

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

SECOND REGULAR SESSION
January 5, 2000 to May 12, 2000

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 11, 2000

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
2000

Provides funds for grants to municipalities for plan implementation and plan updates and for alternative growth management initiatives and pilot projects, including regional projects.

improvement loans to municipalities.

Sec. 27. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

2000-01

EXECUTIVE DEPARTMENT
TOTAL \$3,750,000

EXECUTIVE DEPARTMENT

Planning Office

All Other \$100,000

Provides for the appropriation of funds to provide matching funds for grants to be used to revitalize downtowns.

TOTAL APPROPRIATIONS \$3,835,000

Sec. 25. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

2000-01

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Sec. 28. Retroactivity. Those sections of this Act that repeal the Maine Revised Statutes, Title 30-A, section 4349 and enact Title 30-A, section 4349-A apply retroactively to state capital investments made after June 30, 2000.

See title page for effective date.

Downtown Leasehold Improvement Fund

All Other \$800,000

Provides for the appropriation of funds to capitalize the Downtown Leasehold Improvement Fund for capital improvements to leased space. At the end of each fiscal year any unexpended balance may not lapse but must be carried forward to be used for the same purpose.

Sec. 26. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

2000-01

MAINE MUNICIPAL BOND BANK

Municipal Investment Trust Fund

All Other \$5,000,000

Provides for the appropriation of funds to capitalize the Municipal Investment Trust Fund for downtown

CHAPTER 777

S.P. 1083 - L.D. 2687

An Act to Implement a Maine Meat and Poultry Inspection Program

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

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

CHAPTER 562-A

PREPARATION OF LIVESTOCK AND POULTRY PRODUCTS FOR HUMAN CONSUMPTION

SUBCHAPTER I

GENERAL PROVISIONS

§2511. Definitions

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

1. Adulterated. "Adulterated" applied to a livestock or poultry product means that the livestock product or poultry product:

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Commercial processor. "Commercial processor" means a person who maintains an official establishment under this chapter for the purpose of processing livestock, meat, meat food products, poultry or poultry products other than for the exclusive use in the household of the owner of the commodity by the owner and members of the owner's household and the owner's nonpaying guests and employees.

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

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

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

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

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

11. Custom slaughterhouse. "Custom slaughterhouse" means a person who maintains a slaughtering licensed establishment under this chapter for the purposes of slaughtering livestock or poultry for

another person's exclusive use by that person and members of that person's household and that person's nonpaying guests and employees, and who is not engaged in the business of buying or selling carcasses, parts of carcasses, meat or meat food products or any cattle, domesticated deer, sheep, swine, goats, domestic rabbits, equines, poultry or other designated animals useable as human food.

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

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

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

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

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

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

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

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

A. Central nervous system disorder;

B. Abnormal temperature, high or low;

C. Difficult breathing;

D. Abnormal swellings;

E. Lack of muscular coordination;

F. Inability to walk normally or stand; or

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

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

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

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

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

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

B. Accompanying the product.

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

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

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

27. Meat. "Meat" means the part of the muscle of cattle, domesticated deer, sheep, swine, goats, horses, mules, other equines or other designated animals that is skeletal or that is found in the tongue, diaphragm, heart or esophagus, with or without the accompanying and overlying fat, and the portions of bone, skin, sinew, nerve and blood vessels that

normally accompany the muscle tissue but does not include the muscle found in the lips, snout or ears.

28. Meat food product or meat product. "Meat food product" or "meat product" means a product useable as human food that is made wholly or in part from any meat or other portion of a carcass of cattle, domesticated deer, sheep, swine, domestic rabbits or goats, excepting products that are exempted from definition as a meat food product by the commissioner under conditions that the commissioner may prescribe to ensure that the meat or other portions of carcass contained in products are unadulterated and that products are not represented as meat food products. This term, as applied to food products of equines or other designated animals, has a meaning comparable to that provided in this subsection with respect to cattle, domesticated deer, sheep, swine, domestic rabbits and goats.

29. Misbranded. "Misbranded" applies to any livestock product or poultry product under one or more of the following circumstances:

- A. Its labeling is false or misleading;
- B. It is offered for sale under the name of another food;
- C. It is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "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. It does not bear a label showing the name and place of business of the manufacturer, packer or distributor and an accurate statement of the quantity of the product in terms of weight, measure or numerical count, except that the commissioner may establish by rule exemptions for livestock products not in containers and variations and exemptions as to small packages for livestock products or poultry products;
- F. A word, statement or other information required by this chapter to appear on the label or labeling is not prominently and conspicuously placed as compared with other words, statements, designs or devices on the labeling and in terms likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- G. It is represented as a food for which a definition and standard of identity or composition has been prescribed by the rules of the commissioner under section 2512 and:

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

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

H. It is represented as a food for which a standard of fill of container has been prescribed by rules of the commissioner under section 2512 and it falls below the standard of fill of container, unless its label bears, in such manner and form as the rules specify, a statement that it falls below the standard;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38. Poultry product. "Poultry product" means a poultry 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 products that are exempted by the commissioner from definition as a poultry product under conditions that the commissioner may prescribe to ensure that the poultry ingredients in products are not adulterated and that these products are not represented as poultry products.

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

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

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

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

43. Renderer. "Renderer" means a person engaged in the business of rendering livestock or poultry carcasses or parts of carcasses, except rendering conducted under inspection or exemption under this chapter.

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

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

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

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

§2512. Powers and duties of the commissioner

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

1. Duties. The commissioner shall:

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

prepared for human food solely for distribution in intrastate commerce;

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

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

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

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

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

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

of the inventory upon the payment of the fair market value.

2. Powers. The commissioner may:

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

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

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

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

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

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

G. Appoint and prescribe the duties of a director, inspectors and other personnel that the commissioner determines necessary to carry out the purposes of this chapter;

H. Cooperate with the Secretary of Agriculture of the United States in administration of this chapter to carry out the purposes of this chapter, accept federal assistance for 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;

I. Recommend to the Secretary of Agriculture of the United States officials or employees of the Department of Agriculture, Food and Rural Resources for appointment to the advisory committees provided for in the federal acts;

J. Serve as the representative of the Governor for consultation with the Secretary of Agriculture under the 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;

K. Exempt the operations of a person from inspection or other requirements of this chapter if and to the extent the operations would be exempt from the corresponding requirements under the federal acts if the operations were 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;

L. Require a retail vendor that affixes labels with a date to meat, meat food products or poultry products to clearly and conspicuously post its policy concerning date of sale labeling to enable consumers to understand the policy;

M. Exempt a livestock producer that sells directly to consumers or inspected slaughterhouses in carcass form from the licensing requirements of section 2514. To be eligible for this exemption, the livestock must be slaughtered under inspection and the producer shall relinquish control of the 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;

N. Establish the sizes and style of type to be used for 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, sell-

ing, 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 plant are exempt from the licensing provisions of this section;

C. Commercial processors;

D. Custom processors;

E. Wholesale distributors, except that livestock producers and livestock dealers who sell carcasses to or through inspected slaughterhouses are exempt from having to obtain a wholesale

distributor's license under this paragraph. All other licensing provisions are applicable;

F. Retail vendors;

G. Meat and poultry product brokers;

H. Renderers;

I. Public warehouse operators;

J. Animal food manufacturers;

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

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

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

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

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

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

6. Denial, suspension or revocation of license. The commissioner may, after notice and opportunity for hearing in conformance with the applicable provisions of the Maine Administrative Procedure Act, suspend or revoke a license or may take any other action that the commissioner determines appropriate concerning a license. The following are grounds for denial, suspension or revocation of a license:

A. The commissioner determines that a false statement was made in the license application; or

B. The commissioner finds that the licensee failed to comply with this chapter or the rules made under this chapter.

SUBCHAPTER III

INSPECTIONS AND EXAMINATIONS

§2517. Ante mortem examination of animals to be slaughtered

For the purpose of preventing the use in commerce of meat and meat food products that are adulterated, the commissioner shall appoint inspectors to examine and inspect all livestock before they are allowed to enter into a slaughtering, packing, meat-canning, rendering or similar official establishment in which they are to be slaughtered and the meat and meat food products of which are to be used in commerce. All livestock found on such inspection to show symptoms of disease must be set apart and slaughtered separately from all other livestock and when so slaughtered the carcasses of the livestock are subject to a careful examination and inspection, as provided by the rules established by the commissioner and adopted pursuant to this chapter.

§2517-A. Post mortem examination of carcasses

The commissioner shall appoint inspectors to examine the carcasses and parts of carcasses of all livestock to be prepared at a slaughtering, meat-canning, salting, packing, rendering or similar official establishment in the State as articles of commerce that are useable as human food. The carcasses and parts of carcasses of all such animals found to be not adulterated must be marked, stamped, tagged or labeled as "Inspected and Passed" and the inspectors shall label, mark, stamp or tag as "Inspected and Condemned" all carcasses and parts of carcasses of animals found to be adulterated. All carcasses and parts thus inspected and condemned must be destroyed for food purposes by the official establishment in the presence of an inspector. The commissioner may remove inspectors from any such official establishment that fails to so destroy any condemned carcass or part of a carcass. The inspectors, after the first inspection, shall, when they consider it necessary, reinspect the carcasses or parts of carcasses to determine whether, since the first inspection, the same have become adulterated and, if any carcass or any part of the carcass, upon examination and inspection subsequent to the first examination and inspection, is found to be adulterated, the carcass must be destroyed for food purposes by the official establishment in the presence of an inspector. The commissioner may remove inspectors from an official establishment that fails to so destroy any condemned carcass or part of a carcass.

§2517-B. Product inspection

1. Sealed. An inspection of products placed in a container at an official establishment is not considered

complete until the products are sealed or enclosed under the supervision of an inspector.

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

§2518. Periodic review of noninspected licensed establishments

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

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

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

- A. The licensed establishment's sanitation practices;
- B. Sanitation in the areas where meat and poultry products are prepared, stored and displayed;
- C. The adequacy of a refrigeration system used for meat food products and poultry products;
- D. Labeling; and
- E. Meat food products or poultry products for wholesomeness or adulteration.

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.

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.

§2519. Stop sale or use order

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.

§2519-A. Detention

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

§2519-B. Investigation; record keeping

1. Investigation. The commissioner may:

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

B. Require, by general or special orders, persons engaged in intrastate commerce to file with the commissioner, in the form that the commissioner may prescribe, annual or special reports or an-

swers in writing to specific questions. The person filing the reports or answers shall furnish the commissioner with any information the commissioner may require as to the organization, business, conduct, practices, management and relationship to other persons. The reports and answers must be made under oath or otherwise, as the commissioner may prescribe, and must be filed with the commissioner within a reasonable period, as the commissioner may prescribe, unless additional time is granted by the commissioner.

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

A. The attendance of witnesses and the production of documentary evidence may be required at a designated place of hearing. In a case of disobedience to a subpoena, the commissioner may invoke the aid of the District Court or the Superior Court in requiring the attendance and testimony of witnesses and the production of documentary evidence.

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

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

D. Witnesses summoned before the commissioner must be paid the same fees and mileage that are paid witnesses in the courts of this State.

Witnesses whose depositions are taken and the persons taking the depositions are each entitled to the same fees as are paid for like services in the courts.

3. Refusal to testify. A person who neglects or refuses to attend and testify, to answer a lawful inquiry or to produce documentary evidence, if in that person's power to do so, in obedience to the subpoena or lawful requirement of the commissioner or the commissioner's designee commits a Class E crime.

SUBCHAPTER IV

SLAUGHTER

§2521. Humane methods of slaughter

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

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

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

§2521-A. Methods research; designation of methods

The commissioner may:

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

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

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

For the purpose of preventing the inhumane slaughtering of livestock, the commissioner shall appoint inspectors to examine and inspect the method by which livestock are slaughtered and handled in connection with slaughter in the licensed or official slaughtering establishments inspected under this chapter. The commissioner may refuse to license or provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at an official slaughtering establishment if the commissioner finds that livestock have been slaughtered or handled in connection with slaughter at such establishment by a method not in accordance with the Humane Methods of Slaughter Act of 1978, 7 United States Code, Sections 1901 to 1906 or not as stated in this section and sections 2521, 2521-A and 2521-C until the establishment furnishes assurances satisfactory to the commissioner that all slaughtering and handling in connection with slaughter of livestock are in accordance with such a method.

§2521-C. Exemption of ritual slaughter

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

SUBCHAPTER V**PROHIBITED ACTS; VIOLATIONS;
PROCEDURES****§2523. Prohibited acts**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Report. If a person fails to file an annual or special report as required by this chapter, the commissioner shall notify that person of the failure to report and designate a day by which the report must be received. If the report is not received within 30 days of the designated day, the person shall forfeit \$100 to the State for each day beyond the 30-day period. The forfeiture is payable into the State Treasury and is recoverable 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.

§2524. General penalties

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

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

§2524-A. Action upon violation

After discovery of a violation of this chapter or the rules adopted under this chapter, the commissioner may take any additional action against the licensed establishment that the commissioner determines appropriate, including instituting a proceeding under section 2514, subsection 6 and causing a civil or criminal proceeding to be brought against the licensed establishment.

§2525. Official devices, marks and certificates

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

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

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

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

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

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

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

§2526. Forfeiture

1. Transportation in intrastate commerce. Any livestock product or poultry product of any dead, dying, disabled or diseased livestock or poultry that is being transported in intrastate commerce, is otherwise subject to this chapter or is held for sale in this State after transportation, and that is or has been prepared, sold, transported or otherwise distributed or offered or received for distribution in violation of this chapter or the rules adopted under this chapter; is adulterated or misbranded and is useable as human food; or in any other way is in violation of this chapter is liable to be proceeded against and seized and condemned, at any time, on a complaint in Superior Court as provided in section 2527. If the product or animal is condemned it must, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees and storage and other proper expenses, must be paid into

the State Treasury. The product or animal may not be sold contrary to the provisions of this chapter, the federal acts or the Federal Food, Drug, and Cosmetic Act. Upon the execution and delivery of a good and sufficient bond guaranteeing that the product or animal will not be sold or otherwise disposed of contrary to the provisions of this chapter or the laws of the United States, the court may direct that the product or animal be delivered to the owner, subject to supervision by authorized representatives of the commissioner to ensure compliance with the applicable laws. If a decree of condemnation is entered against the product or animal and it is released under bond or destroyed, court costs and fees and storage and other proper expenses must be awarded against the person, if any, intervening as claimant of the product or animal.

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

§2527. Appeal and jurisdiction

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

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

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

2000-01

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Division of Quality Assurance and Regulation

Positions - Legislative Count	(1,000)
Personal Services	\$57,475

All Other 110,636

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

DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES TOTAL

\$168,111

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

2000-01

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Division of Quality Assurance and Regulation

All Other \$100,000

Appropriates one-time funds to establish a poultry and meat inspection pilot program.

Harness Racing Commission

All Other (\$70,000)

Deappropriates funds that are no longer necessary for the payment of certain stipends due to lower than expected proceeds from the harness racing handle.

DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES TOTAL

\$30,000

See title page for effective date.

CHAPTER 778

H.P. 1138 - L.D. 1623

An Act to Provide Services for Children in Need of Supervision