

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 2190

S.P. 780

In Senate, April 13, 1999

An Act to Reestablish the Maine Meat Inspection Act.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator KILKELLY of Lincoln.
Cosponsored by Representative PIEH of Bremen and
Senators: DAVIS of Piscataquis, GOLDTHWAIT of Hancock, KIEFFER of Aroostook,
LONGLEY of Waldo, MICHAUD of Penobscot, NUTTING of Androscoggin,
Representatives: KNEELAND of Easton, POVICH of Ellsworth.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 22 MRSA c. 562-A is enacted to read:**

6 **CHAPTER 562-A**

8 **MAINE MEAT INSPECTION ACT**

10 **SUBCHAPTER I**

12 **GENERAL PROVISIONS**

14 **§2511. Short title**

16 This chapter may be known and cited as the "Maine Meat
Inspection Act."

18 **§2511-A. Definitions**

20 As used in this chapter, unless the context otherwise
indicates, the following terms have the following meanings.

22 1. **Adulterated.** "Adulterated" applied to a carcass, meat
or a meat food product means that:

26 A. It bears or contains a poisonous or harmful substance
that might render it injurious to health, but if that
substance is not an added substance, the article may not be
considered "adulterated" if the quantity of the substance in
or on the article does not ordinarily render it injurious to
health;

32 B. It:

34 (1) Bears or contains, because of the administration
of any substance to the live animal or otherwise, an
added poisonous or harmful substance other than one
that is a pesticide chemical in or on a raw
agricultural commodity, a food additive or a color
additive that, in the judgment of the commissioner,
might make the article unfit for human food;

42 (2) Is in whole or in part a raw agricultural
commodity and bears or contains a pesticide chemical
that is unsafe within the meaning of Section 321(2)(9)
of the Federal Food, Drug and Cosmetic Act;

48 (3) Bears or contains a food additive that is unsafe
within the meaning of Section 321(2)(5) of the Federal
Food, Drug and Cosmetic Act; or

2 (4) Bears or contains a color additive that is unsafe
4 within the meaning of Section 321(2)(t)(1) of the
 Federal Food, Drug and Cosmetic Act.

6 An article that is not considered "adulterated" under
8 subparagraph (2), (3) or (4) is considered "adulterated" if
10 use of the pesticide chemical, food additive or color
 additive in or on the article is prohibited by rules of the
 commissioner in establishments at which inspection is
 maintained under this subchapter;

12 C. It consists in whole or in part of any foul, decayed or
14 decomposed substance or is for any other reason unsound,
16 unhealthful, unwholesome or otherwise unfit for human food;

18 D. It has been prepared, packed or held under unsanitary
20 conditions where it might have become contaminated with
 filth or where it might have been rendered injurious to
 health;

22 E. It is in whole or in part the product of an animal that
24 has died otherwise than by slaughter;

26 F. Its container is composed in whole or in part of a
28 poisonous or harmful substance that might render the
 contents injurious to health;

30 G. It has been intentionally subjected to radiation, unless
32 the use of the radiation was in conformity with a regulation
 or exemption in effect pursuant to the Federal Food, Drug
 and Cosmetic Act;

34 H. A valuable constituent has been in whole or in part
36 omitted or abstracted from the carcass or a substance has
38 been substituted wholly or in part; damage or inferiority
40 has been concealed; or a substance has been added to the
 carcass or mixed or packed with the carcass to increase its
 bulk or weight, reduce its quality or strength or make it
 appear better or of greater value than it is; or

42 I. It is margarine containing animal fat and any of the raw
44 material used in the animal fat consisted in whole or in
 part of a foul, decayed or decomposed substance.

46 2. Animal or animals. "Animal" or "animals" means cattle,
48 sheep, swine, goats, horses, mules or other equines and the
 carcasses or parts or products of the carcasses of those animals.

2 3. Animal food manufacturer. "Animal food manufacturer"
means a person engaged in the business of manufacturing or
4 processing animal food derived wholly or in part from the
carcasses or parts or products of the carcasses of animals.

6 4. Approved establishment. "Approved establishment" means
a place where meat or meat food products are prepared that is in
8 compliance with rules of the department on sanitation and
operation.

10 5. Color additive. "Color additive" has the same meaning
12 as under the Federal Food, Drug and Cosmetic Act.

14 6. Commissioner. "Commissioner" means the Commissioner of
Agriculture, Food and Rural Resources or the commissioner's
16 designee.

18 7. Department. "Department" means the Department of
Agriculture, Food and Rural Resources.

20 8. Federal Food, Drug and Cosmetic Act. "Federal Food,
22 Drug and Cosmetic Act" means 21 United States Code, Section 301,
approved June 25, 1938.

24 9. Federal Meat Inspection Act. "Federal Meat Inspection
26 Act" means 21 United States Code, Section 601, approved March 4,
1907, as amended by the Wholesome Meat Act.

28 10. Firm. "Firm" means a partnership, association or other
30 unincorporated business organization.

32 11. Fit for human food. "Fit for human food" applied to a
carcass or part or product of a carcass of an animal means not
34 denatured; not otherwise identified, as required by rules adopted
by the commissioner, to deter its use as human food; or not
36 naturally inedible by humans.

38 12. Food additive. "Food additive" has the same meaning as
under the Federal Food, Drug and Cosmetic Act.

40 13. Intrastate commerce. "Intrastate commerce" means
42 commerce within this State.

44 14. Label. "Label" means a display of written, printed or
graphic matter upon the immediate container, not including the
46 package liner, of an article.

48 15. Labeling. "Labeling" means all labels and other
written, printed or graphic matter on an article or on its
50 container or wrapper.

2 16. Meat broker. "Meat broker" means a person engaged in
4 the business of buying or selling on commission meat, meat food
6 products or the carcasses or parts or products of carcasses or
8 otherwise negotiating purchases or sales of the articles other
10 than for the meat broker's own account or as an employee of
12 another person.

14 17. Meat food products. "Meat food products" means
16 products fit for human food that are made wholly or in part from
18 the meat or other portions of the carcass of an animal, excepting
20 products that contain meat or other portions of the carcass only
22 in a relatively small proportion or that historically are not
24 considered by consumers as products of the meat food industry and
26 that are exempt from definition as meat food products by the
28 commissioner under conditions the commissioner prescribes to
30 ensure that the meat or other portions of the carcass contained
32 in the products are not adulterated and that the products are not
34 represented as meat food products.

36 18. Misbranded. "Misbranded" applied to a carcass, meat or
38 a meat food product means that:

40 A. Its labeling is false or misleading;

42 B. It is offered for sale under the name of another food;

44 C. It is an imitation of another food, unless its label
46 bears, in type of uniform size and prominence, the word
48 "imitation" and immediately after the word "imitation" the
 name of the food imitated;

D. Its container is made, formed or filled so that it is
 misleading;

E. Its package or container does not bear a label showing:

(1) The name and place of business of the
 manufacturer, packer or distributor; and

(2) An accurate statement of the quantity of the
 contents in terms of weight, measure or numerical
 count, except that under this subparagraph reasonable
 variations may be permitted and exemptions for small
 packages may be established by the commissioner by rule;

F. A word, statement or other information required by this
 chapter to appear on the label or other labeling is not
 placed on the label prominently and in terms likely to be

2 read and understood by the ordinary individual under
customary conditions of purchase and use;

4 G. It purports to be or is represented as a food for which
a definition and standard of identity or composition have
6 been established by rules of the commissioner under section
2514-A and it does not conform to that definition and
8 standard and its label does not bear the name of the food
specified in that definition and standard and, when required
10 by the rules, the common names of optional ingredients other
than spices, flavoring and coloring that are present in the
12 food;

14 H. It purports to be or is represented as a food for which
a standard of fill of container is established by rules of
16 the commissioner under section 2514-A and it falls below the
standard of fill of container applicable to that food and
18 its label does not bear, in a manner and form the rules
specify, a statement that it falls below the standard;

20 I. It is a food not subject to paragraph G and its label
22 does not bear the common or usual name of the food and, if
it is fabricated from 2 or more ingredients, the common or
24 usual name of each such ingredient, except that, when
authorized by the commissioner, spices, flavorings and
26 colorings may be designated as spices, flavorings and
colorings without naming each. To the extent that
28 compliance with the requirements of this paragraph is
impracticable or results in deception or unfair competition,
30 exemptions must be established by rules adopted by the
commissioner;

32 J. It purports to be or is represented as being for special
34 dietary uses and its label does not bear information
concerning the vitamin, mineral and other dietary properties
36 that the commissioner, after consultation with the Secretary
of Agriculture of the United States, determines to be and by
38 rule establishes as necessary in order to fully inform
purchasers of its value for such uses;

40 K. It bears or contains any artificial flavoring,
42 artificial coloring or chemical preservative and does not
bear labeling stating that fact. To the extent that
44 compliance with the requirements of this paragraph is
impracticable, exemptions must be established by rules
46 adopted by the commissioner; or

48 L. It fails to bear, directly on the carcass or on its
container, as the commissioner establishes by rule, the
50 official inspection legend and any other information the

2 commissioner requires in the rules to ensure that it does
3 not have false or misleading labeling and that the public is
4 informed of the manner of handling required to maintain the
5 article in a wholesome condition.

6 19. Official certificate. "Official certificate" means a
7 certificate established by rule of the commissioner for issuance
8 by an inspector or other person performing official functions
9 under this chapter.

10 20. Official device. "Official device" means a device
11 authorized by the commissioner for use in applying an official
12 mark.

13 21. Official inspection legend. "Official inspection
14 legend" means a symbol established by rule of the commissioner
15 showing that an article was inspected and passed in accordance
16 with this chapter.

17 22. Official mark. "Official mark" means the official
18 inspection legend or any other symbol established by rule of the
19 commissioner to identify the status of an article or animal under
20 this chapter.

21 23. Person. "Person" means an individual, firm or
22 corporation.

23 24. Pesticide chemical. "Pesticide chemical" has the same
24 meaning as under the Federal Food, Drug and Cosmetic Act.

25 25. Prepared. "Prepared" means slaughtered, canned,
26 salted, rendered, boned, cut up or otherwise manufactured or
27 processed.

28 26. Raw agricultural commodity. "Raw agricultural
29 commodity" has the same meaning as under the Federal Food, Drug
30 and Cosmetic Act.

31 27. Renderer. "Renderer" means a person engaged in the
32 business of rendering carcasses of animals, but "renderer" does
33 not mean a person who renders carcasses of animals only for
34 purposes of inspection conducted under this chapter.

35 28. Slaughter. "Slaughter" means the butchering of animals
36 for human consumption.

37 **§2512. Examination and inspection**

38 To prevent the use in intrastate commerce of meat and meat
39 food products that are adulterated, the commissioner shall, by
40 rule, prohibit the sale, distribution, or use of such products
41 unless they are accompanied by a certificate of inspection from
42 the commissioner.

2 inspectors appointed for that purpose, examine and inspect
3 animals before they are allowed to enter into a slaughtering,
4 packing, meat-canning, rendering or similar establishment in this
5 State in which slaughtering and preparation of the meat and meat
6 food products are conducted solely for intrastate commerce.
7 Animals found on inspection to show symptoms of disease must be
8 set apart and slaughtered separately from all other animals.
9 After a diseased animal is slaughtered, its carcass must be
10 subject to a careful examination and inspection, as provided by
11 rules adopted by the commissioner.

12 **§2512-A. Postmortem examination and inspection**

13
14 1. Postmortem examination. The commissioner, by inspectors
15 appointed for that purpose, shall perform a postmortem
16 examination and inspection of the carcass of an animal that is
17 fit for human food at a slaughtering, meat-canning, salting,
18 packing, rendering or similar establishment in this State in
19 which meat and meat food products are prepared for intrastate
20 commerce.

21
22 2. Carcass not adulterated. The carcass of an animal found
23 to be not adulterated must be marked, stamped, tagged or labeled
24 as "Inspected and Passed." After the first inspection, an
25 inspector may reinspect a carcass to determine whether that
26 carcass has been adulterated since the first inspection.

27
28 3. Adulterated carcass. If, after a first or 2nd
29 inspection, a carcass is found to be adulterated, the carcass
30 must be marked, stamped, tagged or labeled "Inspected and
31 Condemned." A carcass that is inspected and condemned must be
32 destroyed for food purposes by the establishment in the presence
33 of an inspector.

34 **§2513. Application**

35
36 Sections 2512 and 2512-A apply to all carcasses of animals
37 and the meat or meat products of those carcasses, fit for human
38 food, that are brought into a slaughtering, meat-canning,
39 salting, packing, rendering or similar establishment where
40 inspection under this subchapter is maintained, and the
41 examination and inspection must be performed before those
42 carcasses are allowed to enter into any department where they are
43 to be treated and prepared for meat food products. Sections 2512
44 and 2512-A apply to all products that, after having been issued
45 from a slaughtering, meat-canning, salting, packing, rendering or
46 similar establishment, must be returned to the same or to any
47 similar establishment where inspection is maintained.

48
49 **§2514. Inspectors; powers and duties**

2 The commissioner, by inspectors appointed for that purpose,
3 shall examine and inspect all meat food products prepared in a
4 slaughtering, meat-canning, salting, packing, rendering or
5 similar establishment where articles are prepared solely for
6 intrastate commerce. For the purposes of examination and
7 inspection, the inspectors must have access at all times, whether
8 the establishment is operating or not, to every part of the
9 establishment. The inspectors shall mark, stamp, tag or label as
10 "Maine Inspected and Passed" all products found to be not
11 adulterated. The inspectors shall label, mark, stamp or tag as
12 "Maine Inspected and Condemned" all products found adulterated,
13 and all condemned meat food products must be destroyed for food
14 purposes. Such inspection and condemnation are not considered
15 licensing or an adjudicatory proceeding as those terms are
16 defined by the Maine Administrative Procedure Act. On notice and
17 opportunity for hearing in a manner consistent with the Maine
18 Administrative Procedure Act as to adjudicatory proceedings, the
19 commissioner may remove inspectors from any establishment that
20 fails to destroy the condemned meat food products and replace
21 them with new inspectors.

22 **§2514-A. Labeling**

23 **1. Containers.** When meat or a meat food product prepared
24 for intrastate commerce that has been inspected and marked "Maine
25 Inspected and Passed" is placed or packed in a can, pot, tin or
26 other receptacle or covering in an establishment where inspection
27 under this chapter is maintained, the person preparing the
28 product shall attach a label to the receptacle or covering under
29 supervision of an inspector. The label must state that the
30 contents have been "Maine Inspected and Passed" under this
31 chapter. The inspection and examination of meat or a meat food
32 product deposited or enclosed in such a receptacle or covering in
33 an establishment where inspection under this chapter is
34 maintained is not considered complete until the meat or meat food
35 product has been sealed or enclosed in that receptacle or
36 covering under the supervision of an inspector.

37 **2. Information.** At the time they leave the establishment,
38 all carcasses, parts of carcasses, meat and meat food products
39 inspected at an establishment and found to be not adulterated
40 must bear, in distinctly legible form directly on those articles
41 or on their containers as the commissioner requires, the
42 information required under section 2511-A, subsection 18.

43 **3. Standards.** The commissioner may establish by rule:
44
45
46
47
48

2 A. The styles and sizes of type to be used in labeling to
3 avoid false or misleading labeling of any articles or
4 animals subject to this subchapter and subchapter II; and

5 B. For articles subject to this subchapter, definitions and
6 standards of identity or composition and standards of fill
7 of container that are not inconsistent with standards
8 established under the Federal Food, Drug and Cosmetic Act or
9 under the Federal Meat Inspection Act.

10 4. Use withheld. If the commissioner has reason to believe
11 that the marking or labeling or the size or form of a container
12 in use or proposed for use with respect to an article subject to
13 this subchapter is false or misleading, the commissioner may
14 direct that the use be withheld unless the marking, labeling or
15 container is modified in a manner the commissioner prescribes so
16 that it is not false or misleading. If the person using or
17 proposing to use the marking, labeling or container does not
18 accept the determination of the commissioner, that person may
19 request a hearing, which must be held in a manner consistent with
20 the Maine Administrative Procedure Act, but, if the commissioner
21 directs, the use of the marking, labeling or container must be
22 withheld pending hearing and final determination by the
23 commissioner.

24 The withholding of use pending the opportunity for a hearing may
25 not be considered licensing or an adjudicatory proceeding as
26 those terms are defined by the Maine Administrative Procedure Act.

27 §2515. Sanitation

28 The commissioner, by appointed experts in sanitation or by
29 other competent inspectors, shall inspect all slaughtering,
30 meat-canning, salting, packing, rendering or similar
31 establishments in which animals are slaughtered and the meat and
32 meat food products are prepared solely for intrastate commerce.
33 The commissioner shall adopt rules of sanitation that such
34 establishments must maintain. When the sanitary conditions of an
35 establishment result in adulterated meat or meat food products,
36 the commissioner shall refuse to allow the meat or meat food
37 products to be labeled, marked, stamped or tagged as "Maine
38 Inspected and Passed."

39 §2515-A. Time of inspection

40 When the slaughtering of animals or the preparation of food
41 products of animals is conducted at night at an establishment in
42 which animals are prepared for intrastate commerce, the
43 commissioner, by inspectors appointed for that purpose, shall

2 examine and inspect the animals and the food products of animals
3 at night as well as during the day.

4 The commissioner is authorized to designate days of
5 slaughter or operation for approved establishments.

6 **§2516. Compliance**

7
8 With respect to animals or carcasses or parts of carcasses,
9 meat or meat food products that are fit for human food, a person
10 may not:

11
12 1. Establishment. Slaughter animals or prepare articles at
13 an establishment preparing the articles solely for intrastate
14 commerce except in compliance with the requirements of this
15 chapter;

16
17 2. Articles. Sell, transport, offer for sale or
18 transportation or receive for transportation in intrastate
19 commerce;

20
21 A. Articles that are adulterated or misbranded at the time
22 of sale, transportation, offer for sale or transportation or
23 receipt for transportation; or

24
25 B. Articles required to be inspected under this subchapter
26 unless they have been inspected and passed; or

27
28 3. Act in transportation. Commit an act while those
29 articles are being transported in intrastate commerce or held for
30 sale after transportation that is intended to cause or causes
31 them to be adulterated or misbranded.

32
33 **§2516-A. False labels, devices and statements**

34
35 1. Labels. A brand manufacturer, printer or other person
36 may not cast, print, lithograph or otherwise make a device that
37 contains an official mark or simulation of an official mark, a
38 label that bears such a mark or simulation or a form of official
39 certificate or simulation of an official certificate except as
40 authorized by the commissioner.

41
42 2. Devices and statements. A person may not:

43
44 A. Forge an official device, mark or certificate;

45
46 B. Without authorization from the commissioner, use an
47 official device, mark or certificate or a simulation of a
48 device, mark or certificate or alter, detach, deface or
49 destroy an official device, mark or certificate;
50

- 2 C. Detach, deface, destroy or fail to use an official
3 device, mark or certificate;
- 4
- 5 D. Without promptly notifying the commissioner or the
6 commissioner's representative, possess an official device; a
7 counterfeit, simulated, forged or altered official
8 certificate; or a device or label or a carcass of an animal
9 or a part or product of an animal that bears a counterfeit,
10 simulated, forged or altered official mark;
- 11
- 12 E. Make a false statement in a shipper's certificate or
13 other certificate provided for in the rules established by
14 the commissioner; or
- 15
- 16 F. Fraudulently represent that an article has been
17 inspected and passed or exempted under this chapter.

18 **§2517. Plainly identified**

19

20 A person may not sell, transport, offer for sale or
21 transportation or receive for transportation in intrastate
22 commerce carcasses or parts of carcasses of horses, mules or
23 other equines or the meat or meat food products of such carcasses
24 unless they are plainly and conspicuously marked or labeled or
25 otherwise identified as required by rules established by the
26 commissioner to show the kinds of animals from which they were
27 derived. When required by the commissioner, with respect to
28 establishments at which inspection is maintained under this
29 subchapter, those animals and their carcasses, meat and meat food
30 products must be prepared in establishments separate from those
31 in which cattle, sheep, swine or goats are slaughtered or their
32 carcasses, meat or meat food products are prepared.

33 **§2517-A. Inspectors; appointment and duties; rules**

34

35 The commissioner shall appoint inspectors to examine and
36 inspect animals, carcasses and parts of carcasses, meat and meat
37 food products and the sanitary conditions of all establishments
38 in which the meat and meat food products are prepared. The
39 inspectors shall refuse to stamp, mark, tag or label a carcass,
40 any part of a carcass or a meat food product from a carcass until
41 the same has actually been inspected and found to be not
42 adulterated. The inspectors shall perform other duties pursuant
43 to this chapter and rules adopted by the commissioner, and the
44 commissioner shall, in a manner consistent with the Maine
45 Administrative Procedure Act, adopt rules that are necessary for
46 the efficient execution of this chapter. All inspections and
47 examinations under this chapter must be made in the manner
48 prescribed in rules adopted by the commissioner.

49

50

2 Inspectors must be present when a carcass that has been
3 adulterated is destroyed. An inspector may be removed if the
4 inspector fails to destroy a condemned carcass.

6 The commissioner shall adopt the regulations and amendments
7 of the United States Department of Agriculture Federal Meat
8 Inspection Act, 21 United States Code, Section 601, as amended by
9 the Wholesome Meat Act, as they are pertinent and applicable to
10 this chapter.

12 **§2518. Humane slaughter; ritual slaughter**

14 It is unlawful to shackle, hoist or otherwise bring animals
15 other than poultry into position for slaughter by a method that
16 causes injury or pain and to bleed or slaughter an animal other
17 than poultry except by a humane method.

18 The commissioner, after hearing, shall adopt rules governing
19 humane methods of slaughter and may revise rules that conform
20 substantially to the rules and regulations adopted by the
21 Secretary of Agriculture of the United States pursuant to the
22 Federal Humane Methods of Slaughter Act of 1978, 92 Stat. 1069,
23 and any amendments to that act. The use of a manually operated
24 hammer, sledge or poleax is not considered a humane method of
25 slaughter within the meaning of this chapter.

26 This chapter may not be construed to prohibit, abridge or in
27 any way hinder the religious freedom of any person or group. In
28 order to protect freedom of religion, ritual slaughter and the
29 handling or other preparation of livestock for ritual slaughter
30 are exempt from the terms of this chapter. For the purposes of
31 this section, "ritual slaughter" means slaughter in accordance
32 with the ritual requirements of religious faith.

34 **§2518-A. Offering or accepting money, gifts or anything of value;**
35 **penalties**

36 A person or an agent or employee of a person who gives, pays
37 or offers money, gifts or anything of value, directly or
38 indirectly, to an inspector, deputy inspector, chief inspector or
39 other officer or employee of this State who is authorized to
40 perform the duties prescribed by this chapter or by the rules of
41 the commissioner, with intent to influence the inspector, deputy
42 inspector, chief inspector or other officer or employee of this
43 State in the discharge of a duty provided for, is guilty of a
44 crime punishable by a fine of not less than \$5,000 or more than
45 \$10,000 and by imprisonment for not less than one year or more
46 than 3 years. An inspector, deputy inspector, chief inspector or
47 other officer or employee of this State authorized to perform the
48 duties prescribed by this chapter or by the rules of the
49 commissioner, who is guilty of a crime punishable by a fine of
50 not less than \$5,000 or more than \$10,000 and by imprisonment

2 duties prescribed by this chapter who accepts money, gifts or
4 anything of value from a person or its officers, agents or
6 employees that is given with intent to influence the inspector's
8 official action or who receives or accepts from a person engaged
10 in intrastate commerce a gift, money or anything of value given
12 with any purpose or intent whatsoever is guilty of a crime
14 punishable by a fine of not less than \$1,000 or more than \$10,000
16 and by imprisonment for not less than one year or more than 3
18 years.

20 **§2519. Exemptions**

22 1. Own use. The provisions of this subchapter requiring
24 inspection of the slaughter of animals and the preparation of the
26 carcasses, parts of carcasses, meat and meat food products at
28 establishments conducting such operations do not apply:

30 A. To the slaughtering by a person of animals owned and
32 raised by that person and the preparation by that person and
34 transportation in intrastate commerce of the carcasses,
36 parts of carcasses, meat and meat food products of those
38 animals exclusively for use by that person and members of
40 that person's household and nonpaying guests and employees;

42 B. To the custom slaughter by a person of cattle, sheep,
44 swine or goats delivered by the owner for custom slaughter
46 and the preparation by the slaughterer and transportation in
48 intrastate commerce of the carcasses, parts of carcasses,
50 meat and meat food products of those animals exclusively for
use in the household of the owner by the owner and members
of the owner's household and nonpaying guests and employees;
or

C. To the custom preparation by a person of carcasses,
parts of carcasses, meat and meat food products derived from
the slaughter by a person of cattle, sheep, swine or goats
of that person's own raising or from game animals delivered
by the owner of the game animal for custom preparation and
transportation in intrastate commerce of the custom prepared
articles exclusively for use in the household of the owner
by the owner and members of the owner's household and
nonpaying guests and employees.

When a person engages in custom operations at an establishment at
which inspection under this chapter is maintained, the
commissioner may exempt from inspection at that establishment any
animals slaughtered and meat or meat food products otherwise
prepared on such a custom basis. Custom operations at such an
establishment may be exempt from inspection requirements under
this section only if the establishment complies with rules that

2 the commissioner adopts to ensure: that carcasses, parts of
4 carcasses, meat or meat food products, wherever handled on a
6 custom basis, and any containers or packages containing those
8 articles are separated at all times from carcasses, parts of
10 carcasses, meat or meat food products prepared for sale; that
12 articles prepared on a custom basis and containers or packages
14 containing those articles are plainly marked "Not For Sale"
16 immediately after being prepared and are kept so identified until
18 delivered to the owner; and that the establishment conducting the
20 customer operation is maintained and operated in a sanitary
22 manner.

24 2. Retail stores and restaurants. The provisions of this
26 chapter requiring inspection of the slaughter of animals and the
28 preparation of carcasses, parts of carcasses, meat and meat food
30 products do not apply to operations of types traditionally and
32 usually conducted at retail stores and restaurants when those
34 operations are conducted for the sale, in normal retail
36 quantities, or the service of those articles to consumers at such
38 establishments.

40 3. Limitations. The slaughter of animals and preparation
42 of articles referred to in subsection 1, paragraph B and
44 subsection 2 must be conducted in accordance with sanitary
46 conditions the commissioner establishes by rule.

48 4. Application. The adulteration and misbranding
50 provisions of this subchapter, other than the requirement of the
52 inspection legend, apply to articles that do not require
54 inspection under this section.

56 **§2519-A. Storage and handling**

58 Whenever the commissioner determines it necessary to ensure
60 that carcasses, parts of carcasses, meat and meat food products
62 fit for human food are not adulterated or misbranded when
64 delivered to the consumer, the commissioner may set by rule
66 conditions under which persons engaged in the business of buying,
68 selling, freezing, storing or transporting those articles in or
70 for intrastate commerce must store or handle them.

72 **§2520. Registration of commercial establishments**

74 A person may not operate a commercial slaughterhouse or
76 commercial meat processing establishment where commercial
78 slaughter or commercial preparation of meat or meat food products
80 is performed in accordance with this chapter unless that
82 establishment is registered by the commissioner.

2 An application for registration or renewal of registration
3 must be made on or before September 1st of each year on a form
4 prescribed by the commissioner. When the commissioner is
5 satisfied that there is compliance with the rules governing these
6 operations, the registration must be approved. A fee of \$5 is
7 charged for each registration or renewal.

8 A registration covers all the buildings in one location that
9 a registrant intends to use in the commercial slaughterhouse or
10 commercial meat processing establishment.

12 **§2520-A. Registration of custom establishments**

14 A person may not operate a custom slaughterhouse or custom
15 meat processing establishment where custom slaughter or custom
16 preparation of meat or meat food products is performed in
17 accordance with this chapter unless that establishment is
18 registered by the commissioner.

20 An application for registration or renewal of registration
21 must be made on or before September 1st of each year on a form
22 prescribed by the commissioner. When the commissioner is
23 satisfied that there is compliance with the rules governing these
24 operations, the registration must be approved. A fee of \$5 is
25 charged for each registration or renewal.

26 A registration covers all the buildings in one location that
27 a registrant intends to use in the custom slaughterhouse or the
28 custom meat processing establishment.

30

31 **SUBCHAPTER II**

32

33 **MEAT PROCESSORS AND RELATED INDUSTRIES**

34

35 **§2521. Not for human food**

36

37 Inspection may not be provided under subchapter I at an
38 establishment for the slaughter of animals or the preparation of
39 carcasses or parts or products of animals that are not intended
40 for use as human food, but such articles, unless naturally
41 inedible by humans, before their offer for sale or transportation
42 in intrastate commerce must be denatured or identified as
43 inedible, as established by rules of the commissioner, to deter
44 their use for human food. A person may not buy, sell, transport
45 or offer for sale or transportation or receive for transportation
46 in intrastate commerce any carcasses, parts of carcasses, meat or
47 meat food products of animals that are not intended for use as
48 human food unless they are denatured or identified as inedible by
49 rules of the commissioner or are naturally inedible by humans.

50

2 **§2521-A. Records**

4 **1. Examining records: samples of inventory.** Records that
6 fully and correctly disclose all transactions involved in their
8 businesses must be kept by:

10 A. Persons that engage for intrastate commerce in the
12 business of slaughtering animals or preparing, freezing,
14 packaging or labeling carcasses or parts or products of
16 carcasses of animals for use as human food or animal food:

18 B. Persons that buy or sell as meat brokers, wholesalers or
20 otherwise, transport in intrastate commerce or store for
22 intrastate commerce any carcasses or parts or products of
24 carcasses of animals; and

26 C. Persons that engage in business in or for intrastate
28 commerce as renderers or buy, sell or transport in
30 intrastate commerce any dead, dying, disabled or diseased
32 animals, or parts of the carcasses of such animals, that
34 died otherwise than by slaughter.

36 At all reasonable times and upon notice by a duly authorized
38 representative of the commissioner, persons subject to this
40 section shall afford the representative and any authorized
42 representative of the Secretary of Agriculture of the United
44 States accompanied by that representative access to their places
46 of business and the opportunity to examine the facilities,
48 inventories and records of their businesses, to copy all records
50 and to take reasonable samples of their inventories upon offering
or payment of the fair market value of the samples.

2. Retention. A record required to be maintained by this
section must be maintained for a period of time the commissioner
establishes by rule.

§2522. Registration

A person may not engage in business in or for intrastate
commerce: as a meat broker, renderer or animal food manufacturer;
as a wholesaler of carcasses or parts or products of carcasses,
whether intended for human food or other purposes; as a public
warehouse operator storing such articles; or as a buyer, seller
or transporter of dead, dying, disabled or diseased animals or
parts of the carcasses of animals that died otherwise than by
slaughter unless, when required by rules of the commissioner,
that person has registered with the commissioner the person's
name and the address of each place of business at which and all
trade names under which the person conducts such a business.

2 **§2522-A. Animals not slaughtered**

4 A person engaged in the business of buying, selling or
6 transporting in intrastate commerce dead, dying, disabled or
8 diseased animals or parts of the carcasses of animals that died
10 otherwise than by slaughter may not buy, sell, transport, offer
12 for sale or transportation or receive for transportation in such
14 commerce any such animals or parts or products unless the
16 transaction or transportation is made in accordance with rules
18 the commissioner establishes to ensure that such animals and the
20 unwholesome parts or products are not used for human food
22 purposes.

24 **§2523. Department; powers and duties**

26 The department is designated as the state agency that is
28 directed, under Section 661 of the Federal Meat Inspection Act,
30 to carry out the purposes of this chapter and the Federal Meat
32 Inspection Act and to cooperate with the Secretary of Agriculture
34 of the United States in developing and administering the meat
36 inspection program of this State under this chapter to ensure
38 that not later than November 15, 2000 its requirements are at
40 least equal to those imposed under subchapters I and II of the
42 Federal Meat Inspection Act.

44 The department is authorized to accept from the Secretary of
46 Agriculture of the United States advice in planning and otherwise
48 developing the state program; technical and laboratory assistance
50 and training, including necessary curricular and instructional
materials and equipment; and financial and other aid for
administration of the program. The department is authorized to
spend public funds of this State appropriated for administration
of this chapter.

The department is authorized to recommend to the Secretary
of Agriculture of the United States officials or employees of
this State the commissioner designates for appointment to the
advisory committees provided for in Section 661 of the Federal
Meat Inspection Act. The commissioner shall serve as the
representative of the Governor for consultation with the
secretary under Section 661, paragraph (c) of the Federal Meat
Inspection Act unless the Governor selects another representative.

§2524. Inspection services; judicial review

The commissioner may withdraw or refuse to provide
inspection services under subchapter I with respect to any
establishment if the commissioner determines, after a hearing,
that the applicant or recipient is unfit to engage in any
business requiring inspection under subchapter I because the

2 applicant or recipient or anyone responsibly connected with the
3 business of the applicant or recipient has been convicted in a
4 federal or state court of a felony or of more than one violation
5 of any law, other than a felony, based upon the acquiring,
6 handling or distributing of unwholesome, mislabeled or
7 deceptively packaged food or upon fraud in connection with
8 transactions in food. This section does not affect in any way
9 other provisions of this chapter for withdrawal of inspection
10 services under subchapter I from establishments that fail to
11 maintain sanitary conditions or to destroy condemned carcasses,
12 parts, meat or meat food products. For the purpose of this
13 section, a person "responsibly connected with the business" means
14 a partner, officer, director, holder or owner of 10% or more of
15 the voting stock of that business or an employee in a managerial
16 or executive capacity.

17 **§2524-A. Detention**

18
19 When a carcass, part of a carcass, meat or a meat food
20 product of an animal, a product exempted by the commissioner from
21 the definition of a meat food product or a dead, dying, disabled
22 or diseased animal is found by an authorized representative of
23 the commissioner upon premises where it is held for the purpose
24 of, or during or after distribution in, intrastate commerce and
25 there is reason to believe that the article or animal is
26 adulterated or misbranded and is unfit for human food or that it
27 has not been inspected or has been or is intended to be
28 distributed in violation of subchapter I or of the Federal Meat
29 Inspection Act or the Federal Food, Drug and Cosmetic Act, it may
30 be detained by that representative for a period not to exceed 20
31 days, pending action under section 2525 or notification of
32 federal authorities having jurisdiction over such an article or
33 animal, and may not be moved by any person from the place at
34 which it is located when detained until it is released by the
35 representative. The representative may require that all official
36 marks be removed from the article or animal before it is released
37 unless it appears to the satisfaction of the commissioner that
38 the article or animal is eligible to retain such marks. Such an
39 order for detention is not considered licensing or an
40 adjudicatory proceeding as those terms are defined by the Maine
41 Administrative Procedure Act.

42 **§2525. Procedure; condemnation**

43
44
45 A carcass, part of a carcass, meat or a meat food product of
46 an animal or a dead, dying, disabled or diseased animal that: is
47 being transported in intrastate commerce or is held for sale in
48 this State after such transportation and that is or has been
49 prepared, sold, transported or otherwise distributed or offered
50 or received for distribution in violation of this chapter; is

2 unfit for human food and is adulterated or misbranded; or is in
3 violation of this chapter in any way is liable to be proceeded
4 against and seized and condemned at any time on a libel of
5 information in any proper court, as provided in section 2525-A,
6 within the jurisdiction of which the article or animal is found.
7 After entry of a decree of condemnation, the article or animal
8 must be destroyed or sold as the court directs and, if it is
9 sold, the proceeds less the court costs and fees and storage and
10 other proper expenses must be paid to the Treasurer of State, but
11 the article or animal may not be sold contrary to this chapter,
12 the Federal Meat Inspection Act or the Federal Food, Drug and
13 Cosmetic Act. On the execution and delivery of a good and
14 sufficient bond with the condition that the article or animal not
15 be sold or otherwise disposed of contrary to this chapter or the
16 laws of the United States, the court may direct that the article
17 or animal be delivered to the owner subject to supervision by
18 authorized representatives of the commissioner as necessary to
19 ensure compliance with the applicable laws. When a decree of
20 condemnation is entered against the article or animal and it is
21 released under bond or destroyed, court costs and fees and
22 storage and other proper expenses are awarded against the person
23 intervening as claimant of the article or animal. The
24 proceedings in such libel cases must conform to the proceedings
25 in admiralty, except that either party may demand trial by jury
26 of an issue of fact joined in a case and all such proceedings
27 must be in the name of this State.

28 This section may not be construed to detract from authority
29 for condemnation or seizure conferred by this chapter or other
30 laws.

32 **§2525-A. Jurisdiction**

34 The Superior Court and the District Court have jurisdiction
35 to enforce and to prevent and restrain violations of this chapter
36 and have jurisdiction in all other kinds of cases arising under
37 this chapter, except as provided in section 2514-A, subsection 5.

38 **§2526. Interference with official duties; penalties**

40 A person who forcibly assaults, resists, opposes, impedes,
41 intimidates or interferes with a person engaged in or on account
42 of the performance of that person's official duties under this
43 chapter commits a crime punishable by a fine of not more than
44 \$5,000 or by imprisonment for not more than 3 years, or both. A
45 person who violates this Act using a deadly or dangerous weapon
46 commits a crime punishable by a fine of not more than \$10,000 or
47 by imprisonment for not more than 10 years, or both.

50 **§2526-A. General penalty**

2 A person who violates a provision of this Act for which no
4 other criminal penalty is provided by this chapter, upon
6 conviction is subject to imprisonment for not more than one year
8 or a fine of not more than \$1,000, or both. If a violation
10 involves intent to defraud or any distribution or attempted
12 distribution of an article that is adulterated, except as defined
14 in section 2511-A, subsection 1, paragraph H, the person is
16 subject to a fine of not more than \$10,000 or imprisonment for
18 not more than 3 years, or both. A person is not subject to
20 penalties under this section for receiving for transportation an
22 article or animal in violation of this chapter if the receipt was
24 made in good faith, unless that person refuses to furnish on the
26 request of a representative of the commissioner the name and
28 address of the person from whom that person received the article
30 or animal and copies of all documents pertaining to the delivery
32 of the article or animal to that person.

34 This chapter may not be construed as requiring the
36 commissioner to report minor violations of this chapter for
38 prosecution or for the institution of libel or injunction
40 proceedings if the commissioner believes that the public interest
42 is adequately served by a suitable written notice of warning.

44 **§2527. Powers of commissioner**

46 **1. Powers. The commissioner has the authority:**

48 **A. To investigate from time to time and to gather and**
50 **compile information concerning the organization, business,**
52 **conduct, practices, management and relationship to other**
54 **persons of a person engaged in intrastate commerce; and**

56 **B. By general or special orders, to require a person**
58 **engaged in intrastate commerce to file with the**
60 **commissioner, in a form prescribed by the commissioner,**
62 **annual or special reports or answers in writing to specific**
64 **questions, furnishing to the commissioner information the**
66 **commissioner requires as to the organization, business,**
68 **conduct, practices, management and relationship to other**
70 **persons of the person filing the reports or answers in**
72 **writing. The reports and answers must be made under oath as**
74 **the commissioner prescribes and must be filed with the**
76 **commissioner within a period the commissioner prescribes,**
78 **unless additional time is granted by the commissioner.**

80 **2. Witnesses and evidence. For the purposes of this**
82 **chapter, at all reasonable times the commissioner must have**
84 **access to and the right to copy any documentary evidence of a**
86 **person being investigated or proceeded against and may, in a**

2 manner consistent with the Maine Administrative Procedure Act,
3 require by subpoena the attendance and testimony of witnesses and
4 the production of all documentary evidence of any person relating
5 to a matter under investigation. The commissioner may sign
6 subpoenas and may administer oaths and affirmations, examine
7 witnesses and receive evidence.

8 A. The commissioner may order testimony to be taken by
9 deposition in any proceeding or investigation pending under
10 this chapter at any stage of such a proceeding or
11 investigation. Depositions may be taken before any designee
12 of the commissioner who has the power to administer oaths.
13 Testimony must be reduced to writing by the person taking
14 the deposition or under that person's direction and must
15 then be subscribed by the deponent. A person may be
16 compelled to appear and depose and to produce documentary
17 evidence in the same manner as witnesses may be compelled to
18 appear and testify and produce documentary evidence before
19 the commissioner.

20 B. A person may not be excused from attending and
21 testifying or from producing books, papers, schedules of
22 charges, contracts, agreements or other documentary evidence
23 before the commissioner or in response to the subpoena of
24 the commissioner, whether the subpoena is signed or issued
25 by the commissioner or by the commissioner's designee. A
26 person may not be excused from attending or testifying in a
27 cause or proceeding based on an alleged violation of this
28 chapter on the ground that the testimony, documentary
29 evidence or other evidence required of that person might
30 incriminate that person or subject that person to a penalty
31 or forfeiture. After claiming a privilege against
32 self-incrimination, a person may not be prosecuted or
33 subjected to a penalty or forfeiture for any transaction or
34 matter concerning the information the person is required to
35 testify to or produce. A person who commits perjury is not
36 exempt from prosecution or punishment.

37 3. Failure to comply; false statements. A person is
38 guilty of a crime punishable by a fine of not less than \$1,000
39 or more than \$5,000 or by imprisonment for a term of not more
40 than 3 years, or both, if that person willfully:

41 A. Makes or causes to be made a false entry or statement of
42 fact in a report required under this chapter;

43 B. Makes or causes to be made a false entry in an account,
44 record or memorandum kept by a person subject to this
45 chapter;

2 C. Fails to make or cause to be made true and correct
4 entries in the accounts, records or memoranda of all facts
6 and transactions pertaining to the business of that person;

8 D. Mutilates, alters, falsifies or removes from the
10 jurisdiction of this State documentary evidence of that
12 person; or

14 E. Refuses to submit to the commissioner or an authorized
16 agent documentary evidence of that person in that person's
18 possession or within that person's control.

20 If a person required by this chapter to file an annual or special
22 report fails to do so within the time fixed by the commissioner
24 for filing that report and the failure continues for 30 days
26 after notice of the default, the person forfeits to this State
28 the sum of \$100 for each and every day the failure continues.
30 The forfeiture is payable to the Treasurer of State and is
32 recoverable in a civil action in the name of the State brought in
34 the district where the person has that person's principal office
36 or in any district in which the person does business. It is the
38 duty of the county attorneys, under the direction of the Attorney
40 General, to prosecute for the recovery of the forfeiture. The
42 costs and expenses of the prosecution are paid from funds
44 appropriated for the expenses of the courts.

46 An officer or employee of this State who makes public information
48 obtained by the commissioner without the commissioner's
50 authority, unless directed to do so by a court, is guilty of a
52 crime punishable by a fine of not more than \$5,000 or by
54 imprisonment for not more than 11 months, or both.

56 **§2527-A. Application of chapter**

58 The requirements of this chapter apply to persons,
60 establishments, animals and articles regulated under the Federal
62 Meat Inspection Act only to the extent provided for in section
64 678 of the Federal Meat Inspection Act.

66 **§2528. Rules**

68 Rules adopted pursuant to this chapter are routine technical
70 rules pursuant to the Title 5, chapter 375, subchapter II-A.

72 **SUMMARY**

74 **This bill reestablishes the Maine Meat Inspection Act.**