

§ 2148. Importation of live dogs**(a) Definitions**

In this section:

(1) Importer

The term “importer” means any person who, for purposes of resale, transports into the United States puppies from a foreign country.

(2) Resale

The term “resale” includes any transfer of ownership or control of an imported dog of less than 6 months of age to another person, for more than de minimis consideration.

(b) Requirements**(1) In general**

Except as provided in paragraph (2), no person shall import a dog into the United States for purposes of resale unless, as determined by the Secretary, the dog—

(A) is in good health;

(B) has received all necessary vaccinations; and

(C) is at least 6 months of age, if imported for resale.

(2) Exception**(A) In general**

The Secretary, by regulation, shall provide an exception to any requirement under paragraph (1) in any case in which a dog is imported for—

(i) research purposes; or

(ii) veterinary treatment.

(B) Lawful importation into Hawaii

Paragraph (1)(C) shall not apply to the lawful importation of a dog into the State of Hawaii from the British Isles, Australia, Guam, or New Zealand in compliance with the applicable regulations of the State of Hawaii and the other requirements of this section, if the dog is not transported out of the State of Hawaii for purposes of resale at less than 6 months of age.

(c) Implementation and regulations

The Secretary, the Secretary of Health and Human Services, the Secretary of Commerce, and the Secretary of Homeland Security shall promulgate such regulations as the Secretaries determine to be necessary to implement and enforce this section.

(d) Enforcement

An importer that fails to comply with this section shall—

(1) be subject to penalties under section 2149 of this title; and

(2) provide for the care (including appropriate veterinary care), forfeiture, and adoption of each applicable dog, at the expense of the importer.

(Pub. L. 89-544, § 18, as added Pub. L. 110-234, title XIV, § 14210(a), May 22, 2008, 122 Stat. 1464, and Pub. L. 110-246, § 4(a), title XIV, § 14210(a), June 18, 2008, 122 Stat. 1664, 2226.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 2148, Pub. L. 89-544, § 18, Aug. 24, 1966, 80 Stat. 352, prohibited any construction of this chapter which would authorize the Secretary to promulgate rules, regulations, or orders for the handling, care, treatment, or inspection of animals during research or experimentation, prior to repeal by Pub. L. 91-579, §§ 19, 23, Dec. 24, 1970, 84 Stat. 1564, 1565, effective one year after Dec. 24, 1970. See section 2143 of this title.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of this title.

Pub. L. 110-234, title XIV, § 14210(b), May 22, 2008, 122 Stat. 1464, and Pub. L. 110-246, § 4(a), title XIV, § 14210(b), June 18, 2008, 122 Stat. 1664, 2226, provided that: “The amendment made by subsection (a) [enacting this section] takes effect on the date of the enactment of this Act [June 18, 2008].”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of this title.]

§ 2149. Violations by licensees**(a) Temporary license suspension; notice and hearing; revocation**

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

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

Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 2142 of this title, that violates any provision of this chapter, or any rule, regulation, or standard promulgated by the Secretary thereunder, may be assessed a civil penalty by the Secretary of not more than \$10,000 for each such violation, and the Secretary may also make an order that such person shall cease and desist from continuing such violation. Each violation and each day during which a violation continues shall be a separate offense. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing with respect to the alleged violation, and the order of the Secretary assessing a penalty and making a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States Court of Appeals. The Secretary shall give due consideration to the appropriateness of the penalty with respect to the size of

the business of the person involved, the gravity of the violation, the person's good faith, and the history of previous violations. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which such person is found or resides or transacts business, to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. Any person who knowingly fails to obey a cease and desist order made by the Secretary under this section shall be subject to a civil penalty of \$1,500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

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

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

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

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

(Pub. L. 89-544, §19, Aug. 24, 1966, 80 Stat. 352; Pub. L. 91-579, §20, Dec. 24, 1970, 84 Stat. 1564; Pub. L. 94-279, §13, Apr. 22, 1976, 90 Stat. 420; Pub. L. 99-198, title XVII, §1755, Dec. 23, 1985, 99 Stat. 1650; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 110-234, title XIV, §14214, May 22, 2008, 122 Stat. 1466; Pub. L. 110-246, §4(a), title XIV, §14214, June 18, 2008, 122 Stat. 1664, 2228.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

Subsec. (b). Pub. L. 110-246, §14214, substituted "\$10,000" for "\$2,500".

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

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

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

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

Subsec. (c). Pub. L. 94-279 substituted provisions covering appeal of final orders by aggrieved persons, limitations, and exclusive jurisdiction of the United States Courts of Appeals for provisions relating to criminal penalties.

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

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

CHANGE OF NAME

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

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

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

EFFECTIVE DATE OF 1970 AMENDMENT

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

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

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

§ 2151. Rules and regulations

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