

**TITLE 21 - FOOD AND DRUGS**  
**CHAPTER 9 - FEDERAL FOOD, DRUG, AND COSMETIC ACT**  
**SUBCHAPTER VII - GENERAL AUTHORITY**  
**Part A - General Administrative Provisions**

**§ 376. Examination of sea food on request of packer; marking food with results; fees; penalties**

The Secretary, upon application of any packer of any sea food for shipment or sale within the jurisdiction of this chapter, may, at his discretion, designate inspectors to examine and inspect such food and the production, packing, and labeling thereof. If on such examination and inspection compliance is found with the provisions of this chapter and regulations promulgated thereunder, the applicant shall be authorized or required to mark the food as provided by regulation to show such compliance. Services under this section shall be rendered only upon payment by the applicant of fees fixed by regulation in such amounts as may be necessary to provide, equip, and maintain an adequate and efficient inspection service. Receipts from such fees shall be covered into the Treasury and shall be available to the Secretary for expenditures incurred in carrying out the purposes of this section, including expenditures for salaries of additional inspectors when necessary to supplement the number of inspectors for whose salaries Congress has appropriated. The Secretary is authorized to promulgate regulations governing the sanitary and other conditions under which the service herein provided shall be granted and maintained, and for otherwise carrying out the purposes of this section. Any person who forges, counterfeits, simulates, or falsely represents, or without proper authority uses any mark, stamp, tag, label, or other identification devices authorized or required by the provisions of this section or regulations thereunder, shall be guilty of a misdemeanor, and shall on conviction thereof be subject to imprisonment for not more than one year or a fine of not less than \$1,000 nor more than \$5,000, or both such imprisonment and fine.

(June 25, 1938, ch. 675, § 706, formerly § 702A, formerly June 30, 1906, ch. 3915, § 10A, as added June 22, 1934, ch. 712, 48 Stat. 1204; amended Aug. 27, 1935, ch. 739, 49 Stat. 871; June 25, 1938, ch. 675, § 902(a), 52 Stat. 1059; renumbered § 702A of act June 25, 1938, July 12, 1943, ch. 221, title II, 57 Stat. 500; Pub. L. 102–300, § 6(b)(2), June 16, 1992, 106 Stat. 240; renumbered § 706, Pub. L. 102–571, title I, § 106(3), Oct. 29, 1992, 106 Stat. 4498; Pub. L. 103–80, § 3(dd)(2), Aug. 13, 1993, 107 Stat. 779.)

### **Codification**

Section was formerly classified to section 372a of this title prior to renumbering by Pub. L. 102–571.

Section, which formerly was not a part of the Federal Food, Drug, and Cosmetic Act, originally was classified to section 14a of this title. Section 902(a) of act June 25, 1938, set out as an Effective Date note under section 301 of this title, provided that the section should remain in force and effect and be applicable to the provisions of this chapter. Act July 12, 1943, renumbered this section as 702A of the Federal Food, Drug, and Cosmetic Act.

### **Prior Provisions**

A prior section 376, act June 25, 1938, ch. 675, § 706, 52 Stat. 1058, as amended, which related to listing and certification of color additives for foods, drugs, devices, and cosmetics, was renumbered section 721 of act June 25, 1938, by Pub. L. 102–571, title I, § 106(4), Oct. 29, 1992, 106 Stat. 4498, and transferred to section 379e of this title.

### **Amendments**

1993—Pub. L. 103–80 struck out “of Agriculture” after “Secretary” in two places.

1992—Pub. L. 102–300, which directed the amendment of the section by striking out “of Health, Education, and Welfare” wherever appearing, could not be executed because such words did not appear in the original statutory text. See 1993 Amendment note above and Transfer of Functions note below.

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*NB: This unofficial compilation of the U.S. Code is current as of Jan. 8, 2008 (see <http://www.law.cornell.edu/uscode/uscpri.html>).*

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### **Transfer of Functions**

Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695, which is classified to section 3508 (b) of Title 20, Education.

For transfer of functions of Federal Security Administrator to Secretary of Health, Education, and Welfare [now Health and Human Services], and of Food and Drug Administration in the Department of Agriculture to Federal Security Agency, see notes set out under section 321 of this title.