

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

SECOND REGULAR SESSION-2000

Legislative Document

No. 2687

S.P. 1083

In Senate, April 10, 2000

An Act to Implement a Maine Meat and Poultry Inspection Program.

Reported by Senator NUTTING for the Joint Standing Committee on Agriculture, Conservation and Forestry pursuant to Resolve 1999, chapter 68, section 2 and ordered printed pursuant to Joint Rule 218

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

JOY J. O'BRIEN
Secretary of the Senate

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 **PREPARATION OF LIVESTOCK AND POULTRY PRODUCTS
FOR HUMAN CONSUMPTION**

10 **SUBCHAPTER I**

12 **GENERAL PROVISIONS**

14 **§2511. Definitions**

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

20 1. **Adulterated.** "Adulterated" applied to a livestock or
22 poultry product means that the livestock product or poultry
24 product:

26 A. Contains a poisonous or harmful substance that may
28 render it injurious to health. The product is not
30 considered adulterated under this definition if the quantity
32 of the substance in or on the product does not ordinarily
34 render it injurious to health;

36 B. Contains an added poisonous or harmful substance that
38 may, in the judgment of the commissioner, make the product
40 unfit for human food;

42 C. Is a raw agricultural commodity and the commodity
44 contains a pesticide chemical that is unsafe within the
46 meaning of the Federal Food, Drug, and Cosmetic Act, Section
48 408;

D. Contains a food additive that is unsafe within the
meaning of the Federal Food, Drug, and Cosmetic Act, Section
409;

E. Contains a color additive that is unsafe within the
meaning of the Federal Food, Drug, and Cosmetic Act, Section
706. A product that is not otherwise considered adulterated
under paragraph C or D is considered adulterated if use of
the pesticide chemical, food additive or color additive in
or on the product is prohibited by rules of the commissioner
in licensed establishments;

2 F. Consists of any filthy, putrid or decomposed substance
3 or is unsound, unhealthful, unwholesome or otherwise unfit
4 for human food;

5 G. Has been prepared, packed or held under unsanitary
6 conditions where it may have become contaminated with filth
7 or where it may have been rendered injurious to health;

8 H. Is the product of an animal, including poultry, that has
9 died in a manner other than by slaughter;

10 I. Is in or has been in a container composed of a poisonous
11 or harmful substance that may render the contents injurious
12 to health;

13 J. Has been subjected to radiation, unless the use of the
14 radiation was in conformity with a regulation or exemption
15 in effect pursuant to the Federal Food, Drug, and Cosmetic
16 Act, Section 409;

17 K. Has had a valuable constituent omitted or abstracted;
18 has had a substance substituted, wholly or in part; has had
19 damage or inferiority concealed in any manner; or has had a
20 substance added, mixed or packed so as to increase its bulk
21 or weight, reduce its quality or strength or make it appear
22 better or of greater value than it is; or

23 L. Is margarine containing animal fat, and any of the raw
24 material used consisted of a filthy, putrid or decomposed
25 substance.

26 2. Animal food manufacturer. "Animal food manufacturer"
27 means a person engaged in the business of preparing animal food,
28 including poultry food, derived wholly or in part from livestock
29 or poultry carcasses or parts or products of carcasses.

30 3. Broker or meat and poultry products broker. "Broker" or
31 "meat and poultry products broker" means a person engaged in the
32 business of buying or selling livestock products or poultry
33 products for other persons on commission or otherwise negotiating
34 purchases or sales of these products other than for the broker's
35 account or as an employee of another person.

36 4. Color additive. "Color additive" has the same meaning
37 as under the Federal Food, Drug, and Cosmetic Act.

38 5. Commercial processor. "Commercial processor" means a
39 person who maintains an official establishment under this chapter
40 for the purpose of processing livestock, meat, meat food
41 products, poultry or poultry products other than for the
42 purpose of preparing animal food, including poultry food, derived wholly or in part from livestock
43 or poultry carcasses or parts or products of carcasses.

2 exclusive use in the household of the owner of the commodity by
3 the owner and members of the owner's household and the owner's
4 nonpaying guests and employees.

6 6. Commercial slaughterhouse. "Commercial slaughterhouse"
7 means a person engaged in the business of slaughtering livestock
8 or poultry other than as a custom slaughterhouse.

10 7. Commissioner. "Commissioner" means the Commissioner of
11 Agriculture, Food and Rural Resources or the commissioner's
12 designee.

14 8. Consumer package. "Consumer package" means a container
15 or package that contains a product in its final form for sale to
16 the end-use consumer.

18 9. Container or package. "Container" or "package" means a
19 box, can, tin, cloth or plastic or other receptacle, wrapper or
20 cover.

22 10. Custom processor. "Custom processor" means a person
23 who maintains a licensed establishment under this chapter for the
24 purpose of processing livestock, meat, meat food products,
25 poultry or poultry products exclusively for use in the household
26 of the owner of the commodity by the owner and members of the
27 owner's household and the owner's nonpaying guests and employees.

28 11. Custom slaughterhouse. "Custom slaughterhouse" means a
29 person who maintains a slaughtering licensed establishment under
30 this chapter for the purposes of slaughtering livestock or
31 poultry for another person's exclusive use by that person and
32 members of that person's household and that person's nonpaying
33 guests and employees, and who is not engaged in the business of
34 buying or selling carcasses, parts of carcasses, meat or meat
35 food products or any cattle, domesticated deer, sheep, swine,
36 goats, domestic rabbits, equines, poultry or other designated
37 animals useable as human food.

40 12. Director. "Director" means the person designated by
41 the commissioner to be in charge of the day-to-day operations of
42 the state meat and poultry inspection and licensing program
43 established by this chapter.

44 13. Domesticated deer. "Domesticated deer" means fallow
45 deer, family Cervidae, subfamily Cervinae, genus Dama; red deer,
46 family Cervidae, subfamily Cervinae, genus Cervus, species
47 Elaphus; and any other species specified under Title 7, section
48 1331, subsection 1-A kept as domestic animals for the purpose of
49 either breeding stock or for sale as food.

2 14. Federal acts. "Federal acts" means the Federal Meat
Inspection Act and the Federal Poultry Products Inspection Act.

4 15. Federal Food, Drug, and Cosmetic Act. "Federal Food,
6 Drug, and Cosmetic Act" means the Act so entitled, approved June
25, 1938, 52 Stat. 1040, and amendatory or supplementary acts.
8 It includes as part of its meaning the Maine Food Law, chapter
551, subchapter 1, rules promulgated under that subchapter and
10 amendatory or supplementary acts, when not inconsistent with the
Federal Food, Drug, and Cosmetic Act.

12 16. Federal Meat Inspection Act. "Federal Meat Inspection
Act" means the Act so entitled, approved March 4, 1907, 34 Stat.
14 1260, as amended by the Wholesome Meat Act 81 Stat. 584.

16 17. Federal Poultry Products Inspection Act. "Federal
Poultry Products Inspection Act" means the Act so entitled,
18 approved August 28, 1957, 71 Stat. 441, as amended by the Federal
Wholesome Poultry Products Act, 82 Stat. 791.

20 18. Food additive. "Food additive" has the same meaning as
22 under the Federal Food, Drug, and Cosmetic Act.

24 19. Handler of dead, dying, disabled or diseased animals.
"Handler of dead, dying, disabled or diseased animals" means a
26 person who buys, sells, transports or otherwise handles animals
that died other than by slaughter or animals that display the
28 following symptoms:

30 A. Central nervous system disorder;

32 B. Abnormal temperature, high or low;

34 C. Difficult breathing;

36 D. Abnormal swellings;

38 E. Lack of muscular coordination;

40 F. Inability to walk normally or stand; or

42 G. Any of the conditions for which livestock are required
44 to be condemned on ante mortem inspection in accordance with
the requirements of this chapter and the rules adopted
46 pursuant to this chapter.

48 20. Immediate container. "Immediate container" means a
consumer package or any other container in which livestock
50 products or poultry products are packed.

2 **21. Inspector.** "Inspector" means an employee or official
3 of the State or an employee or official of the Federal Government
4 or of any other governmental entity of this State, authorized by
5 the commissioner to perform inspection functions under this
6 chapter under an agreement between the commissioner and the
7 governmental entity.

8 **22. Label.** "Label" means a display of written, printed or
9 graphic matter upon a product or the immediate container, not
10 including package liners, of a product.

11 **23. Labeling.** "Labeling" means all labels and other
12 written, printed or graphic matter:

13 A. On a product or its container or wrapper; or

14 B. Accompanying the product.

15 **24. Licensed establishment.** "Licensed establishment" means
16 a person required to hold a license under section 2514.

17 **25. Livestock.** "Livestock" means cattle, domesticated
18 deer, sheep, swine, goats, domestic rabbits, horses, mules, other
19 equines or other designated animals, whether live or dead.

20 **26. Livestock product.** "Livestock product" means a carcass
21 or part of a carcass, meat or meat food product of any livestock.

22 **27. Meat.** "Meat" means the part of the muscle of cattle,
23 domesticated deer, sheep, swine, goats, horses, mules, other
24 equines or other designated animals that is skeletal or that is
25 found in the tongue, diaphragm, heart or esophagus, with or
26 without the accompanying and overlying fat, and the portions of
27 bone, skin, sinew, nerve and blood vessels that normally
28 accompany the muscle tissue but does not include the muscle found
29 in the lips, snout or ears.

30 **28. Meat food product or meat product.** "Meat food product"
31 or "meat product" means a product useable as human food that is
32 made wholly or in part from any meat or other portion of a
33 carcass of cattle, domesticated deer, sheep, swine, domestic
34 rabbits or goats, excepting products that are exempted from
35 definition as a meat food product by the commissioner under
36 conditions that the commissioner may prescribe to ensure that the
37 meat or other portions of carcass contained in products are
38 unadulterated and that products are not represented as meat food
39 products. This term, as applied to food products of equines or
40 other designated animals, has a meaning comparable to that
41 provided in this subsection with respect to cattle, domesticated
42 deer, sheep, swine, domestic rabbits and goats.
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2 29. Misbranded. "Misbranded" applies to any livestock
3 product or poultry product under one or more of the following
4 circumstances:

6 A. Its labeling is false or misleading;

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

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

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

18 E. It does not bear a label showing the name and place of
19 business of the manufacturer, packer or distributor and an
20 accurate statement of the quantity of the product in terms
21 of weight, measure or numerical count, except that the
22 commissioner may establish by rule exemptions for livestock
23 products not in containers and variations and exemptions as
24 to small packages for livestock products or poultry products;

26 F. A word, statement or other information required by this
27 chapter to appear on the label or labeling is not
28 prominently and conspicuously placed as compared with other
29 words, statements, designs or devices on the labeling and in
30 terms likely to be read and understood by the ordinary
31 individual under customary conditions of purchase and use;

32 G. It is represented as a food for which a definition and
33 standard of identity or composition has been prescribed by
34 the rules of the commissioner under section 2512 and:

36 (1) It does not conform to the definition and
37 standard; or

40 (2) Its label does not bear the name of the food
41 specified in the definition and standard and, as may be
42 required by rules, the common names of optional
43 ingredients other than spices, flavoring and coloring
44 present in the food;

46 H. It is represented as a food for which a standard of fill
47 of container has been prescribed by rules of the
48 commissioner under section 2512 and it falls below the
standard of fill of container, unless its label bears, in

2 such manner and form as the rules specify, a statement that
3 it falls below the standard;

4 I. It is not a food for which a definition and standard of
5 identity or composition has been prescribed and the label
6 does not bear:

8 (1) The common or usual name of the food; and

10 (2) If it is fabricated from 2 or more ingredients,
11 the common name of each ingredient, except that spices,
12 flavorings and colorings may be designated as spices,
13 flavorings and colorings without naming each as
14 provided in rule;

16 J. It is represented for special dietary uses and its
17 label does not bear such information concerning its
18 vitamin, mineral and other dietary properties as the
19 commissioner determines to be and by rule prescribes as
20 necessary in order to fully inform purchasers of its value
21 for these uses;

22 K. It contains any artificial flavoring, artificial
23 coloring or chemical preservative, does not have a label
24 stating that fact and does not meet requirements for
25 exemption from this paragraph as established in rule; or

28 L. It fails to have, directly on its containers, as the
29 commissioner may by rules prescribe, the official inspection
30 legend and establishment number of the official
31 establishment where the product was prepared and any other
32 information as the commissioner may require in rules to
33 ensure that it does not have false or misleading labeling
34 and that the public is informed of the manner of handling
35 required to maintain the product in a wholesome condition.

36 **30. Official certificate.** "Official certificate" means a
37 certificate established by rule of the commissioner for issuance
38 by an inspector or other person performing official functions
39 under this chapter.

42 **31. Official device.** "Official device" means a device
43 authorized by the commissioner for use in applying an official
44 mark.

46 **32. Official establishment.** "Official establishment" means
47 an establishment as determined by the commissioner at which
48 inspection of the slaughter of livestock or poultry or the
49 preparation of livestock products or poultry products is
50 maintained under the authority of this chapter.

2 **33. Official inspection legend.** "Official inspection
4 legend" means a symbol established by rule of the commissioner
 showing that a product was inspected and passed in accordance
 with this chapter.

6 **34. Official mark.** "Official mark" means the official
8 inspection legend or any other symbol established by rule of the
 commissioner to identify the status of any product of livestock
10 or poultry under this chapter.

12 **35. Person.** "Person" includes an individual, partnership,
14 corporation, association or other business unit and an officer,
 agent or employee.

16 **36. Pesticide chemical.** "Pesticide chemical" has the same
18 meaning as under the Federal Food, Drug, and Cosmetic Act.

20 **37. Poultry.** "Poultry" means a domesticated bird, whether
 live or dead.

22 **38. Poultry product.** "Poultry product" means a poultry
24 carcass or part of a carcass or a product that is made wholly or
 in part from a poultry carcass or part of a carcass, excepting
26 products that are exempted by the commissioner from definition as
 a poultry product under conditions that the commissioner may
28 prescribe to ensure that the poultry ingredients in products are
 not adulterated and that these products are not represented as
 poultry products.

30 **39. Prepared.** "Prepared" means slaughtered, canned,
32 salted, stuffed, rendered, boned, cut up or otherwise
 manufactured or processed.

34 **40. Public warehouse operator.** "Public warehouse operator"
36 means a person who acts as a temporary custodian of meat, meat
 food products or poultry products stored in that person's
38 warehouse for a fee.

40 **41. Raw agricultural commodity.** "Raw agricultural
42 commodity" has the same meaning as under the Federal Food, Drug,
 and Cosmetic Act.

44 **42. Reinspection.** "Reinspection" includes inspection of
46 the preparation of livestock products and poultry products, as
 well as reexamination of products previously inspected.

48 **43. Renderer.** "Renderer" means a person engaged in the
 business of rendering livestock or poultry carcasses or parts of

2 carcasses, except rendering conducted under inspection or
3 exemption under this chapter.

4 **44. Retail vendor.** "Retail vendor" means a person who
5 sells, displays, advertises for sale, offers for sale or has
6 available for sale meat, meat food products or poultry products
7 for purchase by consumers. "Retail vendor" includes a person who
8 operates a store or who sells or attempts to sell to consumers at
9 their homes or otherwise sells, displays, advertises, offers or
10 has available for sale meat food products or poultry products at
11 retail for purchase by consumers.

12 **45. Shipping container.** "Shipping container" means a
13 container used or intended for use in packaging a livestock
14 product or poultry product packed in an immediate container.

15 **46. Useable as human food.** "Useable as human food" refers
16 to a livestock or poultry carcass or part or product of a
17 livestock or poultry carcass, unless it is denatured or otherwise
18 identified as required by rules prescribed by the commissioner to
19 deter its use as human food or as naturally inedible by humans.

20 **47. Wholesale distributor.** "Wholesale distributor" means a
21 person who sells meat to retail vendors, other merchants or to
22 industrial, institutional and commercial users mainly for resale
23 or business use.

24 **§2512. Powers and duties of the commissioner**

25 The commissioner shall implement a meat and poultry products
26 inspection and licensing program that imposes and enforces
27 requirements with respect to intrastate operations and commerce
28 that are at least as stringent as those imposed and enforced
29 under the federal acts with respect to operations and
30 transactions in interstate commerce. The Department of
31 Agriculture, Food and Rural Resources is designated as the state
32 agency to administer this chapter and to cooperate with the
33 Secretary of Agriculture of the United States in developing and
34 administering the state meat inspection program.

35 **1. Duties.** The commissioner shall:

36 **A.** Require ante mortem and post mortem inspections,
37 quarantine, segregation and reinspections with respect to
38 the slaughter of livestock and poultry and the preparation
39 of livestock products and poultry products at all
40 establishments in this State, except those exempted by the
41 commissioner under subsection 2, paragraph K, at which
42 livestock or poultry are slaughtered or livestock products

2 or poultry products are prepared for human food solely for
distribution in intrastate commerce;

4 B. Require the identification of livestock and poultry for
inspection purposes and the marking and labeling of
6 livestock products or poultry products or their containers,
8 or both, as "Maine Inspected and Passed" if the products are
not found upon inspection to be adulterated and "Maine
10 Inspected and Condemned" if they are found upon inspection
to be adulterated and the destruction for food purposes of
12 all the condemned products under the supervision of an
inspector;

14 C. Prohibit the entry into official establishments of
livestock products and poultry products not prepared under
16 federal inspection or inspection pursuant to this chapter
and further limit the entry of these articles and other
18 materials into licensed establishments under conditions that
the commissioner determines necessary to carry out the
20 purposes of this chapter;

22 D. Require that when livestock products and poultry
products leave official establishments they bear directly on
24 the products or on their containers, or both, as the
commissioner may require, all information required under
26 section 2511, subsection 29 and require approval of all
labeling and containers to be used for the products when
28 sold or transported in intrastate commerce to ensure that
they comply with the requirements of this chapter;

30 E. Investigate the sanitary conditions of each licensed or
32 official establishment under paragraph A and withdraw or
otherwise refuse to provide inspection service at a licensed
34 or official establishment where the sanitary conditions are
such as to render adulterated the livestock products or
36 poultry products prepared or handled there;

38 F. Establish standards relating to sanitation for all
establishments required to have inspection under paragraph A
40 or required to be licensed under section 2514; and

42 G. Require that persons licensed under this chapter keep
records; fully and correctly disclose all transactions
44 involved in their business; and afford to the commissioner
and the commissioner's representatives, including
46 representatives of other governmental agencies designated by
the commissioner, access to their places of business and
48 opportunity, at all reasonable times, to examine the
facilities, inventory and records, to copy the records and

2 to take reasonable samples of the inventory upon the payment
3 of the fair market value.

4 **2. Powers. The commissioner may:**

6 A. Remove inspectors from an official establishment that
7 fails to destroy condemned products as required by
8 subsection 1, paragraph B;

10 B. Refuse to provide inspection service under this chapter
11 with respect to an official establishment for reasons
12 specified in the Federal Meat Inspection Act, Section 401 or
13 the Federal Poultry Products Inspection Act, Section 18 or
14 for any other violation of this chapter or the rules adopted
15 under it;

16 C. Order labeling and containers to be withheld from use if
17 the commissioner determines that the labeling is false or
18 misleading or the containers are of a misleading size or
19 form;

22 D. Require that the slaughter and preparation of equines be
23 conducted in establishments separate from establishments
24 where other livestock are slaughtered or their products are
25 prepared;

26 E. Authorize inspection to continue at an official
27 establishment on state holidays or beyond the regular work
28 shift or workweek for state inspectors as long as the
29 necessary inspectors are available and the official
30 establishment pays all overtime salaries for inspections
31 necessary to keep the plant open and other expenses caused
32 by the overtime employment. All of these payments must be
33 retained in a revolving fund for administering this chapter;

36 F. Adopt by reference, or otherwise, provisions of the
37 rules under the federal acts with changes as the
38 commissioner determines appropriate to make those provisions
39 applicable to operations and transactions subject to this
40 chapter that have the same effect as if adopted under this
41 chapter. The commissioner may adopt other rules of practice
42 providing an opportunity for hearing in connection with the
43 issuance of orders under paragraph A, B or C or subsection
44 1, paragraph E and establishing a procedure for proceedings
45 in these cases. This paragraph does not preclude a
46 requirement that a label or container be withheld from use
47 or a refusal of inspection under paragraph A or C or
48 subsection 1, paragraph E pending issuance of a final order
49 in a proceeding;

50

- 2 G. Appoint and prescribe the duties of a director,
4 inspectors and other personnel that the commissioner
determines necessary to carry out the purposes of this
chapter;
- 6 H. Cooperate with the Secretary of Agriculture of the
8 United States in administration of this chapter to carry out
10 the purposes of this chapter, accept federal assistance for
12 that purpose and spend public funds of this State
appropriated for administration of this chapter to pay the
State's proportionate share of the estimated total cost of
the cooperative program;
- 14 I. Recommend to the Secretary of Agriculture of the United
16 States officials or employees of the Department of
Agriculture, Food and Rural Resources for appointment to the
18 advisory committees provided for in the federal acts;
- 20 J. Serve as the representative of the Governor for
22 consultation with the Secretary of Agriculture under the
24 Federal Meat Inspection Act, Section 301, Subsection (c) and
the Federal Poultry Products Inspection Act, Section 5,
Subsection (c) unless the Governor selects another
representative;
- 26 K. Exempt the operations of a person from inspection or
28 other requirements of this chapter if and to the extent the
operations would be exempt from the corresponding
30 requirements under the federal acts if the operations were
32 conducted in or for interstate commerce or if the State were
designated under the federal acts as one in which the
federal requirements apply to intrastate commerce;
- 34 L. Require a retail vendor that affixes labels with a date
36 to meat, meat food products or poultry products to clearly
and conspicuously post its policy concerning date of sale
38 labeling to enable consumers to understand the policy;
- 40 M. Exempt a livestock producer that sells directly to
42 consumers or inspected slaughterhouses in carcass form from
the licensing requirements of section 2514. To be eligible
44 for this exemption, the livestock must be slaughtered under
inspection and the producer shall relinquish control of the
46 carcass at the slaughterhouse. Payment for the carcasses is
based on hanging weight rather than live weight. This
exemption does not apply to retail operations or poultry;
- 48 N. Establish the sizes and style of type to be used for
50 labeling information required under this chapter and
definitions and standards of identity or composition or

standards of fill of container consistent with federal standards when the commissioner determines the action appropriate for the protection of the public;

O. Establish conditions for storage and handling of livestock products and poultry products by persons engaged in the business of buying, selling, freezing, storing or transporting these products in or for intrastate commerce to ensure that these products are not adulterated or misbranded when delivered to the consumer; and

P. Establish the method for providing voluntary inspection and withdrawal of inspection of exotic animals, wild game, domesticated deer and domestic rabbits. These rules may also provide for the inspection of meat and meat food products derived from those animals. The commissioner shall provide voluntary inspection of bison, domesticated deer and ratite produced in the State, including the inspection of meat and meat food products derived from bison, domesticated deer and ratite, for which the commissioner shall charge a fee of \$5 per hour. The commissioner shall charge \$20 per hour per inspection of meat and meat food products processed in the State but derived from bison, domesticated deer and ratite produced outside the State.

§2513. Rules

The commissioner shall adopt rules to carry out the purposes of this chapter. Rules adopted under this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

SUBCHAPTER II

LICENSING

§2514. Licensing

1. **License required.** A person may not engage in intrastate commerce in the business of buying, selling, preparing, processing, packing, storing, transporting or otherwise handling meat, meat food products or poultry products, unless that person holds a valid license issued under this chapter. Categories of licensure include:

A. Commercial slaughterers;

B. Custom slaughterers, except that itinerant custom slaughterers who slaughter solely at a customer's home or farm and who do not own, operate or work at a slaughtering

2 plant are exempt from the licensing provisions of this
3 section;

4 C. Commercial processors;

6 D. Custom processors;

8 E. Wholesale distributors, except that livestock producers
9 and livestock dealers who sell carcasses to or through
10 inspected slaughterhouses are exempt from having to obtain a
11 wholesale distributor's license under this paragraph. All
12 other licensing provisions are applicable;

14 F. Retail vendors;

16 G. Meat and poultry product brokers;

18 H. Renderers;

20 I. Public warehouse operators;

22 J. Animal food manufacturers;

24 K. Handlers of dead, dying, disabled or diseased animals;
25 and

26 L. Any other category that the commissioner may by rule
27 establish.

30 **2. Application.** A person required to hold a license under
31 subsection 1 shall apply in writing to the commissioner on a form
32 prescribed by the commissioner. In case of a change of ownership
33 or location, a new application must be made. A person engaged in
34 more than one activity subject to licensure shall obtain a
35 separate license for each activity.

36 **3. Investigate circumstances.** The commissioner shall
37 investigate all circumstances in connection with an application
38 for licensure to determine whether the applicable requirements of
39 this chapter and rules adopted under this chapter are satisfied.

42 **4. Issuance of license.** The commissioner shall issue a
43 license to an applicant who the commissioner determines satisfies
44 the requirements of this chapter and the rules adopted under this
45 chapter. Each license must bear an identifying number.

46 **5. Annual license fee.** The annual license fee for a retail
47 vendor license is \$10 and for all other licenses listed under
48 subsection 1 is \$50. All licenses issued under this section
49 expire on December 31st.

2 may remove inspectors from any such official establishment that
3 fails to so destroy any condemned carcass or part of a carcass.
4 The inspectors, after the first inspection, shall, when they
5 consider it necessary, reinspect the carcasses or parts of
6 carcasses to determine whether, since the first inspection, the
7 same have become adulterated and, if any carcass or any part of
8 the carcass, upon examination and inspection subsequent to the
9 first examination and inspection, is found to be adulterated, the
10 carcass must be destroyed for food purposes by the official
11 establishment in the presence of an inspector. The commissioner
12 may remove inspectors from an official establishment that fails
13 to so destroy any condemned carcass or part of a carcass.

14 **§2517-B. Product inspection**

16 **1. Sealed.** An inspection of products placed in a container
17 at an official establishment is not considered complete until the
18 products are sealed or enclosed under the supervision of an
19 inspector.

20 **2. Access to official establishment.** For purposes of a
21 product inspection required by this chapter, inspectors have
22 access at all times to any part of an official establishment
23 required to have inspection under this chapter, whether the
24 official establishment is operated or not.

25 **§2518. Periodic review of noninspected licensed establishments**

26 **1. Review by inspector.** The commissioner may cause
27 establishments that are required to be licensed under section
28 2514 but are exempt from inspection under section 2512,
29 subsection 2, paragraph K to be periodically reviewed by
30 inspectors to ensure that the provisions of this chapter and the
31 rules adopted under this chapter are satisfied and that the
32 public health, safety and welfare are protected.

33 **2. Review of certain slaughter or preparation**
34 **establishments.** Inspection may not be provided under this
35 chapter at any establishment for the slaughter of livestock or
36 poultry or the preparation of any livestock products or poultry
37 products that are not intended for use as human food, but these
38 products must, prior to their offer for sale or transportation in
39 intrastate commerce, unless naturally inedible by humans, be
40 denatured or otherwise identified, as prescribed by rules of the
41 commissioner, to deter their use for human food. These licensed
42 establishments are subject to periodic review.

43 **3. Subject to review.** A periodic review under this section
44 must include an examination of:

45

2 A. The licensed establishment's sanitation practices;

4 B. Sanitation in the areas where meat and poultry products
are prepared, stored and displayed;

6 C. The adequacy of a refrigeration system used for meat
food products and poultry products;

8 D. Labeling; and

10 E. Meat food products or poultry products for wholesomeness
or adulteration.

14 In addition, the inspector conducting the periodic review may
conduct any other examination necessary to ensure compliance with
this chapter and the rules adopted pursuant to this chapter.

18 4. Access. For purposes of a periodic review of a licensed
establishment, inspectors have access during normal business
hours to every part of a licensed establishment required to have
inspection under this chapter, whether the licensed establishment
is operated or not.

24 **§2519. Stop sale or use order**

26 The inspector may issue a stop sale or use order for any
violation of this chapter or of the rules adopted pursuant to
this chapter. A person receiving a stop sale or use order shall
immediately remove the meat, meat food product or poultry product
from sale or shall immediately cease to use any equipment or area
as directed by the order until the order is lifted. The
inspector may lift a stop sale or use order once the inspector
has determined that the violation has been corrected. A person
receiving a stop sale or use order may appeal the order to the
commissioner within 5 days of receiving the order.

36 **§2519-A. Detention**

38 If a livestock product or poultry product or a product
exempted from the definitions of "livestock product" and "poultry
product" or any dead, dying, disabled or diseased livestock or
poultry is found by an authorized representative of the
commissioner upon premises where it is held for, during or after
distribution in intrastate commerce or is otherwise subject to
this chapter and there is reason to believe that the product or
animal is adulterated or misbranded and is useable as human food
or that it has not been inspected, in violation of the provisions
of this chapter or the federal acts or the Federal Food, Drug,
and Cosmetic Act, or that the product or animal has been or is
intended to be distributed in violation of any of these

2 provisions, it may be detained by a representative for a period
4 not to exceed 30 days, pending action under section 2522 or
6 notification of a federal authority having jurisdiction over the
8 product or animal. The product or animal may not be moved by a
10 person from the place at which it is located when detained, until
12 released by the representative. All official marks may be
14 required by the representative to be removed from the product or
16 animal before it is released, unless it appears to the
18 satisfaction of the commissioner or the commissioner's designee
20 that the product or animal is eligible to retain the marks.

22 **§2519-B. Investigation; record keeping**

24 **1. Investigation. The commissioner may:**

26 **A. Gather and compile information and investigate the**
28 **organization, business, conduct, practices and management of**
30 **any person engaged in intrastate commerce and that person's**
32 **business relationships; and**

34 **B. Require, by general or special orders, persons engaged**
36 **in intrastate commerce to file with the commissioner, in the**
38 **form that the commissioner may prescribe, annual or special**
40 **reports or answers in writing to specific questions. The**
42 **person filing the reports or answers shall furnish the**
44 **commissioner with any information the commissioner may**
46 **require as to the organization, business, conduct,**
48 **practices, management and relationship to other persons.**
50 **The reports and answers must be made under oath or**
52 **otherwise, as the commissioner may prescribe, and must be**
54 **filed with the commissioner within a reasonable period, as**
56 **the commissioner may prescribe, unless additional time is**
58 **granted by the commissioner.**

60 **2. Access to evidence. For the purpose of this chapter,**
62 **the commissioner at all reasonable times has access to and the**
64 **right to copy documentary evidence of a person being investigated**
66 **or proceeded against. The commissioner may subpoena the**
68 **attendance and testimony of witnesses and the production of all**
70 **documentary evidence of a person relating to a matter under**
72 **investigation or subject to administrative hearing. The**
74 **commissioner or the commissioner's designee may sign subpoenas,**
76 **administer oaths and affirmations, examine witnesses and receive**
78 **evidence.**

80 **A. The attendance of witnesses and the production of**
82 **documentary evidence may be required at a designated place**
84 **of hearing. In a case of disobedience to a subpoena, the**
86 **commissioner may invoke the aid of the District Court or the**

2 Superior Court in requiring the attendance and testimony of
witnesses and the production of documentary evidence.

4 B. Upon the application of the Attorney General at the
request of the commissioner, the Superior Court has
6 jurisdiction to issue preliminary or permanent injunctions
commanding a person to comply with this chapter or an order
8 of the commissioner made pursuant to this chapter.

10 C. The commissioner may order testimony to be taken by
deposition in a proceeding or investigation pending under
12 this chapter at any stage of the proceeding or
investigation. The depositions may be taken before a person
14 designated by the commissioner who has the power to
administer oaths. The testimony must be reduced to writing
16 by the person taking the deposition, or under that person's
direction, and must be signed by the deponent. A person may
18 be compelled to appear and depose and to produce documentary
evidence in the same manner as witnesses may be compelled to
20 appear and testify and produce documentary evidence before
the commissioner as provided in this chapter.

22 D. Witnesses summoned before the commissioner must be paid
24 the same fees and mileage that are paid witnesses in the
courts of this State. Witnesses whose depositions are taken
26 and the persons taking the depositions are each entitled to
the same fees as are paid for like services in the courts.

28 E. A person may not be excused from attending and
30 testifying or from producing books, papers, schedules of
charges, contracts, agreements or other documentary evidence
32 before the commissioner. A person may not be excused from
obeying a subpoena of the commissioner, whether the subpoena
34 is signed or issued by the commissioner or the
commissioner's designee or issued in a proceeding, criminal
36 or otherwise, based upon any alleged violation of this
chapter on the ground that the testimony or evidence,
38 documentary or otherwise, required of the person or by the
subpoena may tend to incriminate the person or subject the
40 person to a penalty or forfeiture. An individual may not be
prosecuted or subjected to a penalty or forfeiture for a
42 transaction, matter or thing concerning which that person is
compelled, after having claimed privilege against
44 self-incrimination, to testify or produce evidence,
documentary or otherwise, except that an individual so
46 testifying may not be exempt from prosecution and punishment
for perjury committed in testifying.

48 3. Refusal to testify. A person who neglects or refuses to
50 attend and testify, to answer a lawful inquiry or to produce

2 documentary evidence, if in that person's power to do so, in
3 obedience to the subpoena or lawful requirement of the
4 commissioner or the commissioner's designee commits a Class E
5 crime.

6 **SUBCHAPTER IV**

8 **SLAUGHTER**

10 **§2521. Humane methods of slaughter**

12 A method of slaughtering or handling in connection with
13 slaughtering does not comply with the public policy of the State
14 unless it is humane. Either of the following 2 methods of
15 slaughtering and handling are humane:

16 **1. Humane slaughter.** In the case of livestock, rendering
17 animals insensible to pain by a single blow or gunshot or an
18 electrical, chemical or other means that is rapid and effective
19 before they are shackled, hoisted, thrown, cast or cut; or

20 **2. Ritual slaughter.** Slaughtering and handling in
21 accordance with the ritual requirements of a religious faith that
22 prescribes a method of slaughter whereby the animal suffers loss
23 of consciousness by anemia of the brain caused by the
24 simultaneous and instantaneous severance of the carotid arteries
25 with a sharp instrument.

26 **§2521-A. Methods research; designation of methods**

28 The commissioner may:

29 **1. Research.** Conduct, assist and foster research,
30 investigation and experimentation to develop and determine
31 methods of slaughter and handling of livestock in connection with
32 slaughter that are practicable with reference to the speed and
33 scope of slaughtering operations and humane with reference to
34 other existing methods and current scientific knowledge; and

35 **2. Conform to chapter.** Designate methods of slaughter and
36 handling in connection with slaughter that, with respect to each
37 species of livestock, conform to this chapter. The commissioner
38 may make any such designation by designating methods that are not
39 in conformity with this chapter.

40 **§2521-B. Inspection for use of humane slaughtering methods**

41 For the purpose of preventing the inhumane slaughtering of
42 livestock, the commissioner shall appoint inspectors to examine
43 and inspect the method by which livestock are slaughtered and
44 inspect the method by which livestock are slaughtered and

2 handled in connection with slaughter in the licensed or official
3 slaughtering establishments inspected under this chapter. The
4 commissioner may refuse to license or provide inspection to a new
5 slaughtering establishment or may cause inspection to be
6 temporarily suspended at an official slaughtering establishment
7 if the commissioner finds that livestock have been slaughtered or
8 handled in connection with slaughter at such establishment by a
9 method not in accordance with the Humane Methods of Slaughter Act
10 of 1978, 7 United States Code, Sections 1901 to 1906 or not as
11 stated in this section and sections 2521, 2521-A and 2521-C until
12 the establishment furnishes assurances satisfactory to the
13 commissioner that all slaughtering and handling in connection
14 with slaughter of livestock are in accordance with such a method.

15 **§2521-C. Exemption of ritual slaughter**

16 This chapter may not be construed to prohibit, abridge or in
17 any way hinder the religious freedom of a person or group.
18 Notwithstanding any other provision of this chapter, in order to
19 protect freedom of religion, ritual slaughter and the handling or
20 other preparation of livestock for ritual slaughter are exempted
21 from the terms of this chapter. For the purposes of this section
22 the term "ritual slaughter" means slaughter in accordance with
23 section 2521, subsection 2.

24 **SUBCHAPTER V**

25 **PROHIBITED ACTS; VIOLATIONS; PROCEDURES**

26 **§2523. Prohibited acts**

27 1. Use as human food. A person may not, with respect to
28 livestock, poultry or livestock products or poultry products:

29 A. Slaughter any livestock or poultry or prepare products
30 that are useable as human food at a licensed or official
31 establishment preparing the products solely for intrastate
32 commerce, except in compliance with the requirements of this
33 chapter and the rules adopted pursuant to this chapter;

34 B. In intrastate commerce, sell, transport, offer for sale
35 or transportation or receive for transportation products
36 that are useable as human food and:

37 (1) Are adulterated or misbranded at the time of the
38 sale, transportation, offer for sale or transportation
39 or receipt for transportation; or

2 (2) Have not been inspected and passed, unless the
3 products are exempt from inspection pursuant to rules
4 adopted by the commissioner; or

5 C. With respect to those products that are useable as human
6 food, perform any act, while the products are being
7 transported in intrastate commerce or held for sale after
8 transportation, that is intended to cause or has the effect
9 of causing the products to be adulterated or misbranded.

10 2. Slaughtered poultry. In intrastate commerce, a person
11 may not sell, transport, offer for sale or transportation or
12 receive for transportation or from an official establishment any
13 slaughtered poultry from which the blood, feathers, feet, head or
14 viscera have not been removed in accordance with rules adopted by
15 the commissioner except as authorized by those rules.

16 3. Plainly identified. In intrastate commerce, a person
17 may not sell, transport, offer for sale or transportation or
18 receive for transportation any carcass of horses, mules or other
19 equines or parts of these carcasses, or the meat or meat food
20 products of these carcasses, unless they are plainly and
21 conspicuously marked or labeled or otherwise identified as
22 required by rules established by the commissioner to show the
23 kinds of animals from which they were derived.

24 4. Denatured. In intrastate commerce, a person may not
25 buy, sell, transport or offer for sale or transportation or
26 receive for transportation livestock products or poultry products
27 that are not intended for use as human food, unless they are
28 denatured or otherwise identified as required by the rules of the
29 commissioner or are naturally inedible by humans.

30 5. Animals not slaughtered. A person engaged in the
31 business of buying, selling or transporting in intrastate
32 commerce dead, dying, disabled or diseased animals or parts of
33 the carcasses of any animals that died other than by slaughter
34 may not buy, sell, transport, offer for sale or transportation or
35 receive for transportation in intrastate commerce dead, dying,
36 disabled or diseased livestock or poultry or the products of
37 these animals that died other than by slaughter, unless the
38 transaction or transportation is made in accordance with rules
39 that the commissioner may prescribe to ensure that the animals or
40 the unwholesome parts or products are prevented from being used
41 for human food purposes.

42 6. False information or failure to cooperate. A person
43 commits a Class D crime if the person intentionally or knowingly:
44

2 A. Makes or causes to be made, a false entry or statement
of fact;

4 B. Fails to make correct entries in any report, account,
6 record or memorandum kept by a person that is required by or
subject to this chapter;

8 C. Removes out of the jurisdiction of this State or
10 mutilates, alters or by any other means falsifies
documentary evidence of a person subject to this chapter; or

12 D. Refuses to submit to the commissioner or to any of the
14 commissioner's authorized agents, for the purpose of
16 inspection and taking copies, documentary evidence of a
person, subject to this chapter, in that person's possession
or within that person's control.

18 7. Report. If a person fails to file an annual or special
20 report as required by this chapter, the commissioner shall notify
that person of the failure to report and designate a day by which
22 the report must be received. If the report is not received
within 30 days of the designated day, the person shall forfeit
24 \$100 to the State for each day beyond the 30-day period. The
forfeiture is payable into the State Treasury and is recoverable
26 in a civil suit, in the name of the State, brought in the county
where the person has that person's principal office or in the
Superior Court.

28 **§2524. General penalties**

30 1. Criminal violation. A person who violates this chapter
32 or the rules adopted under this chapter for which no other
criminal penalty is provided by this chapter commits a Class E
34 crime. If the violation involves intent to defraud or any
distribution or attempted distribution of a product that is
36 adulterated, except as defined in section 2511, subsection 1,
paragraph K, the person commits a Class D crime.

38 2. Civil violation. A person who violates this chapter or
40 any rule adopted under this chapter commits a civil violation for
which a forfeiture of not more than \$1,000 may be adjudged for
42 each violation. If the commissioner finds that the violation
occurred despite the exercise of due care, the commissioner may
44 issue a warning instead of seeking a forfeiture.

46 **§2524-A. Action upon violation**

48 After discovery of a violation of this chapter or the rules
50 adopted under this chapter, the commissioner may take any
additional action against the licensed establishment that the

2 commissioner determines appropriate, including instituting a
3 proceeding under section 2514, subsection 6 and causing a civil
4 or criminal proceeding to be brought against the licensed
5 establishment.

6 **§2525. Official devices, marks and certificates**

8 **1. Mark; simulation.** A brand manufacturer, printer or
9 other person may not cast, print, lithograph or otherwise make
10 any device containing any official mark or simulation, any label
11 bearing any mark or simulation or any form of official
12 certificate or simulation except as authorized by the
13 commissioner.

14 **2. Official device; mark; certificate.** A person may not:

16 **A.** Without authorization from the commissioner, use an
17 official device, mark or certificate, or simulation, or
18 alter, detach, deface or destroy any official device, mark
19 or certificate;

22 **B.** Contrary to the rules established by the commissioner,
23 fail to use or detach, deface or destroy an official device,
24 mark or certificate;

26 **C.** Knowingly possess, without promptly notifying the
27 commissioner or the commissioner's representative, an
28 official device; a counterfeit, simulated, forged or
29 improperly altered official certificate; a device or label
30 for a carcass of an animal, including poultry; or a part or
31 product of an animal, including poultry, bearing a
32 counterfeit, simulated, forged or improperly altered
33 official mark;

34 **D.** Knowingly make a false statement on a shipper's
35 certificate or other nonofficial or official certificate
36 provided for in the rules established by the commissioner; or

38 **E.** Knowingly represent that a product has been inspected
39 and passed or exempted under this chapter when it has not
40 been inspected and passed or exempted.

42 **§2526. Forfeiture**

44 **1. Transportation in intrastate commerce.** Any livestock
45 product or poultry product of any dead, dying, disabled or
46 diseased livestock or poultry that is being transported in
47 intrastate commerce, is otherwise subject to this chapter or is
48 held for sale in this State after transportation, and that is or
49 has been prepared, sold, transported or otherwise distributed or
50

2 offered or received for distribution in violation of this chapter
3 or the rules adopted under this chapter; is adulterated or
4 misbranded and is useable as human food; or in any other way is
5 in violation of this chapter is liable to be proceeded against
6 and seized and condemned, at any time, on a complaint in Superior
7 Court as provided in section 2527. If the product or animal is
8 condemned it must, after entry of the decree, be disposed of by
9 destruction or sale as the court may direct and the proceeds, if
10 sold, less the court costs and fees and storage and other proper
11 expenses, must be paid into the State Treasury. The product or
12 animal may not be sold contrary to the provisions of this
13 chapter, the federal acts or the Federal Food, Drug, and Cosmetic
14 Act. Upon the execution and delivery of a good and sufficient
15 bond guaranteeing that the product or animal will not be sold or
16 otherwise disposed of contrary to the provisions of this chapter
17 or the laws of the United States, the court may direct that the
18 product or animal be delivered to the owner, subject to
19 supervision by authorized representatives of the commissioner to
20 ensure compliance with the applicable laws. If a decree of
21 condemnation is entered against the product or animal and it is
22 released under bond or destroyed, court costs and fees and
23 storage and other proper expenses must be awarded against the
24 person, if any, intervening as claimant of the product or animal.

25 2. Unimpaired authority. This section does not impair the
26 authority for condemnation or seizure conferred by other
27 provisions of this chapter or other laws.

28 §2527. Appeal and jurisdiction

29 1. Appeal. An order issued under section 2512, subsection
30 1, paragraph C; section 2512, subsection 2, paragraph A, B or C;
31 section 2514, subsection 6; or a decision issued by the
32 commissioner under section 2514, subsection 6 is final unless
33 appealed to Superior Court within 15 days after service. An
34 appeal of any other order or decision of the commissioner may be
35 taken pursuant to Title 5, chapter 375. Review of any order and
36 the determinations upon which it is based must be in the record
37 in the administrative proceeding in which the order was issued.

38 2. Jurisdiction. The Superior Court has legal and
39 equitable jurisdiction to enforce, prevent and restrain
40 violations of this chapter and has legal and equitable
41 jurisdiction in all other cases arising under this chapter. The
42 Superior Court and District Court are granted jurisdiction to
43 handle criminal matters arising under this chapter and rules.

44 Sec. 2. Appropriation. The following funds are appropriated
45 from the General Fund to carry out the purposes of this Act.

2

2000-01

4

**AGRICULTURE, FOOD AND RURAL RESOURCES,
DEPARTMENT OF**

6

Division of Quality Assurance and Regulation

8

10	Positions - Legislative Count	(1,000)
	Personal Services	\$57,475
	All Other	110,636

12

14 Appropriates additional funds
for one additional
16 Supervising Inspector
position and necessary
18 operating costs to initiate a
poultry and meat inspection
program.

20

22 **DEPARTMENT OF AGRICULTURE, FOOD AND
RURAL RESOURCES
TOTAL**

\$168,111

24

26

FISCAL NOTE

28

2000-01

30 APPROPRIATIONS/ALLOCATIONS

32	General Fund	\$168,111
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34

36 This bill includes a General Fund appropriation of \$168,111
in fiscal year 2000-01 for the Division of Quality Assurance and
38 Regulation within the Department of Agriculture, Food and Rural
Resources to implement a meat and poultry inspection program.
40 For fiscal year 2000-01, the appropriation includes funds for one
additional Supervising Inspector position and necessary operating
42 costs to initiate the program. As the program is implemented,
one additional Consumer Protection Inspector position and 1/2 of
44 a State Veterinarian position will be needed in fiscal year
2001-02 and one additional Consumer Protection Inspector position
46 will be needed in fiscal year 2002-03. The estimated future
costs are \$202,732 and \$245,440 in fiscal years 2001-02 and
2002-03, respectively.

48

50 Beginning in fiscal year 2001-02, the Federal Government
will reimburse the State of Maine for 50% of the ongoing costs

2 for the meat and poultry inspection program. These
reimbursements of approximately \$101,366 in fiscal year 2001-02
4 and \$122,720 in fiscal year 2002-03 will be deposited as
undedicated revenue into the General Fund.

6 The authorization of certain license fees pertaining to meat
and poultry processing will result in insignificant increases of
8 General Fund revenue collected by the Department of Agriculture,
Food and Rural Resources.

10
12 This bill may increase prosecutions for Class D and Class E
crimes. If a jail sentence is imposed, the additional costs to
14 the counties are estimated to be \$83.36 per day per prisoner.
The number of prosecutions that may result in a jail sentence and
16 the resulting costs to the county jail system are expected to be
insignificant.

18 This bill may also increase the number of civil and criminal
violations filed in the court system. The additional workload,
20 administrative costs and indigent defense costs associated with
the minimal number of new cases filed in the court system can be
22 absorbed within the budgeted resources of the Judicial
Department. The collection of additional fines may also increase
24 General Fund revenue by minor amounts.

26

SUMMARY

28

30 The purpose of this bill is to implement a state meat
inspection program.