

Public Law 97-461
97th Congress

An Act

To authorize the Secretary of Agriculture to assess civil penalties with respect to violations of certain Acts relating to the prevention of the introduction and dissemination into the United States of plant pests, plant diseases, and livestock and poultry diseases, to increase the amount of criminal fines which may be imposed with respect to violations of such Acts, and for other purposes.

Jan. 12, 1983

[H.R. 6679]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 103(a) of the Federal Plant Pest Act (7 U.S.C. 150bb(a)) is amended by striking out "knowingly" each place it appears.

Plant, livestock and poultry diseases, civil penalties for introduction and dissemination.

(b) Section 108 of the Federal Plant Pest Act (7 U.S.C. 150gg) is amended to read as follows:

"Sec. 108. (a) Any person who—

7 USC 150bb.

"(1) knowingly violates section 103 of this Act or any regulation promulgated under this Act;

"(2) knowingly forges or counterfeits any permit or other document provided for by this Act or by any such regulation; or

"(3) knowingly and without the authority of the Secretary, uses, alters, or defaces any such permit or document;

shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$5,000, by imprisonment not exceeding one year, or both.

"(b) Any person who—

"(1) violates section 103 of this Act or any regulation promulgated under this Act;

"(2) forges or counterfeits any permit or other document provided for by this Act or by any such regulation; or

"(3) without the authority of the Secretary, uses, alters, or defaces any such permit or document;

may be assessed a civil penalty by the Secretary not exceeding \$1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty."

Notice; hearing.

28 USC 2341 et seq.

SEC. 2. The first paragraph of section 10 of the Act of August 20, 1912 (7 U.S.C. 163, 164), commonly known as the Plant Quarantine Act, is amended by striking out "That any person" and all that follows through "; and it" and inserting in lieu thereof the following: "That any person who knowingly violates any provision of this Act or any rule or regulation promulgated by the Secretary of Agriculture under this Act, or who knowingly forges or counterfeits any certificate provided for in this Act or in any such rule or regulation, or who, knowingly and without the authority of the Secretary, uses, alters, defaces, or destroys any such certificate shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding \$5,000, by imprisonment not exceeding one year, or both. Any person who violates any such provision, rule, or regulation, or who forges or counterfeits any such

Notice; hearing.

28 USC 2341 *et seq.*

certificate, or who, without the authority of the Secretary, uses, alters, defaces, or destroys any such certificate, may be assessed a civil penalty by the Secretary not exceeding \$1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty. It”.

SEC. 3. The Act of January 31, 1942 (7 U.S.C. 149), is amended by—

(1) inserting “(a)” after “That”; and

(2) adding at the end the following new subsection:

“(b)(1) Any person who knowingly violates any rule or regulation promulgated under subsection (a) shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$5,000, by imprisonment not exceeding one year, or both.

“(2) Any person who violates any such rule or regulation may be assessed a civil penalty by the Secretary of Agriculture not exceeding \$1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty.”.

Notice; hearing.

28 USC 2341 *et seq.*

SEC. 4. Section 6 of the Act of August 30, 1890 (21 U.S.C. 104), is amended by striking out the last sentence and inserting in lieu thereof the following: “Any person who knowingly violates any provision of this section or sections 7 through 10 of this Act or any regulation prescribed by the Secretary of Agriculture under any such section shall be guilty of a misdemeanor and shall, on conviction, be punished by a fine not exceeding \$5,000, by imprisonment not exceeding one year, or both. Any person who violates any such provision or any such regulation may be assessed a civil penalty by the Secretary of Agriculture not exceeding \$1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty.”.

21 USC 102, 103, 101, 105.

Notice; hearing.

28 USC 2341 *et seq.*

SEC. 5. Section 7 of the Act of May 29, 1884 (21 U.S.C. 117), commonly known as the Animal Industry Act, is amended by—

(1) inserting “(a)” after “SEC. 7.”;

(2) inserting “or the rules and regulations prescribed by the Secretary of Agriculture under such section” after “Act”; and

(3) adding at the end the following new subsection:

“(b) Any person or persons operating any railroad, or master or owner of any boat or vessel, or owner or custodian of, or person having control over, cattle or other livestock or live poultry who shall violate the provisions of section 6 of this Act or the rules and regulations prescribed by the Secretary of Agriculture under such section may be assessed a civil penalty by the Secretary of not more than \$1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty.”.

21 USC 115.

Notice; hearing.

28 USC 2341 *et seq.*

SEC. 6. Section 3 of the Act of February 2, 1903 (21 U.S.C. 122), commonly known as the Cattle Contagious Diseases Act of 1903, is amended by—

(1) striking out “one thousand dollars” and inserting in lieu thereof “five thousand dollars”; and

(2) adding at the end the following: “Any person, company, or corporation violating such provisions, orders, or regulations may be assessed a civil penalty by the Secretary of Agriculture of not more than one thousand dollars. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty.”

Notice; hearing.

28 USC 2341 *et seq.*

SEC. 7. Section 6 of the Act of March 3, 1905 (21 U.S.C. 127), is amended by—

(1) striking out “one thousand dollars” and inserting in lieu thereof “five thousand dollars”; and

(2) adding at the end the following: “Any person, company, or corporation violating such provisions may be assessed a civil penalty by the Secretary of Agriculture of not more than one thousand dollars. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty.”

Notice; hearing.

28 USC 2341 *et seq.*

SEC. 8. Section 6(a) of the Act of July 2, 1962 (21 U.S.C. 134e), is amended by—

(1) inserting “(1)” after “(a)”;

(2) striking out “\$1,000” and inserting in lieu thereof “\$5,000”; and

(3) adding at the end the following new paragraph:

“(2) Whoever violates any such regulation may be assessed a civil penalty by the Secretary not exceeding \$1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty.”

Notice; hearing.

28 USC 2341 *et seq.*

SEC. 9. Section 2 of the Act of May 6, 1970 (21 U.S.C. 135a), is amended by—

(1) inserting “(a)” after “Sec. 2.” and

(2) adding at the end the following new subsection:

“(b) Any person who brings any animal to the quarantine station or moves any animal from the quarantine station, contrary to the conditions prescribed by the Secretary in regulations issued hereunder, may be assessed a civil penalty by the Secretary not to exceed \$1,000. The Secretary may issue an order assessing such civil

Notice; hearing.

28 USC 2341 et seq.

penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty."

Approved January 12, 1983.

Sec. 7 Section 6 of the Act of March 2, 1905 (34 U.S.C. 121) is amended by—

(1) striking out "one thousand dollars" and inserting in lieu thereof "five thousand dollars"; and

(2) adding at the end the following: "Any person, company, or corporation violating such provisions may be assessed a civil penalty by the Secretary of Agriculture of not more than one thousand dollars. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty."

Sec. 8 Section 6(a) of the Act of July 2, 1962 (41 U.S.C. 1362) is amended by—

(1) inserting "(1), after '(a)";

(2) striking out "\$1,000" and inserting in lieu thereof "\$5,000"; and

(3) adding at the end the following new paragraph: "(b) Whoever violates any such regulation may be assessed a civil penalty by the Secretary not exceeding \$1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty."

Sec. 9 Section 2 of the Act of May 6, 1970 (41 U.S.C. 1362) is amended by—

(1) inserting "(a)" after "2," and

(2) adding at the end the following new subsection: "(b) Any person who brings any animal to the quarantine station or moves any animal from the quarantine station, contrary to the conditions prescribed by the Secretary in regulations issued hereunder, may be assessed a civil penalty by the Secretary not to exceed \$1,000. The Secretary may issue an order assessing such civil

LEGISLATIVE HISTORY—H.R. 6679:

HOUSE REPORT No. 97-875 (Comm. on Agriculture).
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Sept. 28, considered and passed House.
Dec. 21, considered and passed Senate.