with such order that he has either taken an appeal as herein authorized or has made payment in full as required by such order his license shall be suspended automatically at the expiration of such five-day period until he shows to the satisfaction of the Secretary that he has paid the amount therein specified with interest thereon to date of payment: *Provided*, That if on appeal the appellee prevails or if the appeal is dismissed the automatic suspension of license shall become effective at the expiration of thirty days from the date of the judgment on the appeal, but if the judgment is stayed by a court of competent jurisdiction the suspension shall become effective ten days after the expiration of such stay, unless prior thereto the judgment of the court has been satisfied.

(June 10, 1930, ch. 436, § 7, 46 Stat. 534; Apr. 13, 1934, ch. 120, §§ 11–13, 48 Stat. 587, 588; June 19, 1936, ch. 602, § 3, 49 Stat. 1534; Aug. 20, 1937, ch. 719, § 10, 50 Stat. 728; June 23, 1938, ch. 599, 52 Stat. 953; May 14, 1940, ch. 196, 54 Stat. 214; Pub. L. 87–725, §§ 9, 10, Oct. 1, 1962, 76 Stat. 675; Pub. L. 92–231, § 2, Feb. 15, 1972, 86 Stat. 38; Pub. L. 102–237, title X, § 1011(5), Dec. 13, 1991, 105 Stat. 1898.)

CODIFICATION

Section was formerly classified to section 557 of this title.

AMENDMENTS

1991—Subsecs. (a) to (c). Pub. L. 102–237 substituted periods for semicolons at end of subsecs. (a) to (c).

1972—Subsec. (a). Pub. L. 92–231 directed the Secretary to order commission merchants, dealers, or brokers who are the losing party to pay the prevailing party, as reparation or additional reparation, reasonable fees and expenses incurred in connection with hearings.

1962—Subsec. (c). Pub. L. 87–725, § 9, limited time for filing the bond to within 30 days from and after the date of the reparation order, and required such bond to be in cash, negotiable securities having a market value of at least equivalent to the amount of bond prescribed or the undertaking of a surety company on the approved list of sureties issued by the Treasury Department.

Subsec. (d). Pub. L. 87–725, § 10, lengthened period upon the expiration of which the license is suspended from ten to thirty days, and provided that if the judgment is stayed by a court of competent jurisdiction the suspension becomes effective ten days after the expiration of such stay.

1940—Subsec. (c). Act May 14, 1940, inserted proviso in first sentence.

1938—Subsec. (a). Act June 23, 1938, inserted last two sentences.

1937—Subsec. (a). Act Aug. 20, 1937, among other changes, inserted "or without hearing as provided in section 499f of this title, paragraphs (c) and (d), or upon failure of the party complained against to answer a complaint duly served within the time prescribed, or to appear at a hearing after being duly notified" after "section 499f".

Subsec. (b). Act Aug. 20, 1937, among other changes, substituted "pay the reparation award" for "comply with an order for the payment of money".

Subsec. (c). Act Aug. 20, 1937, inserted "together with a bond in double the amount of the reparation award conditioned upon the payment of the judgment entered by the court plus interest and costs, including a reasonable attorney's fee for the appellee, if the appellee shall prevail" after "upon adverse party" and struck out proviso in first sentence and "by registered mail" after "adverse party".

Subsec. (d). Act Aug. 20, 1937, inserted proviso.

1936—Subsec. (c). Act June 19, 1936, inserted proviso in first sentence and "by registered mail" after "adverse party".

1934—Subsec. (b). Act Apr. 13, 1934, § 11, inserted after first sentence ''The orders, writs and processes of the district courts may in these cases run, be served, and be returnable anywhere in the United States.''

Subsecs. (c), (d). Act Apr. 13, 1934, §§ 12, 13, added subsecs. (c) and (d).

§ 499h. Grounds for suspension or revocation of license

(a) Authority of Secretary

Whenever (1) the Secretary determines, as provided in section 499f of this title, that any commission merchant, dealer, or broker has violated any of the provisions of section 499b of this title, or (2) any commission merchant, dealer, or broker has been found guilty in a Federal court of having violated section 499n(b) of this title, the Secretary may publish the facts and circumstances of such violation and/or, by order, suspend the license of such offender for a period not to exceed ninety days, except that, if the violation is flagrant or repeated, the Secretary may, by order, revoke the license of the offender.

(b) Unlawful employment of certain persons; restrictions; bond assuring compliance; approval of employment without bond; change in amount of bond; payment of increased amount; penalties

Except with the approval of the Secretary, no licensee shall employ any person, or any person who is or has been responsibly connected with any person—

(1) whose license has been revoked or is currently suspended by order of the Secretary;

(2) who has been found after notice and opportunity for hearing to have committed any flagrant or repeated violation of section 499b of this title, but this provision shall not apply to any case in which the license of the person found to have committed such violation was suspended and the suspension period has expired or is not in effect; or

(3) against whom there is an unpaid reparation award issued within two years, subject to his right of appeal under section 499g(c) of this title.

The Secretary may approve such employment at any time following nonpayment of a reparation award, or after one year following the revocation or finding of flagrant or repeated violation of section 499b of this title, if the licensee furnishes and maintains a surety bond in form and amount satisfactory to the Secretary as assurance that such licensee's business will be conducted in accordance with this chapter and that the licensee will pay all reparation awards, subject to its right of appeal under section 499g(c) of this title, which may be issued against it in connection with transactions occurring within four years following the approval. The Secretary may approve employment without a surety bond after the expiration of two years from the effective date of the applicable disciplinary order. The Secretary, based on changes in the nature and volume of business conducted by the licensee, may require an increase or authorize a reduction in the amount of the bond. A licensee who is notified by the Secretary to provide a bond in an increased amount shall do so within a reasonable time to be specified by the Secretary, and if the licensee fails to do so the approval of employment shall automatically terminate. The Secretary may, after thirty days notice and an opportunity for a hearing, suspend or revoke the license of any licensee who, after the date given in such notice, continues to employ any person in violation of this section. The Secretary may extend the period of employment sanction as to a responsibly connected person for an additional one-year period upon the determination that the person has been unlawfully employed as provided in this subsection.

(c) Fraud in procurement

If, after a license shall have been issued to an applicant, the Secretary believes that the license was obtained through a false or misleading statement in the application therefor or through a misrepresentation, concealment, or withholding of facts respecting any violation of this chapter by any officer, agent, or employee, he may, after thirty days' notice and an opportunity for a hearing, revoke said license, whereupon no license shall be issued to said applicant or any applicant in which the person responsible for such false or misleading statement or misrepresentation, concealment, or withholding of facts is financially interested, except under the conditions set forth in section 499d(b) of this title.

(d) Injunction

In addition to being subject to the penalties provided by section 499c(a) of this title, any commission merchant, dealer, or broker who engages in or operates such business without a valid and effective license from the Secretary shall be liable to be proceeded against in any court of competent jurisdiction in a suit by the United States for an injunction to restrain such defendant from further continuing so to engage in or operate such business, and, if the court shall find that the defendant is continuing to engage in such business without a valid and effective license, the court shall issue an injunction to restrain such defendant from continuing to engage in or to operate such business without such license.

(e) Alternative civil penalties

In lieu of suspending or revoking a license under this section when the Secretary determines, as provided by section 499f of this title, that a commission merchant, dealer, or broker has violated section 499b of this title or subsection (b) of this section, the Secretary may assess a civil penalty not to exceed $2,000 for each violative transaction or each day the violation continues. In assessing the amount of a penalty under this subsection, the Secretary shall give due consideration to the size of the business, the number of employees, and the seriousness, nature, and amount of the violation. Amounts collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

(June 10, 1930, ch. 436, § 8, 46 Stat. 535; Apr. 13, 1934, ch. 120, § 14, 48 Stat. 588; Aug. 20, 1937, ch. 719, § 11, 50 Stat. 730; July 30, 1956, ch. 786, § 5, 70 Stat. 727; Pub. L. 87–725, § 11, Oct. 1, 1962, 76 Stat. 675; Pub. L. 102–237, title X, § 1011(6), Dec. 13, 1991, 105 Stat. 1898; Pub. L. 104–48, §§ 11, 12(b), Nov. 15, 1995, 109 Stat. 430, 431.)

CODIFICATION

Section was formerly classified to section 558 of this title.

AMENDMENTS

1995—Subsec. (b). Pub. L. 104–48, § 12(b), inserted at end "The Secretary may extend the period of employment sanction as to a responsibly connected person for an additional one-year period upon the determination that the person has been unlawfully employed as provided in this subsection."

Subsec. (e). Pub. L. 104–48, § 11, added subsec. (e).

1991—Subsec. (a). Pub. L. 102–237 redesignated cls. (a) and (b) as (1) and (2), respectively, and substituted a period for semicolon at end.

1962—Subsec. (b). Pub. L. 87–725 amended subsec. (b) generally, and among other changes, provided that any licensee hiring any person without the Secretary's approval in violation of this section, after notice and opportunity for hearing, may have his license suspended or revoked, that the restrictions shall apply to persons found, after notice and opportunity for hearing, to have committed any flagrant or repeated violation of section 499b of this title, but not where such violator's license was suspended and the suspension has expired or is not in effect, and shall also apply to persons against whom there is a unpaid reparation award issued within two years, subject to appeal under section 499g(c) of this title, permitted the Secretary to approve employment at any time following nonpayment of a reparation award, or after one year following the revocation or finding of flagrant and repeated violation of section 499b of this title, if the licensee furnishes a bond as assurance that his business will be conducted in accordance with this chapter and he will pay all reparation awards issued within four years following approval, subject to appeal under section 499g(c) of this title, or without bond after two years from the effective date of the disciplinary order, authorized the Secretary to increase or decrease the amount of bond, and required licensees notified of an increased bond to provide such in a reasonable time or the approval of employment will terminate.

1956—Subsec. (b). Act July 30, 1956, provided for suspension of licenses, and restricted authority to permit employment to those cases where licenses have been revoked or suspended for failure to pay a reparation award.

1937—Subsec. (a). Act Aug. 20, 1937, among other changes, inserted cl. (a) designation and inserted "or (b) any commission merchant, dealer, or broker has been found guilty in a Federal court of having violated section 499n(b) of this title" after "section 499b of this title".

Subsec. (b). Act Aug. 20, 1937, amended subsec. (b) generally.

Subsecs. (c), (d). Act Aug. 20, 1937, added subsecs. (c) and (d).

1934—Subsec. (b). Act Apr. 13, 1934, added subsec. (b).

§ 499i. Accounts, records, and memoranda; duty of licensees to keep; contents; suspension of license for violation of duty

Every commission merchant, dealer, and broker shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. If such accounts, records, and memoranda are not so kept, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender for a period not to exceed ninety days.

(June 10, 1930, ch. 436, § 9, 46 Stat. 535.)

CODIFICATION

Section was formerly classified to section 559 of this title.

§ 499j. Orders; effective date; continuance in force; suspension, modification and setting aside; penalty

Any order of the Secretary under this chapter other than an order for the payment of money shall take effect within such reasonable time, not less than ten days, as is prescribed in the order, and shall continue in force until his further order, or for a specified period of time, accordingly as it is prescribed in the order, unless such order is suspended, modified, or set aside by the Secretary or is suspended, modified, or set aside by a court of competent jurisdiction. Any such order of the Secretary, if regularly made, shall be final, unless before the date prescribed for its taking effect application is made to a court of competent jurisdiction by the commission merchant, dealer, or broker against whom such order is directed to have such order set aside or its enforcement, operation, or execution suspended or restrained.

(June 10, 1930, ch. 436, § 10, 46 Stat. 535.)

CODIFICATION

Section was formerly classified to section 560 of this title.

§ 499k. Injunctions; application of injunction laws governing orders of Interstate Commerce Commission

For the purposes of this chapter the provisions of all laws relating to the suspending or restraining of the enforcement, operation, or execution, or the setting-aside, in whole or in part, of the orders of the Interstate Commerce Commission are made applicable to orders of the Secretary under this chapter and to any person subject to the provisions of this chapter.

(June 10, 1930, ch. 436, § 11, 46 Stat. 535.)

CODIFICATION

Section was formerly classified to section 561 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104–88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 701 of Title 49.

§ 499*l*. Violations; report to Attorney General; proceedings; costs

The Secretary may report any violation of this chapter for which a civil penalty is provided to the Attorney General of the United States, who shall cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay. The costs and expenses of such proceedings shall be paid out of the appropriation for the expenses of the courts of the United States.

(June 10, 1930, ch. 436, § 12, 46 Stat. 536.)

CODIFICATION

Section was formerly classified to section 562 of this title.

§ 499m. Complaints; procedure, penalties, etc.

(a) Investigation by Secretary of Agriculture; inspection of accounts, records, and memoranda; penalty for refusing inspection

The Secretary or his duly authorized agents shall have the right to inspect such accounts, records, and memoranda of any commission merchant, dealer, or broker as may be material (1) in the investigation of complaints under this chapter, or (2) to the determination of ownership, control, packer, or State, country, or region of origin in connection with commodity inspections, or (3) to ascertain whether section 499i of this title is being complied with, and if any such commission merchant, dealer, or broker refuses to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given. The Secretary or his duly authorized agents shall have the right to inspect any lot of any perishable agricultural commodity covered by this chapter, and if any commission merchant, dealer, or broker having ownership of or control over such lot fails or refuses to authorize or allow such inspection, the Secretary may, after thirty days' notice and an opportunity for a hearing, publish the facts and circumstances and/or, by order, suspend the license of the offender for a period not to exceed ninety days.

(b) Inspection of records; surety bond; suspension of license

The Secretary or the Secretary's duly authorized agents, in order to insure that the prompt payment provision of section 499b(4) of this title is being complied with, shall from time to time inspect the accounts, records, and memoranda of any commission merchant, dealer, or broker determined in a formal disciplinary proceeding under section 499f(b) of this title to have violated such provision. The Secretary may also require that any such commission merchant, dealer, or broker furnish, maintain, and from time to time adjust a surety bond in form and amount satisfactory to the Secretary as assurance that such commission merchant's, dealer's, or broker's business will be conducted in accordance with this chapter and that such commission merchant, dealer, or broker will pay all reparation awards, subject to its right of appeal under section 499g(c) of this title: *Provided*, That if such surety bond is furnished, maintained, and adjusted as required by the Secretary, the Secretary shall not thereafter inspect the accounts, records, and memoranda of such commission merchant, dealer, or broker under this subsection more than once a year. If any such commission merchant, dealer, or broker refuses to permit such inspection or fails or refuses to furnish, maintain, or adjust such surety bond, the Secretary may publish the facts and circumstances and, by order, suspend the license of the offender until permission to make such inspection is given or such surety bond is furnished, maintained, or adjusted.

(c) Hearings; subpoenas; oaths; witnesses; evidence

The Secretary, or any officer or employee designated by him for such purpose, may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, receive evidence, and require by subpoena the attendance and testimony of witnesses and the production of such accounts, records, and memoranda as may be material for the determination of any complaint under this chapter.

(d) Disobedience to subpoenas; remedy; contempt

In case of disobedience to a subpoena, the Secretary or any of his examiners may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of accounts, records, and memoranda. Any district court of the United States within the jurisdiction of which any hearing is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring the person to appear before the Secretary or his examiner or to produce accounts, records, and memoranda if so ordered, or to give evidence touching any matter pertinent to any complaint; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

(e) Depositions; production of accounts, records and memoranda

The Secretary may order testimony to be taken by deposition in any proceeding or investigation or incident to any complaint pending under this chapter at any stage thereof. Such depositions may be taken before any person designated by the Secretary and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition or under his direction and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce accounts, records, and memoranda in the same manner as witnesses may be compelled to appear and testify and produce accounts, records, and memoranda before the Secretary or any of his examiners.

(f) Fees and mileage of witnesses

Witnesses summoned before the Secretary or any officer or employee designated by him shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like service in the courts of the United States.

(June 10, 1930, ch. 436, § 13, 46 Stat. 536; July 30, 1956, ch. 786, § 6, 70 Stat. 727; Pub. L. 91–452, title II, § 205, Oct. 15, 1970, 84 Stat. 928; Pub. L. 95–562, § 3, Nov. 1, 1978, 92 Stat. 2381.)

CODIFICATION

Section was formerly classified to section 563 of this title.

AMENDMENTS

1978—Subsecs. (b) to (f). Pub. L. 95–562 added subsec. (b) and redesignated former subsecs. (b) to (e) as (c) to (f), respectively.

1970—Subsec. (f). Pub. L. 91–452 struck out subsec. (f) which related to immunity from prosecution of any natural person compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

1956—Subsec. (a). Act July 30, 1956, permitted inspection of accounts, records and memoranda to determine ownership, control, packer, or State, country, or region of origin in connection with commodity inspection, and to ascertain whether section 499i of this title is being complied with, and to permit inspection of lots of perishable agricultural commodities.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

§ 499n. Inspection of perishable agricultural commodities

(a) Employment of inspectors; fees and expenses; inspection certificate as evidence

The Secretary is authorized, independently and in cooperation with other branches of the Government, State, or municipal agencies and/or any person, whether operating in one or more jurisdictions, to employ and/or license inspectors to inspect and certify, without regard to the filing of a complaint under this chapter, to any interested person the class, quality, and/or condition of any lot of any perishable agricultural commodity when offered for interstate or foreign shipment or when received at places where the Secretary shall find it practicable to provide such service, under such rules and regulations as he may prescribe, including the payment of such fees and expenses as will be reasonable and as nearly as may be to cover the cost for the service rendered: *Provided*, That fees for inspections made by a licensed inspector, less the percentage thereof which he is allowed by the terms of his contract of employment with the Secretary as compensation for his services, shall be deposited into the Treasury of the United States as miscellaneous receipts; and fees for inspections made by an inspector acting under a cooperative agreement with a State, municipality, or other person shall be disposed of in accordance with the terms of such agreement: *Provided further*, That expenses for travel and subsistence incurred by inspectors shall be paid by the applicant for inspection to the United States Department of Agriculture to be credited to the appropriation for carrying out the purposes of this chapter: *And provided further*, That official inspection certificates for fresh fruits and vegetables issued by the Secretary of Agriculture pursuant to any law shall be received by all officers and all courts of the United States, in all proceedings under this chapter, and in all transactions upon contract markets under Commodities Exchange Act (7 U.S.C. 1 et seq.), as prima-facie evidence of the truth of the statements therein contained.

(b) Issuance of fraudulent certificates; penalties

Whoever shall falsely make, issue, alter, forge, or counterfeit, or cause or procure to be falsely made, issued, altered, forged, or counterfeited, or willingly aid, cause, procure or assist in, or be a party to the false making, issuing, altering, forging, or counterfeiting of any certificate of inspection issued under authority of this chapter, sections 491, 493 to 497 of this title, or any Act making appropriations for the Department of Agriculture; or shall utter or publish as true or cause to be uttered or published as true any such false, forged, altered, or counterfeited certificate, for a fraudulent purpose, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than $500 or by imprisonment for a period of not more than one year, or both, at the discretion of the court.

(June 10, 1930, ch. 436, § 14, 46 Stat. 537; Apr. 13, 1934, ch. 120, § 15, 48 Stat. 588; Aug. 20, 1937, ch. 719, § 12, 50 Stat. 730; Pub. L. 102–237, title X, § 1011(7), Dec. 13, 1991, 105 Stat. 1898.)

REFERENCES IN TEXT

The Commodities Exchange Act, referred to in subsec. (a), probably means act Sept. 21, 1922, ch. 369, 42 Stat. 998, as amended, known as the Commodity Exchange Act, which is classified generally to chapter 1 (§ 1 et seq.) of this title. For complete classification of this Act to the Code, see section 1 of this title and Tables.

CODIFICATION

Section was formerly classified to section 564 of this title.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–237 substituted ''(7 U.S.C. 1 et seq.)'' for ''(7 U.S.C., Supp. 2, secs. 1 to 17(a))'' and a period for semicolon at end.

1937—Act Aug. 20, 1937, designated existing provisions as subsec. (a) and, among other changes inserted ''That official inspection certificates for fresh fruits and vegetables issued by the Secretary of Agriculture pursuant to any law shall be received by all officers and all courts of the United States, in all proceedings under this chapter, and in all transactions upon contract markets under Commodities Exchange Act'' before ''as prima facie'' in third proviso, and added subsec. (b).

1934—Act Apr. 13, 1934, inserted ''and in all proceedings under this chapter'' after ''United States'' in third proviso.

POTATO INSPECTION

Pub. L. 99–198, title XVII, § 1704, Dec. 23, 1985, 99 Stat. 1635, as amended by Pub. L. 104–66, title I, § 1011(g), Dec. 21, 1995, 109 Stat. 710, provided that: ''The Secretary of Agriculture shall perform random spot checks of potatoes entering through ports of entry in the northeastern United States.''

§ 499*o*. Rules, regulations, and orders; appointment, removal, and compensation of officers and employees; expenditures; authorization of appropriations; abrogation of inconsistent statutes

The Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this chapter, and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law, and make such expenditures for rent outside the District of Co-

lumbia, printing, binding, telegrams, telephones, lawbooks, books of reference, publications, furniture, stationery, office equipment, travel, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, from the Perishable Agricultural Commodities Act fund provided for by section 499c(b) of this title and any supplements to such fund, and as may be appropriated for by Congress; and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purposes. This chapter shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects of this chapter; but it is intended that all such statutes shall remain in full force and effect except insofar only as they are inconsistent herewith or repugnant hereto.

(June 10, 1930, ch. 436, § 15, 46 Stat. 537; June 15, 1950, ch. 254, § 3, 64 Stat. 218.)

CODIFICATION

Section was formerly classified to section 565 of this title.

AMENDMENTS

1950—Act June 15, 1950, provided for payment of administrative costs out of fund and any supplements thereto as well as by Congressional appropriations.

§ 499p. Liability of licensees for acts and omissions of agents

In construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by any commission merchant, dealer, or broker, within the scope of his employment or office, shall in every case be deemed the act, omission, or failure of such commission merchant, dealer, or broker as that of such agent, officer, or other person.

(June 10, 1930, ch. 436, § 16, 46 Stat. 538.)

CODIFICATION

Section was formerly classified to section 566 of this title.

§ 499q. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(June 10, 1930, ch. 436, § 17, 46 Stat. 538.)

CODIFICATION

Section was formerly classified to section 567 of this title.

§ 499r. Repealed. Pub. L. 102–237, title X, § 1011(8), Dec. 13, 1991, 105 Stat. 1898

Section, act June 10, 1930, ch. 436, § 18, 46 Stat. 538, provided for short title of chapter. See section 499a(a) of this title.

§ 499s. Depositing appropriations in fund

Any unexpended balances of appropriations for the current fiscal year, and any subsequent appropriations, made to carry out the Acts referred to in section 499c(b) of this title, may be deposited in the Perishable Agricultural Commodities Act fund.

(June 10, 1930, ch. 436, § 19, as added June 15, 1950, ch. 254, § 4, 64 Stat. 218.)

REFERENCES IN TEXT

The Acts referred to in section 499c(b) of this title, referred to in text, mean the Perishable Agricultural Commodities Act, 1930, which was translated to read ''this chapter'' and the Act to prevent the destruction or dumping of farm produce, act Mar. 3, 1927, ch. 309, 44 Stat. 1355, which is classified to chapter 20 (§ 491 et seq.) of this title.

§ 499t. Omitted

CODIFICATION

Section, act June 10, 1930, ch. 436, § 20, as added Aug. 22, 1988, Pub. L. 100–414, § 2, 102 Stat. 1102, established Perishable Agricultural Commodities Act Industry Advisory Committee, provided for its membership, compensation, etc., directed advisory committee to review Perishable Agricultural Commodities Act program and to make findings and recommendations to Congress and Secretary of Agriculture with respect to future operations of program, with an interim report not later than Sept. 30, 1989, and a final report not later than May 1, 1990, containing results of its review and recommendations, and provided that advisory committee cease to exist on date of its final report.

CHAPTER 21—TOBACCO STATISTICS

Sec.
501. Collection and publication; facts required; deteriorated tobacco.
502. Standards for classification; returns and blanks.
503. Reports; necessity; by whom made; penalties.
504. ''Person'' defined.
505. Access to internal-revenue records.
506. Returns under oath; administration.
507. Limitation on use of statistical information.
508. Separability.
509. Repealed.

§ 501. Collection and publication; facts required; deteriorated tobacco

The Secretary of Agriculture is authorized and directed to collect and publish statistics of the quantity of leaf tobacco in all forms in the United States and Puerto Rico, owned by or in the possession of dealers, manufacturers, quasi-manufacturers, growers' cooperative associations, warehousemen, brokers, holders, or owners, other than the original growers of tobacco. The statistics shall show the quantity of tobacco in such detail as to types, groups of grades, and such other subdivisions as to quality, color, and/or grade for particular types, as the Secretary of Agriculture shall deem to be practical and necessary for the purposes of this chapter, shall be summarized as of January 1, April 1, July 1, and October 1 of each year, and an annual report on tobacco statistics shall be issued: *Provided*, That the Secretary of Agriculture shall not be required to collect statistics of leaf tobacco from any manufacturer of tobacco who, in the first three quarters of the preceding calendar year, according to the returns of the Commissioner of Internal Revenue or the record of the Treasurer of Puerto Rico, manufactured less than thirty-five thousand pounds