

bia, be subject to the operation and effect of the laws of such State or Territory or the District of Columbia, enacted in the exercise of its police powers to the same extent and in the same manner as though such articles or substances had been produced in such State or Territory or the District of Columbia, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise. (May 9, 1902, ch. 784, § 1, 32 Stat. 193.)

CROSS REFERENCES

Colored oleomargarine, intrastate sales of, see section 347 et seq. of this title.

§ 26. Inspection of food and other products by Department of Agriculture for any branch of Government.

CODIFICATION

Section, which was from the appropriation acts of Jan. 18, 1927, ch. 39, 44 Stat. 984; May 10, 1928, ch. 572, 45 Stat. 548; Feb. 10, 1929, ch. 227, 45 Stat. 1198; May 27, 1930, ch. 341, 46 Stat. 424, and subsequent Department of Agriculture Appropriation Acts to and including act June 28, 1944, ch. 298, § 4, 58 Stat. 461, is now covered by section 571 of Title 5, Executive Departments and Government Officers and Employees.

Chapter 2.—TEAS

Sec.

41. Importation of tea inferior to standard; bond of importers; regulation of use of inferior importation.
42. Board of experts; appointment; term; vacancies; compensation.
43. Standards of purity; duplicate samples at custom-houses and for importers and dealers.
44. Bonds of importers; examination; importations at ports having no examiner.
45. Permit for delivery; retention of inferior grades; reexamination; partial delivery.
46. Examiners; examination according to usages of trade.
- 46a. Deposit of fee before examination of tea.
47. United States Board of Tea Appeals; permit for delivery; exportation or destruction of inferior grades.
48. Reexamination; findings by examiner; assistance of experts.
49. Reimporting rejected teas; forfeiture.
50. Regulations.

§ 41. Importation of tea inferior to standard; bond of importers; regulation of use of inferior importation.

It shall be unlawful for any person or persons or corporation to import or bring into the United States any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards provided in section 43 of this title, and the importation of all such merchandise is prohibited. Nothing in this chapter shall affect or prevent the importation into the United States, under such regulations as the Secretary of Health, Education, and Welfare may prescribe, of any merchandise as tea which may be inferior in purity, quality, and fitness for consumption to the standards established by the Secretary of Health, Education, and Welfare or of any tea waste, tea siftings, or tea sweepings, for the sole purpose of manufacturing theine, caffeine, or other chemical products whereby the identity and character of the original material is entirely destroyed or changed; importers and manufacturers who import or bring into the United States such tea, tea waste, tea siftings, or tea sweepings shall give suitable bond, to be subject to the approval only of the collector of customs at the port of entry, condi-

tioned that said imported material shall be only used for the purposes provided in this chapter, under such regulations as may be prescribed by the Secretary of Health, Education, and Welfare. (Mar. 2, 1897, ch. 358, § 1, 29 Stat. 604; May 16, 1908, ch. 170, 35 Stat. 163; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorg. Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2421, 54 Stat. 1237; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

The Food and Drug Administration in the Department of Agriculture and its functions, except those functions relating to the administration of the Insecticide Act of 1910 and the Naval Stores Act, were transferred to the Federal Security Agency, to be administered under the direction and supervision of the Federal Security Administrator, by 1940 Reorg. Plan No. IV, set out as notes under section 133t of Title 5, Executive Departments and Government Officers and Employees.

§ 42. Board of experts; appointment; term; vacancies; compensation.

On or before February 15 of each year, the Secretary of Health, Education, and Welfare shall appoint a board, to consist of seven members, each of whom shall be an expert in teas, and who shall prepare and submit to him standard samples of tea. The persons so appointed shall be at all times subject to removal by the said Secretary, and shall serve for the term of one year. Vacancies in the said board occurring by removal, death, resignation, or any other cause shall be forthwith filled by the Secretary of Health, Education, and Welfare by appointment, such appointee to hold for the unexpired term. Said board shall appoint a presiding officer, who shall be the medium of all communications to or from such board. Each member of said board shall receive as compensation the sum of \$50 per annum, which, together with all necessary expenses while engaged upon the duty herein provided, shall be paid by the Secretary. (Mar. 2, 1897, ch. 358, § 2, 29 Stat. 605; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorg. Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2421, 54 Stat. 1237; July 12, 1943, ch. 221, title II, § 201, 57 Stat. 500; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

AMENDMENTS

1943—Act July 12, 1943, provided that the Administrator should pay the salaries and expenses of the Board members.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

Transfer of the Food and Drug Administration and its functions to the Federal Security Agency, see note under section 41 of this title.

§ 43. Standards of purity; duplicate samples at customhouses and for importers and dealers.

The Secretary of Health, Education, and Welfare, upon the recommendation of the board of experts provided in section 42 of this title, shall fix and establish uniform standards of purity, quality, and fitness for consumption of all kinds of teas imported into the United States, and shall procure and deposit in the customhouses of the ports of New York, Chicago, San Francisco, and such other ports as he may determine, duplicate samples of such standards. Said Secretary shall procure a sufficient number of other duplicate samples of such standards to supply the importers and dealers in tea at all ports desiring the same at cost. All teas, or merchandise described as tea, of inferior purity, quality, and fitness for consumption to such standards shall be deemed within the prohibition of section 41 of this title. (Mar. 2, 1897, ch. 358, § 3, 29 Stat. 605; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorg. Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2421, 54 Stat. 1237; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 87 Stat. 631.)

TRANSFER OF FUNCTIONS

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Transfer of the Food and Drug Administration and its functions to the Federal Security Agency, see note under section 41 of this title.

§ 44. Bonds of importers; examination; importations at ports having no examiner.

On making entry at the customhouse of all teas, or merchandise described as tea, imported into the United States, the importer or consignee shall give a bond to the collector of the port that such merchandise shall not be removed from the warehouse until released by the collector, after it shall have been duly examined with reference to its purity, quality, and fitness for consumption. For the purpose of such examination samples of each line in every invoice of tea shall be submitted by the importer or consignee to the examiner, together with the sworn statement of such importer or consignee that such samples represent the true quality of each and every part of the invoice and accord with the specifications therein contained; or in the discretion of the Secretary of Health, Education, and Welfare, such samples shall be obtained by the examiner and compared by him with the standards established by this chapter. In cases where said tea, or merchandise described as tea, is entered at ports where there is no qualified examiner as provided in section 46 of this title, the consignee or importer shall in the manner aforesaid furnish under oath a sample of each line of tea to the collector or other revenue officer to whom is committed the collection of duties, and said officer shall also draw or cause to be drawn samples of each line in every invoice and shall forward the same to a duly qualified examiner as provided in said section. The bond required by this section shall also be conditioned for the payment of all custom-

house charges which may attach to such merchandise prior to its being released or destroyed (as the case may be) under the provisions of this chapter. (Mar. 2, 1897, ch. 358, § 4, 29 Stat. 605; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorg. Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2421, 54 Stat. 1237; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

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Transfer of the Food and Drug Administration and its functions to the Federal Security Agency, see note under section 41 of this title.

§ 45. Permit for delivery; retention of inferior grades; reexamination; partial delivery.

If, after an examination as provided in section 44 of this title, the tea is found by the examiner to be equal in purity, quality, and fitness for consumption to the standards provided in sections 41—44 of this title, and no reexamination shall be demanded by the collector as provided in section 47 of this title, a permit shall at once be granted to the importer or consignee declaring the tea free from the control of the customs authorities; but if on examination such tea, or merchandise described as tea, is found, in the opinion of the examiner, to be inferior in purity, quality, and fitness for consumption to the said standards the importer or consignee shall be immediately notified, and the tea, or merchandise described as tea, shall not be released by the customhouse, unless on a reexamination called for by the importer or consignee the finding of the examiner shall be found to be erroneous. Should a portion of the invoice be passed by the examiner, a permit shall be granted for that portion and the remainder held for further examination, as provided in said section 47. (Mar. 2, 1897, ch. 358, § 5, 29 Stat. 605.)

§ 46. Examiners; examination according to usages of trade.

The examination provided for by this chapter shall be made by a duly qualified examiner at a port where standard samples are established, and where the merchandise is entered at ports where there is no qualified examiner, the examination shall be made at that one of said ports which is nearest the port of entry, and that for this purpose samples of the merchandise, obtained in the manner prescribed by section 44 of this title, shall be forwarded to the proper port by the collector or chief officer at the port of entry. In all cases of examination or reexamination of teas, or merchandise described as tea, by examiners or the United States Board of Tea Appeals under the provisions of this chapter, the purity, quality, and fitness for consumption of the same shall be tested according to the usages and customs of the tea trade, including the testing of an infusion of the same in boiling water, and, if necessary, chemical analysis. (Mar. 2, 1897, ch. 358, § 7, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712, 713.)

§ 46a. Deposit of fee before examination of tea.

On and after July 1, 1940, no tea, or merchandise described as tea, shall be examined for importation into the United States, or released by the Collector, under this chapter unless the importer or consignee of such tea or merchandise, prior to such examination, has paid for deposit into the Treasury of the United States as miscellaneous receipts, a fee of 3.5 cents for each hundred weight or fraction thereof of such tea and merchandise. (June 27, 1940, ch. 437, title I, 54 Stat. 632; July 1, 1941, ch. 269, title II, 55 Stat. 478.)

CODIFICATION

Section was not enacted as part of act Mar. 2, 1897, ch. 358, 29 Stat. 604, which comprises this chapter.

AMENDMENTS

1941—Act July 1, 1941, reenacted section without change.

§ 47. United States Board of Tea Appeals; permit for delivery; exportation or destruction of inferior grades.

In case the collector, importer, or consignee shall protest against the finding of the examiner, the matter in dispute shall be referred for decision to the United States Board of Tea Appeals, to consist of three employees of the Department of Health, Education, and Welfare, to be designated by the Secretary of Health, Education, and Welfare. If such board shall, after due examination, find the tea in question to be equal in purity, quality, and fitness for consumption to the proper standards, a permit shall be issued by the collector for its release and delivery to the importer; but if upon such final reexamination by such board the tea shall be found to be inferior in purity, quality, and fitness for consumption to the said standards, the importer or consignee shall give a bond, with security satisfactory to the collector, to export said tea, or merchandise described as tea, out of the limits of the United States within a period of six months after such final reexamination; and if the same shall not have been exported within the time specified, the collector, at the expiration of that time, shall cause the same to be destroyed. (Mar. 2, 1897, ch. 358, § 6, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712, 713; 1940 Reorg. Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2421, 54 Stat. 1237; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

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Transfer of the Food and Drug Administration and its functions to the Federal Security Agency, see note under section 41 of this title.

§ 48. Reexamination; findings by examiner; assistance of experts.

In cases of reexamination of teas, or merchandise described as teas, by the United States Board of Tea Appeals in pursuance of the provisions of this chapter, samples of the tea, or merchandise de-

scribed as tea, in dispute, for transmission to such board for its decision, shall be put up and sealed by the examiner in the presence of the importer or consignee if he so desires, and transmitted to such board, together with a copy of the finding of the examiner, setting forth the cause of condemnation and the claim or ground of the protest of the importer relating to the same, such samples, and the papers therewith, to be distinguished by such mark that the same may be identified. The decision of such board shall be in writing, signed by them, and transmitted, together with the record and samples, within three days after the rendition thereof, to the collector, who shall forthwith furnish the examiner and the importer or consignee with a copy of said decision or finding. The United States Board of Tea Appeals shall be authorized to obtain the advice, when necessary, of persons skilled in the examination of teas, who shall each receive for his services in any particular case a compensation not exceeding \$5. (Mar. 2, 1897, ch. 358, § 8, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712.)

§ 49. Reimporting rejected teas; forfeiture.

No imported teas which have been rejected by a customs examiner or by the United States Board of Tea Appeals, and exported under the provisions of this chapter, shall be reimported into the United States under the penalty of forfeiture for a violation of this prohibition. (Mar. 2, 1897, ch. 358, § 9, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712.)

§ 50. Regulations.

The Secretary of Health, Education, and Welfare shall have the power to enforce the provisions of this chapter by appropriate regulations. (Mar. 2, 1897, ch. 358, § 10, 29 Stat. 607; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorg. Plan No. IV, § 12, eff. June 30, 1940, 5 F. R. 2421, 54 Stat. 1237; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

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Transfer of the Food and Drug Administration and its functions to the Federal Security Agency, see note under section 41 of this title.

Chapter 3.—FILLED MILK

Sec.

61. Filled milk; definitions.
62. Same; manufacture, shipment, or delivery for shipment in interstate or foreign commerce prohibited.
63. Same; penalty for violations of law; acts, omissions, and so forth, of agents.
64. Same; regulations for enforcement.

FEDERAL FOOD, DRUG, AND COSMETIC ACT

By virtue of act June 25, 1938, ch. 675, § 902 (c), 52 Stat. 1059, nothing contained in chapter 9 of this title shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of sections 61—64 of this title.

BUREAU OF DAIRY INDUSTRY

General provisions, see sections 401—404 of Title 7, Agriculture.