

SENATE BILL 123

By Niceley

AN ACT to amend Tennessee Code Annotated, Title 10;
Title 29; Title 39; Title 43; Title 44; Title 53 and
Title 68, relative to inspection programs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 53, Chapter 7, Part 2, is amended by deleting the part and substituting the following:

53-7-201.

This part is known and may be cited as the "Tennessee Poultry Inspection Act."

53-7-202.

As used in this part, unless the context otherwise requires:

(1) "Adulterated" applies to any poultry carcass, part of any poultry carcass, or poultry product under one (1) or more of the following circumstances:

(A) If it bears or contains any poisonous or deleterious substance that may render it injurious to health. In cases where the substance is not an added substance, the article is not adulterated if the quantity of the substance does not ordinarily render it injurious to health;

(B) If it bears or contains any added poisonous or added deleterious substance, unless the substance is permitted in its production or unavoidable under good manufacturing practices as determined under rules promulgated by the commissioner; provided, that any quantity of the added substances exceeding the limit so fixed is adulteration;

(C) If any substance has been substituted, wholly or in part, for the poultry carcass, part of the poultry carcass, or poultry product;

(D) If damage or inferiority has been concealed in any manner;

(E) If any valuable constituent has been, in whole or in part, omitted or abstracted from the poultry carcass, part of the poultry carcass, or poultry product; or

(F) If any substance has been added, mixed, or packed with the poultry carcass, part of the poultry carcass, or poultry product, 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;

(2) "Bait" or "bait and switch" means advertising that is an alluring or fantastic offer or false and misleading offer that is not a bona fide offer to sell, but that is a means of attracting the prospective customer, the purpose being to sell or switch to some other product;

(3) "Carcass" means all parts, including viscera of a slaughtered bird, that are capable of being used for human food;

(4) "Commissioner" means the commissioner of agriculture, or any person authorized to act in the commissioner's stead;

(5) "Container" and "package" include any box, can, tin, cloth, plastic, or any other receptacle, wrapper, or cover;

(6) "Federal Poultry Products Inspection Act" means the act of congress approved August 28, 1957, as amended, compiled in 21 U.S.C. § 451 et seq.;

(7) "Immediate container" means any consumer package, or any other container in which an article, not consumer packaged, is packed;

(8) "Inspection service" means the official government service within the department of agriculture designated by the commissioner as having the responsibility for carrying out this part;

(9) "Inspector" means an employee or official of this state authorized by the commissioner to inspect the operation and facilities of any poultry processing establishment;

(10) "Intrastate commerce" means commerce within this state;

(11) "Label" means any written, printed, or graphic material upon the shipping container, if any, or upon the immediate container, including an individual consumer package of an article, or accompanying the article;

(12) "Official establishment" means any establishment in this state, as determined by the commissioner, at which inspection of the slaughter of poultry or the processing of poultry carcasses or poultry products is maintained under the authority of this part;

(13) "Official inspection mark" means any symbol, formulated pursuant to rules promulgated by the commissioner, stating that an article was inspected and passed;

(14) "Person" means any individual, partnership, corporation, association, or any other business entity;

(15) "Poultry" means any live or slaughtered domesticated bird;

(16) "Poultry product":

(A) Means any poultry that has been slaughtered for human food from which the blood, feathers, feet, head, and viscera have been removed in accordance with rules promulgated by the commissioner, any edible part of poultry, or any human food product consisting of any edible part of poultry separately or in combination with other ingredients; and

(B) Does not include any human food product exempted from this subdivision (16) by the commissioner upon the commissioner's determination that the product:

(i) Contains only a minimal amount of poultry and is not represented as a poultry product; or

(ii) Is used for medicinal purposes and is advertised only to the medical profession;

(17) "Processor" means a person who engages for profit in this state in the business of packing or packaging poultry or poultry products for human consumption;

(18) "Shipping container" means any container used or intended for use in packaging the article packed in an immediate container;

(19) "Unwholesome" means:

(A) Unsound, injurious to health, containing any biological residue not permitted by rules promulgated by the commissioner, or otherwise rendered unfit for human food;

(B) Consisting, in whole or in part, of any filthy, putrid, or decomposed substance;

(C) Processed, prepared, packed, or held under unsanitary conditions whereby any poultry carcass, part of any poultry carcass, or poultry product may have become contaminated with filth or may have been rendered injurious to health;

(D) Produced, in whole or in part, from poultry that is diseased, dead, dying, or disabled and that has died otherwise than by slaughter; or

(E) Packaged in a container composed of any poisonous or deleterious substance that may render the contents injurious to health; and

(20) "Wholesome" means sound, healthful, clean, and otherwise fit for human food.

53-7-203.

(a)

(1) For the purpose of preventing the entry into or movement in intrastate commerce of any poultry carcass, part of any poultry carcass, or poultry product that is unwholesome or adulterated and is intended for or capable of use as human food, the commissioner shall, where and to the extent considered by the commissioner necessary, cause to be made by inspectors ante mortem inspection of poultry in any official establishment where poultry are slaughtered for intrastate commerce.

(2) For the purpose stated in subdivision (a)(1), the commissioner, whenever slaughtering or other processing operations are being conducted, shall cause to be made by inspectors post mortem inspection of the carcasses and parts of carcasses of each bird slaughtered in any official establishment, and shall cause to be made by inspectors an inspection of all poultry products processed in any official establishment in which poultry products are processed for intrastate commerce.

(b)

(1) The commissioner shall cause, at any time, quarantine, seizure, segregation, and reinspection of poultry, poultry carcasses and parts of poultry

carcasses, and poultry products in official establishments that the commissioner deems necessary to effectuate the purposes of this part.

(2) Whenever an authorized agent of the commissioner finds, or has probable cause to believe, that any poultry carcasses or parts of poultry carcasses, or poultry products, in an official establishment or in other trade channels where the product is held or offered for sale, is adulterated or misbranded so as to be fraudulent, or has been prepared, packed, processed, or held under conditions whereby it may have become contaminated within the meaning of this part, the agent shall affix to the article a tag or other appropriate marking, giving notice that the article is, or is suspected of being, adulterated or misbranded and has been detained or quarantined, and warning all persons not to remove or dispose of the article by sale or otherwise until permission for removal or disposal is given by the agent or the court. It is an offense for any person to remove or dispose of detained or quarantined articles by sale or otherwise without permission.

(3) All poultry carcasses and parts of poultry carcasses, and poultry products that an inspector finds to be unwholesome or adulterated in any official establishment or other trade channels where the product is held or offered for sale, shall be condemned and shall, if the determination of condemnation is not appealed, be destroyed for human food purposes under the supervision of an inspector; provided, that articles that may, by reprocessing, be made not unwholesome and not adulterated need not be condemned and destroyed if so reprocessed under the supervision of an inspector and thereafter found to be not unwholesome and not adulterated or not misbranded. If the determination is appealed to the commissioner, the articles shall be appropriately marked and

segregated pending completion of an appeal inspection, which appeal shall be at the cost of the appellant if the commissioner determines that the appeal is frivolous or without merit. If the determination of condemnation is sustained, the articles shall be destroyed for human food purposes under the supervision of an inspector.

(c) One (1) inspector may be assigned to two (2) or more establishments where few poultry are slaughtered or where small quantities of carcasses, poultry, or poultry products are processed. When inspector assignments are made, the commissioner shall designate the days and hours when slaughtering and processing will be done.

(d) The licensee shall pay for devices and supplies used for marking and stamping and for carcass and poultry containers and labels. The devices and supplies shall be under the control of the inspector.

53-7-204.

(a) Each official establishment at which poultry are slaughtered or poultry carcasses, parts of poultry carcasses, or poultry products are processed for intrastate commerce shall have the premises, facilities, and equipment, and be operated in accordance with sanitary practices required by rules promulgated by the commissioner for the purpose of preventing the entry into and movement in commerce of poultry carcasses, parts of poultry carcasses, and poultry products that are unwholesome or adulterated.

(b) Poultry carcasses, parts of poultry carcasses, or poultry products must not be admitted into any official establishment, unless they have been prepared only under inspection pursuant to this part or the federal Poultry Products Inspection Act (21 U.S.C. § 451 et seq.), or their admission is permitted by rules promulgated by the commissioner under this part.

(c) Each establishment licensed under this part that freezes poultry carcasses, parts of poultry carcasses, or poultry products must be equipped to quick or sharp freeze at ten degrees below zero Fahrenheit (-10°F) and otherwise be equipped to process, store, and deliver frozen foods according to official regulations.

(d) The commissioner shall refuse to render inspection to any establishment whose premises, facilities, or equipment, or the operation of the premises, facilities, or equipment, fail to meet the requirements of this section.

53-7-205.

(a)

(1) Each shipping container of any poultry product inspected under this part and found to be wholesome and not adulterated, must, at the time the product leaves the official establishment, bear, in distinctly legible form, the official inspection mark and the approved plant number of the official establishment in which the contents were processed.

(2)

(A) Each immediate container of any poultry product inspected under this part and found to be wholesome and not adulterated, must, at the time the product leaves the official establishment, bear, in addition to the official inspection mark, in distinctly legible form, the name of the product, a statement of ingredients, if fabricated from two (2) or more ingredients, including a declaration as to artificial flavors, colors, or preservatives, where the food additives are permitted by this part or rules, the net weight or other appropriate measure of the contents, the name and address of the processor, and the approved plant number of the official establishment in which the contents were processed.

(B) The name and address of the distributor may be used in lieu of the name and address of the processor if the approved plant number is used to identify the official establishment in which the article was prepared and packed.

(3) The commissioner may by rules require additional marks or label information to appear on poultry carcasses, parts of poultry carcasses, or poultry products when they leave the official establishments or at the time of their transportation or sale in this state, and the commissioner may permit reasonable variations and grant exemptions from the marking and labeling requirements of this subsection (a) in any manner not in conflict with the purposes of this part.

(4) Marks and labels required under this subsection (a) shall be applied only by, or under the supervision of, an inspector.

(b) Properly marked and labeled poultry food products and carcasses or parts of poultry are acceptable for intrastate movement, and the products are acceptable for both public and institutional purchase.

(c)

(1) The use of any written, printed, or graphic matter upon or accompanying any poultry carcass, parts of poultry carcasses, or poultry product inspected or required to be inspected pursuant to this part or the container of the poultry carcass, parts of the poultry carcass, or poultry products, that is false or misleading in any particular is prohibited.

(2) Poultry carcasses, parts of poultry carcasses, or poultry products inspected or required to be inspected pursuant to this part shall not be sold or offered for sale by any person, firm, or corporation under any false or deceptive

name. Established trade names that are usual to the articles and that are not false or deceptive and that are approved by the commissioner are permitted.

(3)

(A) If the commissioner has reason to believe that any label in use or prepared for use is false or misleading in any particular, the commissioner may direct that the use of the label be withheld, unless it is modified in a manner the commissioner may prescribe so that it is not false or misleading.

(B) If the person using or proposing to use the label does not accept the determination of the commissioner, the person may request a hearing, but the use of the label shall, if the commissioner so directs, be withheld pending hearing and final determination by the commissioner.

(C) The determination by the commissioner is conclusive unless, within thirty (30) days after the receipt of notice of the final determination, the person adversely affected by the determination appeals the decision of the commissioner to the circuit court pursuant to § 53-7-217.

53-7-206.

The following acts, or the causing of the following acts, within this state are a violation of this part:

(1) The processing for, or the sale or offering for sale, transportation, or delivery or receiving for transportation, in intrastate commerce, of any poultry product, unless the article has been inspected for wholesomeness, and unless the article and its shipping container and immediate container, if any, are marked in accordance with the requirements under this part or the federal Poultry Products Inspection Act (21 U.S.C. § 451 et seq.);

(2) The sale or other disposition for human food of any poultry carcass, part of any poultry carcass, or poultry product that has been inspected and declared to be unwholesome or adulterated under this part;

(3) Falsely making or issuing, altering, forging, simulating, or counterfeiting, or using without proper authority any official inspection certificate, memorandum, mark, or other identification, or device for making the mark or identification, used in connection with inspection under this part, or causing, procuring, aiding, assisting in, or being a party to, the false making, issuing, altering, forging, simulating, counterfeiting, or unauthorized use, or knowingly processing, without promptly notifying the commissioner or the commissioner's representative, uttering, publishing, or using as true, or causing to be uttered, published, or used as true, any falsely made or issued, altered, forged, simulated, or counterfeited official inspection certificate, memorandum, mark, or other identification, or device for making the mark or identification, or representing that any article has been officially inspected under the authority of this part when the article has in fact not been so inspected, or knowingly making any false representation in any certificate prescribed by the commissioner in rules under this part or any form resembling the certificate;

(4) Using in intrastate commerce a false or misleading label on any poultry carcass, part of any poultry carcass, or poultry product;

(5) Engaging in or abetting another in bait and switch tactics in promoting for sale and selling poultry carcasses, parts of any poultry carcass, or poultry products and using false or misleading advertisements or for any advertising medium to knowingly publish false or misleading advertising;

(6) Using any container bearing an official inspection mark, except for the article in the original form in which it was inspected and covered by the mark, unless the mark is removed, obliterated, or otherwise destroyed;

(7) Refusing to permit access by any duly authorized representative of the commissioner, at all reasonable times, to the premises of an establishment in this state at which poultry are slaughtered or poultry carcasses, parts of poultry carcasses, or poultry products are processed for intrastate commerce, upon presentation of appropriate credentials;

(8) Refusing to permit access to and the copying of any record as authorized by § 53-7-208;

(9) Using by any person to the person's own advantage, or revealing, other than to the authorized representatives of any government agency in their official capacity, or to the courts when relevant in any judicial proceeding, any information acquired under this part, concerning any matter that is entitled to protection as a trade secret;

(10) Holding, delivering, receiving, transporting, selling, or offering for sale or transportation in intrastate commerce, for human consumption, any unviscerated slaughtered poultry or any poultry carcass, part of any poultry carcass, or poultry product that has been processed in violation of any requirements under this part, except as may be authorized by and pursuant to rules promulgated by the commissioner;

(11) Holding, delivering, receiving, transporting, selling, or offering for sale or transportation in intrastate commerce any poultry carcass, part of any poultry carcass, or poultry product exempted under § 53-7-209 that is unwholesome or adulterated, and is intended for human consumption;

(12) Applying to any poultry carcass, part of any poultry carcass, or poultry product, or any container of any poultry carcass, part of any poultry carcass, or poultry product, any official inspection mark or label required under this part, except by, or under the supervision of, an inspector;

(13) Refusing to apply for a license and refusing to pay, or operating a plant without payment of all license and inspection fees;

(14) Removing or selling any article detained or embargoed by an inspector;

(15) Violating any rule promulgated under this part;

(16) Disposing of or selling any dead, dying, diseased, or disabled poultry or poultry carcasses or parts of any poultry carcasses, except in a manner as prescribed by rules of the commissioner; and

(17) The continued operation of any commercial slaughterhouse or poultry processing establishment that is in an unsanitary condition or that fails to comply with the specifications and standards that have been established by rules by the commissioner.

53-7-207.

Subject to § 53-7-214(a), an establishment in this state shall not slaughter any poultry or process any poultry carcasses, parts of any poultry carcasses, or poultry products, for human consumption, except in compliance with this part.

53-7-208.

(a) For the purpose of enforcing this part, persons engaged in this state in the business of processing for intrastate commerce or transporting, shipping, or receiving in intrastate commerce poultry slaughtered for human consumption, or poultry products, or holding the articles so received, shall maintain records the commissioner, by rules, may

require, showing, to the extent that they are concerned with the receipt, delivery, sale, movement, or disposition of such articles, and shall, upon the request of a duly authorized representative of the commissioner, permit the duly authorized representative at reasonable times to have access to and to copy all the records.

(b) Any record required to be maintained by this section must be maintained for a period of two (2) years after the transaction that is the subject of the record has taken place.

53-7-209.

(a) The commissioner shall, by rules and under conditions as to labeling, and sanitary standards, practices, and procedures that the commissioner may prescribe, exempt from specific provisions of this part:

(1) Poultry producers with respect to poultry carcasses, parts of poultry carcasses, and poultry products, processed by them from poultry of their own raising on their own farms, for their own consumption, the excess of which may be sold directly to consumers;

(2) Retail dealers with respect to poultry products sold directly to consumers in individual retail stores, if the only processing operation performed by the retail dealers with respect to poultry is the cutting up of poultry products on the premises where the sales to consumers are made;

(3) Any person engaged in slaughtering poultry or processing poultry carcasses, parts of poultry carcasses, or poultry products for intrastate commerce, and the articles so processed by the person, whenever the commissioner determines that it would be impracticable to provide inspection and the exemption will aid in the effective administration of this part;

(4) Persons slaughtering poultry or otherwise processing or handling poultry carcasses, parts of poultry carcasses, or poultry products, that have been or are to be processed as required by recognized religious dietary laws, to the extent that the commissioner determines is necessary to avoid conflict with the requirements while still effectuating the purposes of this part; and

(5) Poultry producers and growers acting in compliance with exemptions established in the federal Poultry Products Inspection Act (21 U.S.C. § 451 et seq.).

(b) The commissioner may by order suspend or terminate any exemption under this section with respect to any person whenever the commissioner finds that the suspension or termination will aid in effectuating the purposes of this part.

(c) The department of agriculture shall maintain on its website information for poultry producers and growers concerning the federal exemptions for poultry slaughter and processing. Such information must provide guidance as to the requirements for each exemption and the limitations thereto.

53-7-210.

(a) Any violation of §§ 53-7-206 - 53-7-209, or of the rules promulgated by the commissioner pursuant to this part, is a Class C misdemeanor; provided, that no carrier or warehouseman is subject to the penalties of this part, other than the penalties for a violation of § 53-7-208, by reason of the receipt, carriage, holding, or delivery, in the usual course of business, as a carrier or warehouseman, of poultry carcasses, parts of poultry carcasses, or poultry products, owned by another person, unless the carrier or warehouseman has knowledge, or is in possession of facts that would cause a reasonable person to believe that the articles were not inspected or marked in accordance with this part or were not otherwise in compliance with this part.

(b) In addition to the remedies provided in this part, the commissioner, or the commissioner's designee, may file for an injunction in the county in which an offense occurred, or in which the offender has the offender's principal place of business or is doing business, or resides, and if the chancellor concludes that the offender violated this part, then the chancellor may enjoin the offender, or owner, or manager, or other person in charge, from slaughtering, processing, handling, transporting, or any other activity done in conjunction with poultry for a period of not less than ten (10) days and until such time as the offender complies with this part. The injunction commences on the day following the date when the judgment becomes final.

53-7-211.

(a) Before the commissioner reports a violation of this part to the district attorney general for institution of a criminal proceeding, the person against whom the proceeding is contemplated shall be given reasonable notice of the alleged violation and opportunity to present the person's views orally or in writing with regard to the contemplated proceeding.

(b) This part does not require the commissioner to report for criminal prosecution violations of this part if the commissioner believes that the public interest will be adequately served and compliance with this part obtained by a suitable written notice or warning.

57-3-212.

(a) Whenever it is brought to the attention of the commissioner that any person operating an establishment continues to willfully operate in violation of this part and after written notice of the violations has been given, the commissioner may issue a cease and desist order against the establishment.

(b) A cease and desist order issued under subsection (a) must set forth the reasons for its issuance, and be personally delivered to the person or the person's agents or sent by registered mail to the address of the establishment.

(c) If the person continues to ignore the cease and desist order, the commissioner is authorized to withdraw or deny inspection for such length of time as is necessary to effectuate compliance with this part.

(d) Any judicial review of action taken by the commissioner shall be conducted exclusively as provided for in § 53-7-217.

53-7-213.

(a) The commissioner is authorized to promulgate rules that in the commissioner's judgment will implement and effectuate the purposes of this part.

(b)

(1) The commissioner is authorized to promulgate rules that establish standards for poultry and for poultry products, and that prescribe labeling and advertising standards and requirements.

(2) Subdivision (b)(1) does not limit the commissioner's authority to prescribe other rules pursuant to this part.

(c) The rules must be promulgated pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) In promulgating rules pursuant to this part, the commissioner may consider regulations that have been promulgated pursuant to the federal Poultry Products Inspection Act (21 U.S.C. § 451 et seq.).

53-7-214.

(a) This part does not apply to any act or transaction subject to regulation under the federal Poultry Products Inspection Act (21 U.S.C. § 451 et seq.); provided:

(1) Inspectors are not excluded from making routine inspections and from taking samples at federally inspected plants for determining compliance with related federal acts and for compliance with state acts; and

(2) Graduated license fees are required of those plants slaughtering poultry and processing poultry products.

(b) The commissioner may cooperate with the federal government in carrying out this part or the federal Poultry Products Inspection Act (21 U.S.C. § 451 et seq.).

(c) Compliance with this part does not relieve any person from compliance with the Tennessee Food, Drug and Cosmetic Act, compiled in chapter 1 of this title, and rules promulgated thereunder and with the Testing and Sealing — Use of Weights and Measures, compiled in title 47, chapter 26, part 9, and rules promulgated thereunder.

53-7-215.

The cost of inspections made to effectuate this part, other than inspections made for the purposes described in § 53-7-216(d), are borne by the department of agriculture; provided, that any extra cost of inspection resulting from overtime operation are borne by the establishment operating overtime pursuant to reasonable rules with respect to inspections that may be promulgated by the commissioner.

53-7-216.

(a) A person shall not maintain an establishment for the slaughtering of poultry or the processing of poultry without first having secured a license from the department of agriculture and having paid all inspection and license fees.

(b) Each separate business location must be licensed, and the license is not transferable.

(c) Any person desiring a license shall make written application to the commissioner, stating the information required by the commissioner.

(d) Upon receipt of the application, the department shall make an examination and inspection of the establishment, and if it is found to be in a sanitary condition and to conform to the requirements of this part and of the rules promulgated pursuant to this part, the commissioner, upon receipt of the license and inspection fees provided in § 53-7-219, shall issue a license authorizing the applicant to operate the establishment for the slaughtering of poultry or the processing of poultry.

(e) The license is valid for the remainder of the calendar year for which it is issued.

53-7-217.

(a)

(1) If the commissioner determines that an establishment licensed under this part is operated or maintained in any unsanitary manner, or in violation of this part or of any rule promulgated pursuant to this part, the commissioner may give written notice of at least ten (10) days to the person operating the establishment to appear before the commissioner or the commissioner's designated hearing officer at a time and place to be set out in the written notice, to show cause why the establishment's license should not be suspended or revoked. Upon the hearing, the person or establishment cited may be heard in person or with counsel, or both, may present evidence, and may cross-examine witnesses. A full and complete record of the hearing shall be recorded and any party to the proceedings, upon request, shall be supplied with a transcript of the proceedings at the usual cost.

(2) The commissioner is authorized, in the commissioner's discretion, to appoint and designate a hearing officer who shall preside at the hearing in the place of and in the absence of the commissioner. The hearing officer shall have

the power and authority to conduct the hearing, to administer oaths, and make findings of fact, conclusions of law, and the proposed order based on the findings of fact and conclusions of law. If the commissioner concurs, the commissioner shall issue the order; or the commissioner may, upon review of the record, make findings and conclusions, and issue orders, that, in the commissioner's discretion, the record justifies.

(3) Any person whose license has been suspended or revoked by the commissioner pursuant to a hearing under this section shall be assessed and shall pay all costs in connection with the hearing. The commissioner shall take all steps necessary to collect the costs as may be authorized under the statutes of this state in the same manner as now authorized for the collection of taxes by this state.

(4) No later than sixty (60) days following the hearing, the commissioner shall issue any order that may be appropriate under the circumstances, and the commissioner may, if the facts adduced at the hearing warrant, suspend for any period or revoke any license issued under this part.

(b)

(1) The action of the commissioner and the order issued by the commissioner may be reviewed by petition for common law writ of certiorari, addressed to the circuit court of Davidson County, which petition must be filed within ten (10) days from the date the order of the commissioner is made.

(2) Immediately upon the grant of the writ of certiorari, the commissioner shall cause to be made, certified, and forwarded to the court a complete transcript of the proceedings in the cause, which must contain all the proof submitted before the commissioner. All defendants named in the petition

desiring to make defense shall answer or otherwise plead to the petition within ten (10) days from the date of the filing of the transcript, unless the time is extended by the court.

(3) The decision of the commissioner shall be reviewed by the circuit court solely upon the pleadings and the transcript of the proceedings before the commissioner or the hearing examiner, and neither party is entitled to introduce any additional evidence in the circuit court.

(4) Either party dissatisfied with the judgment or decree of the circuit court may, upon giving bond as required in other suits, appeal, and have a reexamination, in that court, of the whole matter of law and fact appearing in the record. When the appeal is made, the clerk of the circuit court in which the suit was pending shall include as a part of the record the original certified transcript of the proceedings had before the commissioner.

(c) This section, with regard to hearing and appeal, also applies to actions of the commissioner pursuant to §§ 53-7-205, 53-7-212, and 53-7-218, and is available to any party aggrieved by any act of the commissioner pursuant thereto.

53-7-218.

(a) The remedy and procedure provided in § 53-7-217 is the exclusive method of reviewing all orders of the commissioner issued pursuant to the hearing authorized by this part and is the sole remedy of any petitioner or claimant. A judge or court does not have the authority or jurisdiction to interfere by replevin, injunction, supersedeas, or in any other manner, with any order of the commissioner issued pursuant to this part, but the order shall remain in full force and effect until the final decision of the supreme court, except where the judgment of the circuit court is not appealed from and has become a final judgment.

(b)

(1) When the order of the commissioner or the judgment of any court becomes final, authorizing a seizure or confiscation, the device, material, article, commodity, product, or any other thing being used, possessed, or handled in contravention of this part shall be destroyed by the commissioner.

(2) If no petition or claim is interposed, the property seized or confiscated shall be forfeited without further proceedings and the property shall be disposed of as provided for in subdivision (b)(1).

53-7-219.

The fee for licenses and inspection issued pursuant to this part must be set by rule pursuant to § 43-1-703.

SECTION 2. Tennessee Code Annotated, Title 53, Chapter 7, is amended by adding the following new part:

53-7-401.

This part is known and may be cited as the "Tennessee Meat and Meat Products Inspection Act."

53-7-402.

As used in this part:

(1) "Animal food manufacturer" means any person engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of livestock;

(2) "Capable of use as human food" means any carcass or part or product of a carcass of any animal that is not:

(A) Denatured or otherwise identified as required by rules promulgated by the commissioner to deter its use as human food; or

(B) Naturally inedible by humans;

(3) "Carcass" means all parts, including viscera of a slaughtered animal, that are capable of being used for human food;

(4) "Color additive" has the same meaning as defined in § 53-1-102;

(5) "Commissioner" means the commissioner of agriculture, or the commissioner's designee;

(6) "Container" and "package" include any box, can, tin, cloth, plastic, or any other receptacle, wrapper, or cover;

(7) "Custom slaughterer" means a person engaged for profit in this state in the business of slaughtering or dressing animals for human consumption that are not to be sold or offered for sale through a commercial outlet, and may include the boning or cutting up of carcasses of such animals and the grinding, chopping, and mixing of the carcasses of animals;

(8) "Federal Food, Drug and Cosmetic Act" means the federal act compiled at 21 U.S.C. § 301 et seq., as amended;

(9) "Federal Meat Inspection Act" means the federal act compiled in 21 U.S.C. § 601 et seq., and the imported meat provisions of the Tariff Act of 1930, § 306(b) and (c), as amended (21 U.S.C. § 620);

(10) "Food additive" has the same meaning as defined in § 53-1-102;

(11) "Immediate container" means any consumer package, or any other container in which an article, not consumer packaged, is packed;

(12) "Inspection service" means the official government service within the department of agriculture designated by the commissioner as having the responsibility for carrying out this part;

(13) "Inspector" means an employee or official of this state authorized by the commissioner to inspect livestock, livestock carcasses, parts of livestock carcasses, or meat food products under this part and the operation and facilities of any custom slaughterhouse or meat processing establishment;

(14) "Intrastate commerce" means the buying, selling, or exchanging of meat or meat food products within this state;

(15) "Label" means a display of written, printed, or graphic material upon any article or the immediate container, excluding packaged liners, of any article;

(16) "Labeling" means all labels and other written, printed, or graphic material:

(A) Upon any article or any of its containers or wrappers; or

(B) Accompanying the article;

(17) "Livestock" means cattle, sheep, swine, or goats;

(18) "Meat":

(A) Means the edible part of the muscle of livestock or deer that is skeletal or that is found in the tongue, in the diaphragm, in the heart, or in the 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 and that are not separated from it in the process of dressing; and

(B) Does not include the muscle found in the lips, snout, or ears;

(19) "Meat broker" means any person engaged in the business of buying or selling carcasses, parts of carcasses, meat, or meat food products of livestock, on commission or otherwise negotiating purchases or sales of such

articles other than for the person's own account or as an employee of another person;

(20) "Meat food product":

(A) Means any product capable of use as human food that is made wholly, or in part, from any meat or other portion of the carcass of any livestock; and

(B) Does not include products that contain meat or other portions of carcasses only in a relatively small proportion or that historically have not been considered by consumers as products of the meat food industry, and that are exempted by the commissioner under conditions that the commissioner prescribes to assure that the meat or other carcass portions contained in the products are not adulterated and that the products are not represented as meat food products;

(21) "Misbranded" means a product that is misbranded under § 53-1-105;

(22) "Official certificate" means any certificate authorized by rules of the commissioner for issuance by an inspector or other person performing official functions under this part;

(23) "Official device" means any device authorized by the commissioner for use in applying any official mark;

(24) "Official establishment" means any establishment in this state, as determined by the commissioner, at which inspection of the slaughter of livestock or the processing of livestock or deer, parts of livestock or deer, or meat food products, is maintained under the authority of this part;

(25) "Official inspection legend" means any symbol prescribed by rules of the commissioner showing that an article passed inspection in accordance with this part;

(26) "Official mark" means the official inspection legend or any other symbol prescribed by rules of the commissioner to identify the status of any article or animal under this part;

(27) "Pesticide chemical" has the same meaning as defined in the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 321);

(28) "Processed" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured;

(29) "Renderer" means any person engaged in the business of rendering carcasses, parts of carcasses, or products of the carcasses of livestock, except rendering conducted under inspection or exemption pursuant to this part;

(30) "Shipping container" means any container used or intended for use in packaging the product packed in an immediate container; and

(31) "Unwholesome" means:

(A) Unsound, injurious to health, containing any biological residue not permitted by rules prescribed by the commissioner, or otherwise rendered unfit for human food;

(B) Consisting, in whole or in part, of any filthy, putrid, or decomposed substance;

(C) Processed, packed, or held under unsanitary conditions whereby any livestock or deer carcass, part of any livestock or deer carcass, or any meat food product may have become contaminated with filth or may have been rendered injurious to health;

(D) Produced, in whole or in part, from livestock that is diseased, dead, dying, or disabled and that has died otherwise than by slaughter;

(E) Produced, in whole or in part, from deer that is diseased, dying, or disabled and that has died otherwise than by lawful harvest; or

(F) Packaged in a container composed of any poisonous or deleterious substance that may render the contents injurious to health.

53-7-403.

(a) The commissioner shall, by rule and under conditions as to labeling, and sanitary standards, practices, and procedures that the commissioner may prescribe, exempt from provisions of this part:

(1) Livestock producers with respect to livestock carcasses, parts of livestock carcasses, and meat food products, processed by them from livestock of their own raising on their own farms, for their own consumption, the excess of which may be sold directly to consumers;

(2) Retail dealers with respect to meat and meat food products sold directly to consumers in individual retail stores;

(3) Any person engaged in slaughtering livestock, or processing livestock carcasses, parts of livestock carcasses, or meat food products for intrastate commerce, and the articles so processed by the person, whenever the commissioner determines that it would be impracticable to provide inspection and the exemption will aid in the effective administration of this part;

(4) Persons slaughtering livestock or otherwise processing or handling livestock carcasses, parts of livestock carcasses, or meat food products, that have been or are to be processed as required by recognized religious dietary

laws, to the extent that the commissioner determines is necessary to avoid conflict with the requirements while still effectuating the purposes of this part; and

(5) Livestock producers acting in compliance with exemptions established in the federal Meat Inspection Act (21 U.S.C. § 601 et seq.). The department of agriculture shall maintain on its website information for livestock producers concerning the federal exemptions for livestock slaughter and processing to provide guidance as to the requirements for each federal exemption and its limitations.

(b) The commissioner may by order suspend or terminate any exemption under this section with respect to any person whenever the commissioner finds that the suspension or termination will aid in effectuating the purposes of this part.

(c) This part does not apply to or affect the slaughter of swine or cattle or the processing of swine, deer, or cattle by or for individuals for their consumption at custom processing plants.

53-7-404.

An official establishment in this state shall not slaughter any livestock or process any livestock carcasses, parts of livestock carcasses, or meat food products for human consumption except in compliance with this part.

53-7-405.

(a) Each official establishment at which livestock are slaughtered or livestock carcasses, parts of livestock carcasses, or meat food products are processed for intrastate commerce shall have the premises, facilities, and equipment inspected and shall be operated in accordance with such sanitary practices as are required by rules promulgated by the commissioner for the purpose of preventing the entry into and

movement in intrastate commerce of livestock carcasses, parts of livestock carcasses, and meat food products that are unwholesome or adulterated.

(b) A livestock carcass, part of a livestock carcass, or meat food product, shall not be admitted into any official establishment unless:

(1) The livestock carcass, part of a livestock carcass, or meat food product has been prepared under inspection pursuant to this part or the federal Meat Inspection Act (21 U.S.C. § 601 et seq.); or

(2) The admission of the livestock carcass, part of a livestock carcass, or meat food product is permitted by rules promulgated by the commissioner under this part.

(c) The commissioner shall refuse to render inspection to any official establishment whose premises, facilities, or equipment, or the operation thereof of the premises, facilities, or equipment of the official establishment, fails to meet the requirements of this section.

53-7-406.

(a)

(1) The commissioner shall promulgate rules and appoint qualified personnel as are necessary to carry out this part, including rules to establish a state meat inspection program within the department of agriculture to perform inspections required by this part.

(2) The rules must conform with the federal Meat Inspection Act (21 U.S.C. § 601 et seq.) and incorporate the regulations compiled at 9 CFR, chapter III, Subchapters A and E.

(3) The commissioner shall consult with the department of health and representatives of the meat industry in this state when promulgating rules required by subdivision (a)(1).

(4) The rules must be promulgated pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) The commissioner may cooperate with the United States government in carrying out this part and the federal Meat Inspection Act (21 U.S.C. § 601 et seq.).

(c) The commissioner shall hire at least eight (8) inspectors to inspect:

(1) Livestock that are subject to inspection under this part;

(2) Livestock carcasses, parts of livestock carcasses, and meat food products; and

(3) Sanitary conditions of official establishments in which meat and meat food products are prepared.

53-7-407.

(a) A person shall not maintain an establishment for the slaughtering of livestock or the processing of livestock or deer without first:

(1) Securing a license from the department of agriculture; and

(2) Paying all inspection and license fees.

(b) Each separate business location must be licensed, and the license is not transferable.

(c) Any person desiring a license shall make written application to the commissioner, stating the information required by the commissioner.

(d) Upon receipt of the application, the department shall make an examination and inspection of the establishment, and if it is found to be in a sanitary condition and to conform to the requirements of this part and of the rules promulgated pursuant to this

part, the commissioner, upon receipt of the license and inspection fees provided in § 53-7-426, shall issue a license authorizing the applicant to operate the establishment for the slaughtering of livestock or the processing of livestock or deer.

(e) A license is valid for the remainder of the calendar year for which it is issued.

53-7-408.

(a)

(1) For the purpose of preventing the entry into or movement in intrastate commerce of any livestock carcass, part of any livestock carcass, or meat food product that is unwholesome or adulterated and is intended for or capable of use as human food, the commissioner shall, where and to the extent considered by the commissioner necessary, cause to be made by inspectors ante mortem inspection of livestock in any official establishment where livestock are slaughtered for intrastate commerce.

(2) For the purpose stated in subdivision (a)(1), the commissioner, whenever slaughtering or other processing operations are being conducted, shall cause to be made by inspectors post mortem inspection of the carcasses and parts of carcasses of each animal slaughtered in any official establishment, and shall cause to be made by inspectors an inspection of all meat food products processed in any official establishment in which meat food products are processed for intrastate commerce.

(b)

(1) The commissioner shall cause, at any time, quarantine, seizure, segregation, and reinspection of livestock, livestock carcasses, parts of livestock carcasses, and meat food products in official establishments that the commissioner deems necessary to effectuate the purposes of this part.

(2) Whenever an authorized agent of the commissioner finds, or has probable cause to believe, that any livestock carcasses, part of livestock carcasses, or processed meat food products, in an official establishment or in other trade channels where the product is held or offered for sale, is adulterated or misbranded so as to be fraudulent or has been prepared, packed, processed, or held under conditions whereby it may have become contaminated within the meaning of this part, the agent shall affix to the article a tag or other appropriate marking, giving notice that the article is, or is suspected of being, adulterated or misbranded and has been detained or quarantined, and warning all persons not to remove or dispose of the article by sale or otherwise until permission for removal or disposal is given by the agent or the court. It is an offense for any person to remove or dispose of detained or quarantined articles by sale or otherwise without permission from the agent or the court.

(3) All livestock carcasses, parts of livestock carcasses, and meat food products found by an inspector to be unwholesome or adulterated in any official establishment or other trade channels where the product is held or offered for sale, shall be condemned and shall, if no appeal is taken from the determination of condemnation, be destroyed for human food purposes under the supervision of an inspector; provided, that articles that may, by reprocessing, be made not unwholesome and not adulterated need not be so condemned and destroyed if so reprocessed under the supervision of an inspector and thereafter found to be not unwholesome and not adulterated or not misbranded. If any appeal is taken to the commissioner from the determination, the articles shall be appropriately marked and segregated pending completion of an appeal inspection, which appeal is at the cost of the appellant if the commissioner determines that the

appeal is frivolous or without merit. If the determination of condemnation is sustained, the articles must be destroyed for human food purposes under the supervision of an inspector.

(c) One (1) inspector may be assigned to two (2) or more establishments where few animals are slaughtered or where small quantities of carcasses, meat, or meat food products are processed. When inspector assignments are made, the commissioner shall designate the days and hours when slaughtering and processing will be done.

(d) The licensee shall pay for devices and supplies used for marking and stamping and for carcass and meat containers and labels. The devices and supplies shall be under the control of the inspector.

53-7-409.

The cost of inspections made to effectuate this part, other than inspections made for the purposes described in § 53-7-407(d), are borne by the department of agriculture; provided, that any extra cost of inspection resulting from overtime operation is borne by the establishment operating overtime pursuant to reasonable rules with respect to inspections that may be promulgated by the commissioner.

53-7-410.

(a)

(1) Each shipping container of any meat or meat food product inspected under this part and found to be wholesome and not adulterated shall at the time the meat or meat food product leaves the official establishment bear, in distinctly legible form, the official inspection mark and the approved plant number of the official establishment in which the contents were processed.

(2)

(A) Each immediate container of any meat or meat food product inspected under this part and found to be wholesome and not adulterated shall at the time the meat or meat food product leaves the official establishment bear, in addition to the official inspection mark, in distinctly legible form:

(i) The name of the meat or meat food product;

(ii) A statement of ingredients, if fabricated from two (2) or more ingredients, including a declaration as to artificial flavors, colors, or preservatives, if any;

(iii) The net weight or other appropriate measure of the contents;

(iv) The name and address of the processor; and

(v) The approved plant number of the official establishment in which the contents were processed.

(B) The name and address of the distributor may be used in lieu of the name and address of the processor if the approved plant number is used to identify the official establishment in which the meat or meat food product was prepared and packed.

(3) Each livestock carcass and each part of a livestock carcass must bear the official inspection mark and approved plant number of the establishment when the livestock carcass or part of a livestock carcass leaves the official establishment.

(4)

(A) The commissioner may by rule require additional marks or labeling information to appear on livestock carcasses, parts of livestock

carcasses, or meat food products when the livestock carcasses, parts of livestock carcasses, or meat food products leave the official establishments or at the time of the transportation or sale of the livestock carcasses, parts of livestock carcasses, or meat food products in this state.

(B) The commissioner may permit reasonable variations and grant exemptions from the marking and labeling requirements of this section in any number not in conflict with the purposes of this part.

(5) Marks and labels required under this section shall be applied only by or under the supervision of an inspector.

(b) The use of any advertisement or written, printed, or graphic matter that is false or misleading is prohibited upon or accompanying:

(1) Any livestock carcass, part of a livestock carcass, or meat food product inspected or required to be inspected under this part; or

(2) The container of a livestock carcass, part of a livestock carcass, or meat food product.

(c)

(1)

(A) A livestock carcass, part of a livestock carcass, or meat food product inspected or required to be inspected under this part must not be sold or offered for sale by any person under any false or deceptive name.

(B) Established trade names that are usual to the meat or meat food products and that are not false or deceptive and that are approved by the commissioner are permitted.

(2) If the commissioner has reason to believe that any advertisement or any label in use or prepared for use is false or misleading in any particular, the commissioner may direct that the use of the advertisement or label be withheld unless the advertisement or label is modified in a manner that the commissioner prescribes so that the advertisement or label will not be false or misleading.

(3) If the person using or proposing to use the advertisement or the label does not accept the commissioner's determination, the person may request a hearing, but the use of the advertisement or the label shall, if the commissioner so directs, be withheld pending hearing and final determination by the commissioner.

(4) Any determination by the commissioner is conclusive unless within thirty (30) days after the receipt of notice of the final determination, the person adversely affected appeals the commissioner's decision to the circuit court pursuant to § 53-7-414.

53-7-411.

The following acts, or the causing of the following acts, within this state are a violation of this part:

(1) The processing for, or the sale or offering for sale, transportation, or delivery, or receiving for transportation, in intrastate commerce, of any livestock carcass, part of a livestock carcass, or meat food product unless:

(A) The livestock carcass, part of a livestock carcass, or meat food product has been inspected for wholesomeness; and

(B) The livestock carcass, part of a livestock carcass, or meat food product and its shipping container and immediate container, if any,

are marked in accordance with the requirements of this part or the federal Meat Inspection Act (21 U.S.C. § 601 et seq.);

(2) The sale or other disposition for human food of any livestock carcass, part of a livestock carcass, or meat food product that has been inspected and declared to be unwholesome or adulterated under this part;

(3) Doing any of the following:

(A) Falsely making or issuing, altering, forging, simulating, counterfeiting, or using without proper authority any official inspection certificate, memorandum, mark, or other identification, or device for making a mark or identification, used in connection with inspection under this part;

(B) Causing, procuring, aiding, assisting in, or being a party to the false making, issuing, altering, forging, simulating, counterfeiting, or unauthorized use of any official inspection certificate, memorandum, mark, or other identification, or device for making a mark or identification used in connection with inspection under this part;

(C) Knowingly possessing, without promptly notifying the commissioner or the commissioner's representative, uttering, publishing, or using as true, or causing to be uttered, published, or used as true, any falsely made or issued, altered, forged, simulated, or counterfeited official inspection certificate, memorandum, mark, or other identification, or device for making a mark or identification used in connection with inspection under this part;

(D) Representing that any meat or meat food product has been officially inspected under this part when the meat or meat food product has in fact not been so inspected; or

(E) Knowingly making any false representation in any certificate prescribed by the commissioner in rules under this part or any form resembling the certificate;

(4) Using in intrastate commerce any false or misleading label on any livestock, deer, part of any livestock or deer, or meat food product;

(5) Engaging in or abetting another in bait and switch tactics in promoting for sale and selling livestock carcasses, parts of livestock carcasses, or meat products and using false or misleading advertisements, or for any advertising medium to knowingly publish false or misleading advertising;

(6) Using any container bearing an official inspection mark except for the meat or meat food product in the original form in which the meat or meat food product was inspected and covered by the official inspection mark, unless the official inspection mark is removed, obliterated, or otherwise destroyed;

(7) Refusing to permit access by any authorized representative of the commissioner at all reasonable times to the premises of an official establishment in this state at which livestock are slaughtered or livestock or deer carcasses, parts of livestock or deer carcasses, or meat food products are processed for intrastate commerce upon presentation of appropriate credentials;

(8) Refusing to permit access to and the copying of any record as authorized by § 53-7-412;

(9) Using by any person to the person's own advantage, or revealing, other than to the authorized representatives of any government agency in their

official capacity, or to the courts when relevant in any judicial proceeding, any information acquired under the authority of this part, concerning any matter which that as a trade secret is entitled to protection;

(10) Holding, delivering, receiving, transporting, selling, or offering for sale or transportation in intrastate commerce for human consumption any livestock or deer carcass, or part of a livestock or deer carcass, or meat food product that has been processed in violation of this part, except as may be authorized by and pursuant to rules promulgated by the commissioner;

(11) Holding, delivering, receiving, transporting, selling, or offering for sale or transportation in intrastate commerce any livestock carcass, part of a livestock carcass, or meat food product exempted under § 53-7-403 that is unwholesome or adulterated, and is intended for human consumption;

(12) Applying to any livestock or deer carcass, part of a livestock or deer carcass, or meat food product, or any container thereof, any official inspection mark or label required under this part except by or under the supervision of an inspector;

(13) Refusing to apply for a license and refusing to pay, or operating a plant without payment of, all license and inspection fees;

(14) Removing or selling any article detained or embargoed by an inspector;

(15) Violating any rule as authorized by this part;

(16) Disposing of or selling any dead, dying, diseased, or disabled animals or carcasses, or parts of any carcasses, except in a manner as prescribed by rules of the commissioner; and

(17) The continued operation of any custom or commercial slaughterhouse or meat processing establishment that is in an unsanitary condition or that fails to comply with the specifications and standards that have been established by rules by the commissioner.

53-7-412.

(a)

(1) For the purpose of enforcing this part, persons engaged in this state in the business of processing for intrastate commerce or transporting, shipping, or receiving in intrastate commerce livestock slaughtered for human consumption, meat, or meat food products, or holding livestock slaughtered for human consumption, meat, or meat food products, shall maintain records as the commissioner by rule may require.

(2) The records required under subdivision (a)(1) must show, to the extent required by rule, the receipt, delivery, sale, movement, or disposition of livestock slaughtered for human consumption, meat, or meat food products.

(3) A person engaged as described in subdivision (a)(1) shall, upon the request of an authorized representative of the commissioner, permit the commissioner's authorized representative, at reasonable times, to have access to and to copy all the records.

(b) Any record required to be maintained by this section must be maintained for a period of two (2) years after the transaction that is the subject of the record has taken place.

53-7-413.

(a) The commissioner may for such period or indefinitely, as the commissioner deems necessary to effectuate the purposes of this part, refuse to provide, or withdraw,

inspection services under this part with respect to any establishment if the commissioner determines, after opportunity for a hearing is accorded to the applicant for or recipient of such service, that the applicant or recipient is unfit to engage in any business requiring inspection under this part because the applicant or recipient or anyone responsibly connected with the applicant or recipient has been convicted in any federal or state court of any felony or of one (1) or more violations of any law other than a felony based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food.

(b) This section does not affect other provisions of this part regarding the withdrawal of inspection services from establishments failing to maintain sanitary conditions or failing to destroy condemned carcasses, parts, meat, or meat food products, or as required by this part.

(c) For the purpose of this section, a person is "responsibly connected with the applicant or recipient" if the person is a partner, officer, director, holder or owner of ten percent (10%) or more of the voting stock, or an employee in a managerial or executive capacity of the applicant or recipient.

(d) The determination and order of the commissioner under this section is final and conclusive unless the affected applicant for or recipient of inspection service applies for judicial review within thirty (30) days after the effective date of the commissioner's order. Judicial review of the commissioner's order must be upon the record upon which the determination and order by the commissioner are based.

53-7-414.

(a)

(1) If the commissioner determines that an establishment licensed under this part is operated or maintained in any unsanitary manner, or in violation of

any of this part or of any rule duly promulgated pursuant to this part, the commissioner may give written notice of at least ten (10) days to the person operating the establishment to appear before the commissioner or the commissioner's designated hearing officer at a time and place to be set out in the written notice, to show cause why the establishment's license should not be suspended or revoked. Upon the hearing, the person or establishment cited may be heard in person or with counsel, or both, may present evidence, and may cross-examine witnesses. A full and complete record of the hearing shall be recorded and any party to the proceedings, upon request, shall be supplied with a transcript of the proceedings at the usual cost.

(2) The commissioner is authorized, in the commissioner's discretion, to appoint and designate a hearing officer to preside at the hearing in the place of and in the absence of the commissioner. The hearing officer shall have the power and authority to conduct the hearing, to administer oaths, and make findings of fact, conclusions of law, and the proposed order based on the findings of fact and conclusions of law. If the commissioner concurs, the commissioner shall issue the order, or the commissioner may, upon review of the record, make findings, conclusions and issue orders that, in the commissioner's discretion, the record justifies.

(3) Any person whose license has been suspended or revoked by the commissioner pursuant to a hearing under this section shall be assessed and shall pay all costs in connection with the hearing. The commissioner shall take all steps necessary to collect the costs as may be authorized under the statutes of the state in the same manner as now authorized for the collection of taxes by the state.

(4) No later than sixty (60) days following the hearing, the commissioner shall issue any order that may be appropriate under the circumstances, and the commissioner may, if the facts adduced at the hearing warrant, suspend for any period or revoke any license issued under this part.

(b)

(1) The action of the commissioner and the order issued by the commissioner may be reviewed by petition for common law writ of certiorari, addressed to the circuit court of Davidson County, which petition shall be filed within ten (10) days from the date the order of the commissioner is made.

(2) Immediately upon the grant of the writ of certiorari, the commissioner shall cause to be made, certified, and forwarded to the court a complete transcript of the proceedings in the cause, which shall contain all the proof submitted before the commissioner. All defendants named in the petition desiring to make defense shall answer or otherwise plead to the petition within ten (10) days from the date of the filing of the transcript, unless the time is extended by the court.

(3) The decision of the commissioner shall be reviewed by the circuit court solely upon the pleadings and the transcript of the proceedings before the commissioner or the hearing examiner, and neither party shall be entitled to introduce any additional evidence in the circuit court.

(4) Either party dissatisfied with the judgment or decree of the circuit court may, upon giving bond as required in other suits, appeal, and have a reexamination, in that court, of the whole matter of law and fact appearing in the record. When the appeal is made, the clerk of the circuit court in which the suit

was pending shall include as a part of the record the original certified transcript of the proceedings had before the commissioner.

53-7-415.

(a) The commissioner may:

(1) Gather and compile information concerning and investigate the organization, business, conduct, practices, and management of any person engaged in intrastate commerce and the relation of such person to other persons; and

(2)

(A) Require, by general or special order, persons engaged in intrastate commerce to file annual and special reports or answers in writing to specific questions, furnishing to the commissioner such information as the commissioner may require as to the organization, business, conduct, practices, management, and relation to other persons of the person filing such reports or answers.

(B) Reports and answers submitted under this subdivision (a)(2):

(i) Must be made under oath or otherwise as the commissioner prescribes by rule;

(ii) Must be filed with the commissioner within such reasonable period of time as the commissioner prescribes by rule, unless an extension of time is granted by the commissioner; and

(iii) Must be kept confidential by the commissioner, except that the reports and answers may be used without claim of privilege in any judicial proceeding brought for the violation of this part, or in which compliance with this part is sought to be enforced

and in which the person who furnished the report or answer is involved as a party or as owner of any article or product involved in the judicial proceeding.

(b)

(1) The commissioner shall, at all reasonable times, have access to any documentary evidence of any person being investigated or proceeded against under this part for the purpose of examining and copying the documentary evidence.

(2) The commissioner may require the attendance and testimony of witnesses and the production of all documentary evidence of any person relating to any matter under investigation under this part by subpoena.

(3) The commissioner may sign subpoenas and may administer oaths and affirmations, examine witnesses, and receive evidence. In case of a refusal to obey a subpoena issued to any person under this part, any circuit court of this state within the jurisdiction in which the person refusing to obey the subpoena resides or is found may issue to such person, upon application by the commissioner, an order requiring such person to appear before the court to show cause why such person should not be held in contempt for refusal to obey the subpoena. Failure to obey a subpoena may be punished as contempt of court.

(c) Upon application of the attorney general and reporter at the request of the commissioner, the circuit courts have jurisdiction to issue writs of mandamus commanding any person to comply with this part or any order of the commissioner made pursuant to this part.

(d)

(1) The commissioner may order testimony to be taken by deposition in any proceeding or investigation pending under this part at any stage of such proceeding or investigation.

(2) A deposition may be taken before any person designated by the commissioner and having power to administer oaths.

(3) Deposition testimony must be reduced to writing by the person taking the deposition or under the person's direction and must be subscribed by the deponent.

(4) Any 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.

(e) Witnesses summoned before the commissioner must be paid the same fees and mileage that are paid witnesses in the courts of this state, and witnesses whose depositions are taken and the persons taking the depositions are entitled to the same fees as are paid for like services in the courts of this state.

(f) A person shall not be excused from attending and testifying or from producing documentary evidence before the commissioner or in compliance with a subpoena of the commissioner in any cause on the ground of self-incrimination. A person shall not be prosecuted or subjected to any penalty for forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled, after having claimed the person's privilege against self-incrimination, to testify or produce evidence, documentary or otherwise; except, that any person testifying is not exempt from prosecution for perjury committed while testifying.

53-7-416.

(a) The commissioner is designated as the state official responsible for cooperating with the United States secretary of agriculture under the federal Meat Inspection Act (21 U.S.C. § 601 et seq.). The commissioner shall cooperate with the United States secretary of agriculture in developing and administering the meat inspection program of this state under this part to assure that its requirements will be at least equal to those imposed by the federal Meat Inspection Act (21 U.S.C. § 601 et seq.), and in developing and administering the program of this state under this part in a manner that will effectuate the purposes of this part and federal law.

(b) The commissioner may accept from the United States secretary of agriculture advisory assistance in planning and developing the state program, technical and laboratory assistance and training, and financial and other aid for administration of the program.

(c) The commissioner may spend public funds of this state appropriated for administration of this part to pay fifty percent (50%) of this state's estimated total cost of the cooperative programs developed under this section.

(d) The commissioner may recommend to the United States secretary of agriculture such officials or employees of this state as the commissioner designates for appointment to the advisory committee provided for in 21 U.S.C. § 661(a)(4), and the commissioner shall serve as the representative of the governor of this state for consultation with the United States secretary of agriculture under 21 U.S.C. § 661(c), unless the governor designates another representative.

(e) For the purpose of preventing and eliminating burdens on intrastate commerce with respect to meat and meat products, the jurisdiction of the commissioner within the scope of this part is exclusive, and a county or municipal board of health or other county or municipal agency does not have any power or jurisdiction to regulate the

slaughtering of any livestock or the processing or transportation of the carcasses or parts thereof or the meat and meat products of such animals, nor does any county or municipal board of health or other county or municipal agency have any power or jurisdiction with regard to the inspections provided for in this part, nor with respect to any other activity committed to the authority of the commissioner by this part.

(f)

(1) In carrying out this part, the commissioner may cooperate with all other branches of government, county and municipal, and with county and municipal health departments or other agencies and may conduct such examinations, investigations, and inspections as provided for in this part and as the commissioner determines practical through any officer or employee of this state or any municipality or county in this state qualified for such purpose.

(2) The commissioner may contract with any municipal or county health departments to carry out the duties and requirements of this part. Any municipal or county health department may contract with the commissioner for the purpose of meeting the requirements of this part.

(g) This section does not preclude or restrict any municipality or county from the exercise of its police powers with regard to the establishment and maintenance of the facilities at which the activities regulated by this part are conducted.

53-7-417.

(a) Unless specifically provided otherwise in this part, the circuit courts of this state are vested with jurisdiction specifically to enforce, prevent, and restrain violations of this part or any rule promulgated under this part by temporary restraining order, permanent injunction, or otherwise.

(b) Petitions for injunctive relief authorized by this section must be filed in the circuit court of the county of residence of the person who violates this part.

(c) Any action commenced under this section based upon facts furnished by the commissioner or others having knowledge thereof may be brought in the name of this state by the attorney general and reporter, subject to the approval of the attorney general and reporter. The attorney general and reporter shall, upon request, be assisted by the district attorney general of the judicial circuit in which injunctive proceedings are filed.

53-7-418.

It is competent evidence in any civil action brought for damages against any person regulated by this part to prove that such person violated this part or any rule promulgated under this part where such act or omission is proximately related to the injury or loss for which damages are claimed, but proof of any acts or omissions that may constitute a violation of this part or of any rule promulgated under this part does not constitute prima facie proof of negligence in any such action against the party from whom damages are sought.

53-7-419.

(a) It is a Class E felony offense for any person to intentionally, knowingly, or recklessly forcibly assault, resist, oppose, impede, intimidate, or interfere with any person while engaged in or on account of the performance of such person's official duties under this part. Notwithstanding § 40-35-111, the maximum term of imprisonment for an offense under this subsection (a) is three (3) years and the maximum fine is five thousand dollars (\$5,000).

(b) It is a Class D felony offense for any person to commit an offense under subsection (a) with use of a deadly weapon, as defined in § 39-11-106. Notwithstanding

§ 40-35-111, the maximum term of imprisonment for an offense under this subsection (b) is ten (10) years and the maximum fine is ten thousand dollars (\$10,000).

53-7-420.

It is a Class E felony offense for any person to neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in such person's power to do so, pursuant to a subpoena or lawful requirement of the commissioner. Notwithstanding § 40-35-111, the maximum term of imprisonment for an offense under this section is one (1) year and the maximum fine is five thousand dollars (\$5,000).

53-7-421.

(a) It is a Class E felony for any person to knowingly:

(1) Make or cause to be made any false entry or statement of fact in any report required to be made under this part;

(2) Make or cause to be made any false entry in any account, record, or memorandum kept by any person subject to this part;

(3) Neglect or fail to make or to cause to be made full, true, and correct entries in any account, record, or memorandum kept by any person subject to this part of all facts and transactions appertaining to the person's business; or

(4) Remove out of the jurisdiction of this state or willfully mutilate, alter, or by any other means falsify any documentary evidence of any person subject to this part.

(b) Notwithstanding § 40-35-111, the maximum term of imprisonment for an offense under subsection (a) is one (1) year and the maximum fine is five thousand dollars (\$5,000).

53-7-422.

If any person fails to file an annual or special report as required by this part within the time fixed by the commissioner by rule and such failure continues for thirty (30) days after notice of such failure to file, the commissioner shall assess a civil penalty against the person in the amount of twenty-five dollars (\$25.00) for each day of the continuance of such failure to file.

53-7-423.

It is a Class A misdemeanor for any officer or employee of this state to make public any information obtained by the commissioner without proper authority, unless directed by a court. Notwithstanding § 40-35-111, the maximum fine for an offense under this section is five thousand dollars (\$5,000).

53-7-424.

(a) Any violation of this part for which no other criminal penalty is specified is a Class A misdemeanor offense. Notwithstanding § 40-35-111, the maximum fine for an offense under this subsection (a) is one thousand dollars (\$1,000).

(b) A person is not subject to prosecution under this section for receiving for transportation or transporting any article or animal in violation of this part if such receipt or transportation was made in good faith, unless the person refuses to furnish, upon request of the commissioner, the name and address of the person from whom the person received the article or animal and copies of any documents related to the delivery of the article or animal to such person.

(c) This part does not require the commissioner to report for prosecution or for the institution of a proceeding for condemnation or injunctive relief minor violations of this part whenever the commissioner determines that the public interest will be adequately served by other remedies and procedures.

53-7-425.

A carcass, part of any carcass, meat, or meat food product is adulterated if:

(1) It bears or contains any poisonous or deleterious substance that may render it injurious to health. In cases where the substance is not an added substance, the article is not adulterated under this section if the quantity of the substance in or on the article would not ordinarily render it injurious to health;

(2) It bears or contains any added poisonous or added deleterious substance, other than a pesticide chemical in or on a raw agricultural commodity, a food additive, or a color additive, which may, in the commissioner's judgment, make the article unfit for human food;

(3) It is, in whole or in part, a raw agricultural commodity that bears or contains a pesticide chemical that is unsafe under Section 408 of the federal Food, Drug and Cosmetic Act (21 U.S.C. § 346a);

(4) It bears or contains any food additive that is unsafe under Section 409 of the federal Food, Drug and Cosmetic Act (21 U.S.C. § 348);

(5) It bears or contains any color additive that is unsafe under Section 706 of the federal Food, Drug and Cosmetic Act (21 U.S.C. § 379e);

(6) It bears or contains a pesticide chemical, food additive, or color additive, the use of which in or on the article is prohibited by rule of the commissioner in establishments at which inspection is maintained under this part;

(7) It consists, in whole or in part, of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

(8) It has been processed, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(9) It is, in whole or in part, the product of an animal that died otherwise than by slaughter;

(10) Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health;

(11) It has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect under Section 409 of the federal Food, Drug and Cosmetic Act (21 U.S.C. § 348);

(12) Any valuable constituent has been in whole or in part omitted or abstracted from the article;

(13) Any substance has been substituted in whole or in part for the article;

(14) Damage to or inferiority of the article has been concealed in any manner;

(15) Any substance has been added to, or mixed or packed with, the article to increase the article's bulk or weight, reduce the article's quality or strength, or make the article appear of greater value than it is; or

(16) It is margarine containing animal fat and any of the raw materials used in the article consisted in whole or in part of any filthy, putrid, or decomposed substance.

53-7-426.

The fee for licenses and inspection issued pursuant to this part is set by rule pursuant to § 43-1-703.

53-7-427.

(a) Upon application, custom slaughterers shall also be licensed by the department of agriculture for the same periods of time as other licensees under this part; provided, that the custom slaughterers first satisfy the commissioner that they are qualified and competent to conduct their operations in conformity with the applicable provisions of this part and rules duly promulgated pursuant to this part.

(b) A person shall not engage in custom slaughtering or deer processing without first being licensed.

(c) The department shall collect from each custom slaughterer or deer processor an annual license fee.

SECTION 3. For the purposes of promulgating rules and taking all other administrative actions necessary to implement this act, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect January 1, 2024, the public welfare requiring it.