

**"CHAPTER 159  
HAWAII MEAT INSPECTION ACT**

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## "PART I. GENERAL PROVISIONS

**[\$159-1] Short title.** This chapter shall be known as the "Hawaii Meat Inspection Act". [L 1969, c 214, pt of §1]

" **[\$159-2] Findings and declaration of necessity.** It is hereby declared that the meat industry is a paramount agricultural industry of this State and the production and marketing of meat is an enterprise that is of significant importance to the economy of this State and to the health of the consuming public. It is essential to the public health and welfare of consumers that they be protected by assuring that meat and meat products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged. Unwholesome, adulterated, or misbranded meat or meat products are injurious to the public health and welfare, destroy markets for wholesome, unadulterated, and properly labeled and packaged meat and meat products and result in sundry losses to livestock producers and processors of meat and meat products, as well as injury to consumers. The unwholesome, adulterated, mislabeled, or deceptively packaged articles can be sold at lower prices and compete unfairly with the wholesome, unadulterated, and properly labeled and packaged articles, to the detriment of consumers and the public generally. It is hereby found that regulation by the department of agriculture and cooperation by this State with the United States Department of Agriculture as contemplated by this Hawaii Meat Inspection Act is appropriate to protect the health and welfare of consumers and otherwise to effectuate the purposes of this chapter.

Congress enacted the Meat Inspection Act in 1907 (Public Law 59-242), as amended by the Wholesome Meat Act in 1967 (Public Law 90-201) which is now redesignated as the Federal Meat Inspection Act. The Federal Meat Inspection Act is intended to protect the consuming public from adulterated or misbranded meat and meat products and to assist the states in their efforts to accomplish this objective. The Federal Meat Inspection Act authorizes the Secretary of Agriculture to furnish financial and related assistance to states for the administration of meat inspection programs which conform to established federal standards up to fifty per cent of the estimated total cost of the cooperative program. Presently, the meat processing industry in this State is not subject to any meat inspection law or rules and regulations that meet the minimum federal requirement in this area. This State, in order to qualify for the cooperative program, must demonstrate "progressive action" by November 15, 1969; and, further, all physical facilities must be upgraded in accordance with the

established federal standards by November 15, 1970. Failure to comply with the federal standards prescribed by the Federal Meat Inspection Act will result in federal control of the meat and meat processing industries of the State. Accordingly, the State deems it to be in the best interest of the public health and welfare to take those steps as are necessary to qualify for federal financial and related assistance for the administration of a meat inspection program which conforms to federal standards prescribed in the Federal Meat Inspection Act. [L 1969, c 214, pt of §1]

" **§159-3 Definitions.** As used in this chapter unless the context otherwise requires:

"Act" means the "Hawaii Meat Inspection Act".

"Adulterated" shall apply to any carcass, part thereof, meat or meat products under one or more of the following circumstances:

- (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, the meat or meat products shall not be considered adulterated under this paragraph if the quantity of the substance in or on the meat or meat products does not ordinarily render it injurious to health.
- (2) (A) If it bears or contains (by reason of administration of any substance to the live animal or otherwise) any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which, in the judgment of the board, may make the meat or meat products unfit for human consumption.
- (B) If it is, in whole or in part, a raw agricultural commodity and the commodity bears or contains a pesticide chemical which is unsafe within the meaning of the Hawaii Food, Drug, and Cosmetic Act or section 408 of the Federal Food, Drug, and Cosmetic Act.
- (C) If it bears or contains any food additive which is unsafe within the meaning of the Hawaii Food, Drug, and Cosmetic Act or section 409 of the Federal Food, Drug, and Cosmetic Act.
- (D) If it bears or contains any color additive which is unsafe within the meaning of the Hawaii Food, Drug, and Cosmetic Act or section 706 of the Federal Food, Drug, and Cosmetic Act, provided

that meat or meat products which are unadulterated under subparagraphs (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on the meat or meat products is prohibited by rules of the board in establishments at which inspection is maintained under part IV.

- (3) If 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.
- (4) If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.
- (5) If it is, in whole or in part, the product of an animal which had died otherwise than by slaughter.
- (6) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.
- (7) If it has been intentionally or unintentionally subjected to radiation, unless the use of the radiation was in conformity with a rule, regulation, or exemption in effect pursuant to the Hawaii Food, Drug, and Cosmetic Act or section 409 of the Federal Food, Drug, and Cosmetic Act.
- (8) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.
- (9) If it is margarine containing animal fat and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance.

"Board" means the board of agriculture of the State.

"Capable of use as human food" shall apply to any carcass, or part or product of a carcass, of any animal, unless it is denatured or otherwise identified as required by regulations prescribed by the board to deter its use as human food, or it is naturally inedible by humans.

"Certification" means the act of applying the official certificate or official mark by persons performing official functions under this chapter.

"Commercial carrier" means any person owning, controlling, operating, or managing any vehicle, directly or indirectly, for public use in the transportation of goods or passengers for compensation over land or water, or by air.

"Department" means the department of agriculture of the State.

"Exotic animal" means any cloven-hoofed ruminant animal considered feral in nature, other than domestic cattle, sheep, goats, or equines. For the purposes of this chapter, bears and domestic rabbits shall be considered exotic animals.

"Federal Food, Drug, and Cosmetic Act" means the Act so entitled, approved June 25, 1938 (52 Stat. 1040), including any amendments thereto.

"Federal Meat Inspection Act" means the Act so entitled, approved March 4, 1907 (34 Stat. 1260) as amended by the Wholesome Meat Act of 1967 (81 Stat. 584), including any amendments thereto.

"Inspector" means any meat inspector of the State.

"Intrastate commerce" means commerce within the State.

"Label" means a display of written, printed, or graphic matter upon the immediate container (not including package liners) of any meat or meat products, or other products.

"Labeling" means all labels and other written, printed, or graphic matter upon any meat or meat products or any of its containers or wrappers, or accompanying the meat or meat products.

"Licensee" means a person issued a license under part III of this chapter.

"Meat broker" means any person who sells or offers to sell, or buys or offers to buy, carcasses, parts of carcasses, meat or meat products of cattle, sheep, swine, goats, horses, mules, other equines, or exotic animals on commission or who otherwise negotiates the purchase, sale, or exchange of the meat or meat products other than for the person's own account or as an employee of another person.

"Meat or meat products" means any product capable of use as human food which is made wholly or in part from any meat or other portions of the carcass of any cattle, sheep, swine, or goats, excepting products which contain meat or other portions of the carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry, and which are exempted from the definition as meat products by the board under the conditions as it may prescribe to assure that the meat or other portions of

the carcasses contained in the products are not adulterated and that the products are not represented as meat products. This term as applied to food products of equines shall have a meaning comparable to that provided in this definition with respect to cattle, sheep, swine, and goats.

"Meat or meat products derived from exotic animals" means any product capable of use as human food which is made wholly or in part from any meat or other portions of the carcass of any exotic animal, excepting products which contain meat or other portions of the carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry, and which are exempted from the definition as meat products by the board under the conditions as it may prescribe to assure that the meat or other portions of the carcasses contained in the products are not adulterated and that the products are not represented as meat products.

"Misbranded" shall apply to any carcass, part thereof, meat or meat products under one or more of the following circumstances:

- (1) If its labeling is false or misleading in any particular.
- (2) If it is offered for sale under the name of another food.
- (3) If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter, the name of the food imitated.
- (4) If its container is made, formed, or filled as to be misleading.
- (5) If in a package or other container unless it bears a label showing:
  - (A) The name and place of business of the manufacturer, packer, or distributor.
  - (B) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided that reasonable variations may be permitted and exemptions as to small packages may be prescribed by the board.
- (6) If any word, statement, or other information required by or under authority of this chapter to appear on the label or other labeling is not prominently placed thereon with the conspicuousness as compared with other words, statements, designs, or devices, in the labeling and in the terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

- (7) If it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by the board under this chapter unless:
  - (A) It conforms to the definition and standard.
  - (B) Its label bears the name of the food specified in the definition and standard and, insofar as may be required by the regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in the food.
- (8) If it purports to be or is represented as a food for which a standard of fill of container has been prescribed by the board under this chapter, and it falls below the standard of fill of container applicable thereto, unless its label bears, in the manner and form as the board prescribes, a statement that it falls below the standard.
- (9) If it is not subject to paragraph (7), unless its label bears:
  - (A) The common or usual name of the food, if any there be.
  - (B) In case it is fabricated from two or more ingredients, the common or usual name of each ingredient; except that spices, flavorings, and colorings may with the approval of the board be designated as spices, flavorings, and colorings without naming each; provided that to the extent that compliance with the requirements of this subparagraph is impracticable, or results in deception or unfair competition, exemptions shall be established by the board.
- (10) If it purports to be or is represented for special dietary uses, unless its label bears the information concerning its vitamin, mineral, and other dietary properties as the board, after consultation with the Secretary of Agriculture and concurrence by the department of health, determines to be and prescribes as necessary in order fully to inform purchasers as to its value for the uses.
- (11) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided that to the extent that compliance with this paragraph is impracticable, exemptions shall be established by the board.
- (12) If it fails to bear, directly thereon or on its container, as the board may prescribe, the inspection



legend and, unrestricted by any of the foregoing, other information as the board may require to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the meat or meat products in a wholesome condition.

"Official certificate" means any certificate prescribed by the board for issuance by veterinarians, inspectors, or other persons performing official functions under this chapter.

"Official device" means any device described or authorized by the board for use in applying any official mark.

"Official inspection legend" means any symbol prescribed by the board showing that meat or meat products were inspected and passed in accordance with this chapter.

"Official mark" means the official inspection legend or any other symbol prescribed by the board to identify the status of any meat or meat products or animal under this chapter.

"Person" means any individual, firm, corporation, association, or partnership, or any organized group of persons whether incorporated or not.

"Pesticide chemical", "food additive", "color additive", and "raw agricultural commodity" shall have the same meanings for purposes of this chapter as under the Federal Food, Drug, and Cosmetic Act.

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

"Reinspection" means the re-examination of meat and meat products previously inspected and the inspection of meat and meat products during processing.

"Renderer" means any person engaged in the business of rendering carcasses, or parts or products of the carcasses, of cattle, sheep, swine, goats, horses, mules, other equines, or exotic animals, except rendering conducted under inspection under part IV.

"Secretary of Agriculture" means the Secretary of Agriculture of the United States.

"State" means the State of Hawaii.

"Veterinarian" means the state veterinarian or any of the veterinarian's duly authorized representatives.

"Wholesaler" means any person who buys or sells carcasses, parts of carcasses, meat or meat products of cattle, sheep, swine, goats, horses, mules, other equines, or exotic animals in trade channels other than retail. For the purpose of this chapter, a wholesaler who also has retail operations will be deemed to be a wholesaler. [L 1969, c 214, pt of §1; gen ch 1985; am L 1986, c 206, §2; am L 1990, c 139, §2; am L 1991, c

88, §1; am L 1993, c 248, §1; am L 1995, c 90, §1; am L 2012, c 126, §1]

### **Cross References**

Hawaii Food, Drug, and Cosmetic Act, see chapter 328.

### **"PART II. ADMINISTRATION, POWERS AND DUTIES**

**[\$159-6] Administration.** The department shall administer this chapter subject to the supervision of the board. The board may delegate any of its powers except the power to make rules and regulations or may direct any of its duties to be performed by any appropriate agents, officers, or employees of the board.

The board may employ on a full or part-time basis veterinarians and inspectors, subject to chapter 76, as are necessary to carry out a uniform inspection system of meat or meat products in the State. All inspectors shall be under the supervision and control of a veterinarian employed by the board. [L 1969, c 214, pt of §1]

" **§159-7 General powers.** The department, through its board, may:

- (1) Regulate, supervise, inspect, and control the slaughtering of animals and the manufacture, processing, transportation, packaging, labeling, and disposal of meat or meat products involved in intrastate commerce;
- (2) Adopt, amend, and repeal rules as are necessary to implement this chapter, subject to chapter 91, on the following matters:
  - (A) The issuance of licenses, including the class of licenses to be issued;
  - (B) The type of equipment or facilities that may be used in slaughtering and meat processing operations;
  - (C) The internal operations of slaughterhouses and meat processing establishments;
  - (D) The procedures for ante-mortem and post-mortem inspections and the reinspection of meat or meat products used in processing, and the disposal of diseased carcasses and parts of carcasses and meat or meat products found to be unwholesome or otherwise unfit for human consumption;
  - (E) The hours of slaughtering and processing, and the conditions under which slaughtering and

processing may be conducted at other than scheduled times;

- (F) The labeling and packaging of meat or meat products;
- (G) The storing, handling, and transportation of meat or meat products;
- (H) The sanitary conditions of all establishments where animals are slaughtered, and where meat or meat products are processed or prepared; and
- (I) Any other matter as may be necessary or desirable to implement this chapter. Notwithstanding the foregoing provisions, the board, without regard to the notice and public hearing requirements of chapter 91, may adopt all federal meat inspection regulations, including changes made from time to time by the United States Secretary of Agriculture, as rules for the efficient administration of this chapter. Prior to the effective date of any such rules, the department shall publish in a newspaper of general circulation a notice that includes:
  - (i) Either a statement of the substance of the proposed rule adoption, amendment, or repeal; or a general description of the subjects involved and the purposes to be achieved by the proposed rule adoption, amendment, or repeal; and
  - (ii) A statement that a copy of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed will be mailed to any interested person who requests a copy, together with a description of where and how the requests may be made.

The notice shall be mailed to all persons who have made a timely written request of the department for advance notice of these rules or of the department's rulemaking proceedings. The department may require reimbursement for the cost of preparing and mailing the copies.

- (3) Provide for the inspection and certification of meat derived from exotic animals when these services are requested by producers of these products, and obtain from users of these services reimbursement for all costs incurred in the provision of these services. [L 1969, c 214, pt of §1; am L 1990, c 139, §3; am L 1991, c 88, §1; am L 1995, c 90, §2]

" **[§159-8] Information, investigation, hearings.** For the purpose of enforcing this chapter, the board may:

- (1) Gather and compile information which relates to the business operations of persons being regulated under this chapter and such other information necessary to effectuate the purposes of this chapter. Confidential information shall not be disclosed by the board except under order of court.
- (2) Hold hearings, take testimony, administer oaths, subpoena witnesses and issue subpoenas for the production of records, or documents of any kind. Upon failure or refusal of any witness to obey any subpoena, the board may petition the circuit court, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the order of court shall be punishable as a contempt of court.

No person shall be excused from attending and testifying or from producing documentary evidence before the board in obedience to a subpoena of the board on the ground or for the reason that the testimony or evidence, documentary, or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled, after having claimed the person's privilege of self-incrimination, to testify, or produce evidence, documentary or otherwise, before the board in obedience to a subpoena issued by the board; provided that no person so testifying shall be exempt from prosecution for perjury committed in so testifying.

- (3) Request the attorney general to seek relief from the appropriate circuit courts for writs of mandamus commanding any person to comply with this chapter or any order of the board made in pursuance thereof or to enjoin any violation of this chapter or any order of the board.

Witnesses summoned before the board shall be paid the same fees and mileage that are paid witnesses in the circuit courts of the State, and witnesses whose depositions are taken and the persons taking them shall severally be entitled to the same fees as are

paid for like services in the courts. [L 1969, c 214, pt of §1; gen ch 1985]

### "PART III. LICENSING

**§159-11 Certificate of sanitation.** (a) The board may issue certificates of sanitation to slaughterhouses and meat processors which are subject to this chapter and which meet minimum sanitary specifications required for:

- (1) The slaughtering of animals for use of the meat or meat products in intrastate commerce.
- (2) The processing, rendering, transporting, storing, and handling of the meat or meat products in intrastate commerce. The board may adopt rules, subject to chapter 91, governing the minimum sanitary specifications and prescribing forms, requiring reports, and providing for periodic renewals of the certificates.

(b) Notwithstanding any other law or rule under this chapter which requires the renovation or upgrading of the physical facilities of slaughterhouses and meat processors in order to obtain a certificate of sanitation, the board shall nonetheless issue certificates of sanitation to slaughterhouses and meat processors licensed by the State; provided that:

- (1) The facilities of the slaughterhouses and meat processors are sanitary and the products which emerge from their respective operations are wholesome, not adulterated, and fit for human consumption; and
- (2) Upon the sale or transfer of any of the foregoing businesses, the person to whom the business is transferred shall be required to meet all of the requirements and the rules under this chapter. [L 1969, c 214, pt of §1; am L 1990, c 139, §4; am L 1991, c 88, §1; am L 1993, c 248, §2]

" **[§159-12] License required.** It shall be unlawful for any person to engage in the business of slaughtering cattle, sheep, swine, goats, horses, mules and other equines or manufacturing or processing of meat or meat products without a license as required by this part. [L 1969, c 214, pt of §1]

" **§159-13 Application for a license.** The board may issue licenses to slaughterhouses and meat processing establishments having certificates of sanitation issued under section 159-11. An applicant for an original or renewal license to operate as a slaughterhouse operator or meat processor shall file an application upon a form prepared by the board, containing the

information which the board deems necessary for the administration of this chapter.

The license year shall be from July 1 to June 30. All applications for renewal of licenses shall be made at least thirty days prior to the commencement of the license year. [L 1969, c 214, pt of §1; am L 1993, c 248, §3]

" **[\$159-14] License fees.** An annual fee of \$25 shall be assessed. The license fees collected shall be deposited in the state general fund. [L 1969, c 214, pt of §1]

" **§159-15 Bonding.** Upon a person being granted a license to slaughter animals for the purpose of using the meat or meat products thereof in intrastate commerce, the board shall exact from the licensee a bond, or other form of surety acceptable to the board or an appropriate agent, officer, or employee designated by the board, in the penal sum of \$5,000, the bond or other form of surety to be obtained from a surety company or financial institution authorized to do business in the State and to be so conditioned that the licensee shall be required to keep a full and accurate record concerning every animal which the licensee may purchase, kill, or sell; and that the licensee will at all times during regular business hours keep the record open for the inspection by representatives of the board who may desire to examine the same. The record shall contain:

- (1) The sex of the animal.
- (2) A full description of each and every brand on the animal, stating the position of each brand on the animal. If any of the described brands on the animal appear to be obliterated, as described in section 142-47, or to be felonious, as described in section 142-48, the person shall make a report of the obliterated or felonious brand to the appropriate law enforcement agency pursuant to rules adopted by the department of agriculture.
- (3) Ear tag number or other mark of identification.
- (4) The principal color of the animal.
- (5) The name of the person who sold the animal to the licensee.
- (6) The date when the animal was sold to the licensee.
- (7) The date when the animal was delivered to the licensee.
- (8) The date when the animal was killed. [L 1969, c 214, pt of §1; gen ch 1985; am L 1986, c 163, §4; am L 1989, c 92, §1]

" **[\$159-16] Granting, suspending and revoking licenses.** (a) The action of the board in refusing to grant or renew a license, or in revoking or suspending a license, may be judicially reviewed in the manner provided by chapter 91.

(b) No license shall be denied unless the board finds after due notice and an opportunity of hearing in accordance with chapter 91, to the applicant any of the following:

- (1) That the applicant does not qualify or possess the facilities to conduct a business properly.
- (2) That the applicant does not have the financial responsibility to conduct a business properly.
- (3) That the issuance of a license is otherwise not in the public interest.

(c) The board may refuse to renew a license or may suspend or revoke a license upon due notice and opportunity of hearing in accordance with chapter 91, to the licensee when it finds any of the following:

- (1) The licensee has been adjudged a bankrupt.
- (2) The licensee has violated chapter 480 and the violation is directly or indirectly involved with the state meat industry.
- (3) The licensee has failed to keep records or to furnish the statements or information required by the board.
- (4) The licensee has intentionally made a false or misleading statement upon which the license was issued.
- (5) The licensee has violated or failed to comply with this chapter.
- (6) The licensee has ceased to operate the business for which the license was issued.

(d) The board may conditionally renew a license or may conditionally decline to suspend or revoke a license, but the condition shall have appropriate relation to the administration of this chapter. [L 1969, c 214, pt of §1]

" **[\$159-17] Records of licensees.** The board may require licensees to keep the records and information as it deems necessary for the proper enforcement of this chapter. [L 1969, c 214, pt of §1]

#### "PART IV. INSPECTION REQUIREMENTS

**§159-21 Ante-mortem inspection.** (a) For the purpose of preventing the use in intrastate commerce of meat or meat products which are adulterated, the board shall cause to be made, by a veterinarian or inspector appointed for that purpose, an examination and inspection of all animals before they shall

be allowed to enter into any slaughtering, packing, meat-canning, rendering, or similar establishment in the State in which slaughtering and preparation of meat or meat products of the animals are conducted solely for intrastate commerce; and all animals found on the inspection to show symptoms of disease shall be set apart from all other animals and slaughtered or otherwise disposed of as provided in the rules and regulations, and when slaughtered, the carcasses of the animals shall be subject to a careful examination and inspection, all as prescribed by the board.

(b) For the purpose of preventing the inhumane slaughtering of animals, the board shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which the animals are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this chapter. The board may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment, if the board finds that any animal has been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with subsection (c), until the establishment furnishes assurances satisfactory to the board that all slaughtering and handling in connection with slaughter of animals is in accordance with a method specified in subsection (c).

(c) Either of the following two methods of slaughtering of animals and handling in connection with slaughter are found to be humane:

- (1) By rendering the animal insensible to pain by a single blow or gunshot or an electrical, chemical, or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or
- (2) By slaughtering or handling in connection with slaughtering in accordance with the ritual requirements of the Jewish faith or any other 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.

(d) For the purposes of this section "animals" means cattle, sheep, swine, goats, horses, mules, or other equines. [L 1969, c 214, pt of §1; am L 1980, c 178, §1]

" **[\$159-22] Post-mortem inspection; reinspection.** The board shall cause to be made post-mortem examination and inspection of the carcasses and parts thereof of all cattle, sheep, swine,



goats, horses, mules, and other equines, capable of use as human food, to be prepared at any slaughtering, meat-canning, salting, packing, rendering, or similar establishment in this State in which the meat or meat products are prepared solely for intrastate commerce; and the carcasses and parts thereof of all the animals found to be unadulterated shall be marked, stamped, tagged, or labeled, as "Hawaii Inspected and Passed"; and the inspector shall label, mark, stamp, or tag as "Hawaii Inspected and Condemned", all carcasses and parts thereof of animals found to be adulterated; and all carcasses and parts thereof thus inspected and condemned shall be destroyed for food purposes by the establishment in the presence of an inspector, and the board may remove the inspector from the establishment which fails to destroy any such condemned carcass or part thereof. The inspector, after any inspection shall, when the inspector deems it necessary, reinspect any carcasses or parts thereof to determine whether since the prior inspection the same shall have become adulterated and if any carcass or any part thereof shall, upon examination and inspection subsequent to the prior examination and inspection, be found to be adulterated, it shall be destroyed for food purposes by the establishment in the presence of an inspector, and the board may withdraw inspection from any establishment which fails to destroy any condemned carcass or part thereof.

The foregoing provisions, including those in section 159-21, shall apply to all cattle, sheep, swine, goats, horses, mules, and other equines and to all carcasses or parts of carcasses, meat or meat products thereof, capable of use as human food, which may be brought into any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, where inspection under this part is maintained, and the examination and inspection shall be had before the carcasses or parts thereof shall be allowed to enter into any establishment wherein the same are to be treated and prepared for meat products; and the foregoing provisions shall also apply to all products which, after having been issued from any such slaughtering, meat-canning, salting, packing, rendering, or similar establishment, shall be returned to the same or to any similar establishment where the inspection is maintained. The board may limit the entry of carcasses, part of carcasses, meat or meat products, and other materials into any establishment at which inspection under this part is maintained, under conditions as it may prescribe to assure that allowing the entry of meat or meat products into the inspected establishment will be consistent with the purpose of this chapter.

The board shall cause to be made by veterinarian and inspector appointed for that purpose an examination and

inspection of all meat or meat products prepared in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, where the meat or meat products are prepared only for intrastate commerce and for the purpose of any examination and inspection, the inspector shall have access at all times, by day or night, whether the establishment be operated or not, to every part of the establishment; and the inspector shall mark, stamp, tag, or label as "Hawaii Inspected and Passed" all the products found to be unadulterated; and the inspector shall label, mark, stamp, or tag as "Hawaii Inspected and Condemned" all the products found adulterated, and all condemned meat or meat products shall be destroyed for food purposes, as hereinbefore provided, and the board may withdraw inspection from any establishment which fails to destroy the condemned meat or meat products. [L 1969, c 214, pt of §1; gen ch 1985]

" **[§159-23] Labeling, marking, and branding.** (a) When any meat or meat products prepared for intrastate commerce which has been inspected and marked "Hawaii Inspected and Passed" shall be placed or packed in any can, pot, tin, canvas, or other receptacle or covering in any establishment where inspection under this chapter is maintained, the person preparing the product shall cause a label to be attached to the can, pot, tin, canvas, or other receptacle or covering, under supervision of an inspector, which label shall state that the contents thereof have been "Hawaii Inspected and Passed" under this chapter, and no inspection and examination of meat or meat products deposited or inclosed in cans, tins, pots, canvas, or other receptacle or covering in any establishment where inspection under this chapter is maintained shall be deemed to be complete until the meat or meat products have been sealed or inclosed in the can, tin, pot, canvas, or other receptacle or covering under the supervision of an inspector.

(b) All carcasses, parts of carcasses, meat or meat products inspected at any establishment under the authority of this chapter and found to be unadulterated, shall at the time they leave the establishment bear, in distinctly legible form directly thereon or on their containers, as the board may require, the information required under the definition of the word "misbranded" in section 159-3.

(c) The board, whenever it determines that action is necessary for the protection of the public, may prescribe:

- (1) The styles and sizes of type to be used with respect to material required to be incorporated in labeling to avoid false or misleading labeling of any meat or meat products or animals subject to this chapter.

(2) Definitions and standards of identity or composition for meat or meat products subject to this chapter and standards of fill of container for such meat or meat products not inconsistent with any such standards established under the Hawaii or Federal Food, Drug, and Cosmetic Act, or under the Federal Meat Inspection Act, and there shall be consultation between the board and the Secretary of Agriculture prior to the issuance of the standards to avoid inconsistency between the state standards and the federal standards.

(d) No meat or meat products subject to this chapter shall be sold or offered for sale by any person in intrastate commerce, under any name or other marking or labeling which is false or misleading, or in any container of a misleading form or size, but established trade names and other marking and labeling and containers which are not false or misleading and which are approved by the board are permitted.

(e) If the board has reason to believe that any marking or labeling or the size or form of any container in use or proposed for use with respect to any meat or meat products or other products subject to this chapter is false or misleading in any particular, it may direct that the use be withheld unless the marking, labeling, or container is modified in the manner as it may prescribe so that it will not be false or misleading. If the person using or proposing to use the marking, labeling or container does not accept the determination of the board, the person may request a hearing before the board but the use of the marking, labeling, or container shall, if the board directs, be withheld pending hearing and final determination by the board. Any determination by the board shall be conclusive unless, within thirty days after receipt of notice of final determination, the person adversely affected thereby appeals to the circuit court. The appeal shall be based on the record upon which the determination was based. [L 1969, c 214, pt of §1]

" **[\$159-24] Sanitation.** The board shall cause to be made by veterinarian or meat inspector, the inspection of all slaughtering, meat-canning, salting, packing, rendering, or similar establishments in which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered and the meat or meat products thereof are prepared solely for intrastate commerce as may be necessary to inform itself concerning the sanitary conditions of the same, and to prescribe the sanitation under which the establishments shall be maintained; and where the sanitary conditions of any establishments are such that the meat or meat products are rendered adulterated, it shall refuse to allow the meat or meat products to be labeled, marked,

stamped, or tagged as "Hawaii Inspected and Passed". [L 1969, c 214, pt of §1]

" **§159-25 Slaughter, transportation, and selling.** No person shall, with respect to cattle, sheep, swine, goats, horses, mules, or other equines, or carcasses, parts of carcasses, meat or meat products of animals:

- (1) Slaughter any animal or prepare any meat or meat products which are capable of use as human food, at any establishment preparing such meat or meat products solely for intrastate commerce, except in compliance with the requirements of this chapter.
- (2) Slaughter or handle in connection with slaughter any such animal in any manner not in accordance with section 159-21(c).
- (3) Sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce:
  - (A) Any meat or meat products which
    - (i) Are capable of use as human food, and
    - (ii) Are adulterated or misbranded at the time of the sale, transportation, offer for sale or transportation, or receipt for transportation.
  - (B) Any meat or meat products required to be inspected under this chapter unless they have been so inspected and passed.
- (4) Do, with respect to any such meat or meat products which are capable of use as human food, any act while they are being transported in intrastate commerce or held for sale after transportation, which is intended to cause or has the effect of causing meat or meat products to be adulterated or misbranded. [L 1969, c 214, pt of §1; am L 1973, c 7, §1; am L 1980, c 178, §2]

#### **Cross References**

Further regulation, see chapter 146, pt. II.

" **[§159-26] Forgery of mark, brand, or label.** (a) No brand manufacturer, printer, or other person shall cast, print, lithograph, or otherwise make any device containing any official mark, any label bearing any such mark, any form of official certificate, or simulation thereof, except as authorized by the board.

- (b) No person, firm, or corporation shall:
  - (1) Forge any official device, mark, or certificate.

- (2) Use any official device, mark, or certificate, or simulation thereof, or alter, detach, deface, or destroy any official device, mark, or certificate without authorization from the board.
- (3) Fail to use, or to detach, deface, or destroy any official device, mark, or certificate contrary to the regulations prescribed by the board.
- (4) Knowingly possess, without promptly notifying the board or its representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label or any carcass of any animal, or part or product thereof, bearing any counterfeit, simulated, forged, or improperly altered official mark.
- (5) Knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the board.
- (6) Knowingly represent that any meat or meat products have been inspected and passed, or exempted, under this chapter when, in fact, it has, respectively not been so inspected and passed, or exempted.

(c) No person shall sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, any carcasses of horses, mules, or other equines or parts of such carcasses, or the meat or meat products thereof, unless they are plainly and conspicuously marked or labeled or otherwise identified as prescribed by the board to show the kinds of animals from which they were derived. When required by the board with respect to establishments at which inspection is maintained under this chapter, the animals and their carcasses, parts thereof, meat or meat products shall be prepared in establishments separate from those in which cattle, sheep, swine, or goats are slaughtered or their carcasses, parts thereof, meats or meat products are prepared. [L 1969, c 214, pt of §1]

" **§159-27 Inspector.** Veterinarians and inspectors shall examine and inspect all cattle, sheep, swine, goats, horses, mules, and other equines the inspection of which is hereby provided for, and all carcasses and parts thereof, and all meat or meat products thereof, and the sanitary conditions of all establishments in which the meat or meat products are prepared; veterinarians and inspectors shall refuse to stamp, mark, tag, or label any carcass or any part thereof, or meat products therefrom, prepared in any establishment, until the same shall have actually been inspected and found to be unadulterated; and

veterinarians and inspectors shall perform other duties as are provided by this chapter and by the rules adopted by the board and the board, from time to time, shall adopt such rules in accordance with chapter 91 which are necessary for the efficient execution of this chapter, and all inspections and examinations made under this chapter shall be made in a manner as described in the rules adopted by the board not inconsistent with this chapter. [L 1969, c 214, pt of §1; am L 1990, c 139, §5; am L 1991, c 88, §1]

" **§159-28 Bribery.** Any person or employee of any person, who shall give, pay, or offer, directly or indirectly, to any inspector, or any other officer or employee of the State authorized to perform any of the duties prescribed by this chapter or by the rules of the board, any money or other thing of value, with intent to influence the inspector, or other officer or employee of this State, in the discharge of any duty shall be guilty of a class C felony; provided the minimum sentence shall be a \$5,000 fine and a three-year term of imprisonment. Any inspector, or other officer or employee of this State authorized to perform any of the duties prescribed by this chapter, who shall accept any money, gift, or other thing of value from any person, or officers, agents, or employees thereof, given with intent to influence the inspector's, officer's, or employee's official action, or who shall receive or accept from any person engaged in intrastate commerce subject to this chapter any gift, money, or other thing of value given with or without intent to influence the inspector's, officer's, or employee's official actions, shall be discharged from office and shall be guilty of a class C felony, provided the minimum fine shall be \$1,000. [L 1969, c 214, pt of §1; gen ch 1985; am L 1990, c 139, §6; am L 1991, c 88, §1]

#### **Cross References**

Classification of offense and authorized punishment, see §§701-107, 706-610(2), 640, 660.

" **§159-29 Exemptions.** (a) This chapter requiring inspection of the slaughtering of animals and the preparation of the carcasses, parts thereof, and meat or meat products at establishments conducting such operations shall not apply:

- (1) To the slaughtering by any person of animals of the person's own raising, and the preparation and transportation by the person of the carcasses, parts thereof, and meat or meat products of the animals exclusively for use by the person, members of the

person's household, and the person's nonpaying guests and employees; provided that the slaughter of the animals is performed in compliance with part II of chapter 146.

- (2) To the custom slaughter by any person of cattle, sheep, swine, or goats delivered by the owner thereof or the owner's agent for slaughter, and the preparation by that slaughterer of the carcasses, parts thereof, and meat or meat products of the animals exclusively for use, in the household of the owner, by the owner, members of the owner's household, and the owner's nonpaying guests and employees; nor:
- (3) To the custom preparation by any person of carcasses, parts thereof, and meat or meat products derived from the slaughter by any person of cattle, sheep, swine, or goats of the owner's own raising or from exotic animals delivered by the owner thereof for that custom preparation, and transportation of those custom prepared articles exclusively for use, in the household of the owner, by the owner, members of the owner's household, and the owner's nonpaying guests and employees.
- (4) To the person engaging in custom operations at an establishment at which inspection under this chapter is maintained; provided that:
  - (A) Any carcasses, parts thereof, and meat or meat products wherever handled on a custom basis, or any containers or packages containing those articles, are separated at all times from carcasses, parts thereof, and meat or meat products prepared for sale; and
  - (B) All articles prepared on a custom basis, or any containers or packages containing such articles, are plainly marked "not for sale" immediately after being prepared and kept so identified until delivered to the owner.

A person conducting custom exempt operations shall be registered with the board as a custom exempt operator under this paragraph and obtain a permit for exemption from the board to conduct those operations. The board may refuse, withdraw, or modify any permit for exemption under this paragraph in its discretion whenever it determines the action is necessary to effectuate the purposes of this chapter.

- (b) The custom slaughter of animals and preparation of meat or meat products shall be conducted in accordance with the

sanitary conditions and the recordkeeping, registration, and disease control provisions that the board may prescribe.

(c) The transportation by commercial carrier of carcasses, parts thereof, or meat or meat products produced without inspection under subsection (a) is prohibited, except under permit issued by the board.

(d) This chapter requiring inspection of meat or meat products shall not apply to operations of types traditionally and usually conducted at retail stores and restaurants, when conducted at any retail store or restaurant or similar retail-type establishment for sale at the establishments in normal retail quantities or service of meat or meat products to consumers; provided that the meat or meat products shall have been inspected and passed previously in compliance with this chapter and that the preparation, handling, and storage of meat or meat products is conducted in accordance with the sanitary conditions that the board may prescribe.

(e) In order to accomplish the objectives of this chapter, the board, by rule, may exempt operations which the board determines would best be exempted to further the purposes of this chapter, to the extent that the exemptions conform to the Federal Meat Inspection Act and the regulations thereunder.

(f) The adulteration and misbranding provisions of this chapter, other than the requirement of the official inspection legend, shall apply to meat or meat products which are not required to be inspected under this section. [L 1969, c 214, pt of §1; am L 1977, c 202, §1; am L 1978, c 37, §1; gen ch 1985; am L 1990, c 139, §7; am L 1991, c 88, §1]

" **[\$159-30] Storing, handling and transporting.** The board may prescribe conditions under which carcasses, parts of carcasses, meat or meat products of cattle, sheep, swine, goats, horses, mules, or other equines, capable of use as human food, shall be stored or otherwise handled by any person engaged in the business of buying, selling, freezing, storing or transporting, in or for intrastate commerce, such meat or meat products, whenever the board deems action necessary to assure that such meat or meat products will not be adulterated or misbranded when delivered to the consumer. The violation of any regulation is prohibited. [L 1969, c 214, pt of §1]

#### " [PART IVA.] EXOTIC ANIMALS; REIMBURSABLE INSPECTION

**[\$159-31] Inspection of exotic animals.** Persons desiring certification as to wholesomeness and unadulteration for meat and meat products derived from exotic animals may request the



department to conduct an inspection under this chapter. [L 1990, c 139, pt of §1; am L 1991, c 88, §1]

" **[§159-32] Reimbursement for inspection.** The department may perform inspection of meat and meat products derived from exotic animals when requested by persons desiring such inspection. Persons requesting and receiving inspection service under this part shall reimburse the State for all costs incurred by the State in the provision of the service. All such reimbursements shall be deposited into the general fund. [L 1990, c 139, pt of §1; am L 1991, c 88, §1]

" **[§159-33] Conduct of exotic animal inspection.** Inspection of exotic animals, their carcasses, and meat and meat products derived therefrom, shall be conducted in accordance with this chapter and rules adopted pursuant to this chapter. Persons requesting and receiving inspection service under this part, and the meat and meat products derived from exotic animals that are inspected by the department under this part, shall be subject to all requirements and penalties of this chapter and of the rules adopted under this chapter. [L 1990, c 139, pt of §1; am L 1991, c 88, §1]

" **§159-34 Prohibitions.** (a) The preparation, sale, offering for sale, or transportation or receipt for transportation in intrastate commerce of meat and meat products derived from exotic animals, unless inspected and passed as provided for under this part, is prohibited. Violators shall be subject to all requirements and penalties of this chapter.

(b) Notwithstanding any other law to the contrary, no person shall buy, sell, transport, deliver, offer for sale or transportation, or receive for transportation in commerce, any bear gallbladders or bile, or any product, item, or substance containing, labeled, or advertised as containing bear gallbladders or bile. The possession of any bear gallbladders or bile, or any product, item, or substance containing, labeled, or advertised as containing bear gallbladders or bile is prima facie evidence of a violation of this subsection. The exemptions set forth in section 159-29 shall not apply to violations of this subsection. [L 1990, c 139, pt of §1; am L 1991, c 88, §1; am L 2012, c 126, §2]

## "PART V. MEAT PROCESSORS AND RELATED INDUSTRIES

**§159-36 Articles not intended for human food.** Inspection is not provided under this chapter at any establishment for the slaughter of cattle, sheep, swine, goats, horses, mules, or

other equines, or the preparation of any carcasses or parts or products of animals, which are not intended for use as human food. All meat or meat products, prior to their offer for sale or transportation in intrastate commerce, unless naturally inedible by humans, shall be denatured or otherwise identified as prescribed by the board to deter their use for human food. No person shall buy, sell, transport, or offer for sale or transportation, or receive for transportation, in intrastate commerce, any carcasses, parts thereof, or meat or meat products of any animals, which are not intended for use as human food unless they are denatured or otherwise identified as required by the rules adopted by the board or are naturally inedible by humans. [L 1969, c 214, pt of §1; am L 1990, c 139, §8; am L 1991, c 88, §1; am L 1993, c 248, §4]

" **§159-37 Records; subject to examination.** (a) For the enforcement of this chapter, the following classes of persons shall keep records as the board may prescribe and all persons subject to the requirements shall, at all reasonable times, upon notice by a duly authorized representative of the board, afford the representative or any duly authorized representative of the Secretary of Agriculture access to their places of business and opportunity to examine the facilities, inventory, and records thereof, to copy all of those records, and to take reasonable samples of their inventory upon payment of the fair market value therefor:

- (1) Any person who engages, in or for intrastate commerce, in the business of slaughtering any cattle, sheep, swine, goats, horses, mules, or other equines, or preparing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any animals, for use as human food or animal food.
- (2) Any person who engages in the business of buying or selling as meat broker, wholesaler or otherwise, or transporting in intrastate commerce, or storing in or for commerce, any carcasses, or parts or products of carcasses, of any animals.
- (3) Any person who engages in business, in or for intrastate commerce, as a renderer, or engages in the business of buying, selling, or transporting, in commerce, any dead, dying, disabled, or diseased cattle, sheep, swine, goats, horses, mules, or other equines, or parts of the carcasses of the animals that died otherwise than by slaughter.
- (4) Any person who engages in the business of custom slaughtering or preparing any cattle, sheep, swine,

goats, horses, or other equines for use as human food or animal food.

(b) Any record required to be maintained by this section shall be maintained for the period of time as the board may prescribe. [L 1969, c 214, pt of §1; am L 1990, c 139, §9; am L 1991, c 88, §1; am L 1993, c 248, §5]

" **[\$159-38] Registration.** No person shall engage in business, in or for intrastate commerce, (1) as a meat broker, renderer, or animal food manufacturer, or (2) as a wholesaler of any carcasses, or parts or products of the carcasses, of any cattle, sheep, swine, goats, horses, mules, or other equines, whether intended for human food or other purposes, or (3) as a public warehouse worker storing any meat or meat products in or for commerce, or (4) in buying, selling, or transporting any dead, dying, disabled, or diseased animals of the specified kinds, or parts of the carcasses of any animal that died otherwise than by slaughter, unless the person has registered with the board the person's name, and the address of each place of business at which, and all trade names under which, the person conducts such business. [L 1969, c 214, pt of §1; gen ch 1985, 1993]

" **§159-39 Dead, dying, disabled, or diseased animals.** No person engaged in the business of buying, selling, or transporting in intrastate commerce, dead, dying, disabled, or diseased animals, or any parts of the carcasses of any animals that died otherwise than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for transportation, in commerce, any dead, dying, disabled, or diseased cattle, sheep, swine, goats, horses, mules, or other equines, or parts of the carcasses of any such animals that died otherwise than by slaughter, unless the transaction or transportation is made in accordance with the rules that the board may adopt to assure that the animals, or the parts or products thereof, will be prevented from being used for human food purposes. [L 1969, c 214, pt of §1; am L 1990, c 139, §10; am L 1991, c 88, §1]

## "PART VI. INSPECTION SERVICE, WITHDRAWAL AND COMPENSATION

**§159-46 Inspection; overtime compensation.** All animals slaughtered by any slaughterhouse duly licensed under this part shall be inspected by an inspector duly authorized by the department, both before and after slaughtering, and no animal shall be slaughtered, or after slaughter be sold, transported, offered for sale or transportation, or received for

transportation in commerce unless the slaughtering thereof or the use thereof in commerce, after slaughtering, is approved by an inspector.

The management of any processing establishment, slaughterhouse, or the owner of any animal to be slaughtered requiring the services of an inspector in excess of eight consecutive hours on any workday, or in excess of forty hours in any workweek, or on legal holidays, shall pay to the department for overtime inspection services, the current state overtime rate for each hour of work performed by the inspector.

The department shall pay the inspector for all overtime inspection services performed; provided that the party requesting or requiring the overtime inspection services shall sufficiently in advance of the overtime period arrange with the department for the services. [L 1969, c 214, pt of §1; am L 1990, c 139, §11; am L 1991, c 88, §1]

" **§159-47 REPEALED.** L 1986, c 206, §4.

" **§159-48 Refusal and withdrawal of inspection.** The board, for the period, or indefinitely, as it deems necessary to effectuate the purposes of this chapter, may refuse to provide, or withdraw, inspection service under this chapter with respect to any establishment if it determines, after opportunity for a hearing is accorded to the applicant for or a recipient of the service, that the applicant or recipient is unfit to engage in any business requiring inspection under this chapter because the applicant or recipient, or anyone responsibly connected with the applicant or recipient, has been convicted, in any federal or state court, of (1) any felony, or (2) more than one violation of any law, based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food. This section shall not affect, in any way, the other provisions of this chapter for withdrawal of inspection services from establishments failing to maintain sanitary conditions or to destroy condemned carcasses, parts thereof, or meat or meat products.

For the purpose of this section a person shall be deemed to be responsibly connected with the business if the person was a partner, officer, director, holder, or owner of ten per cent or more of its voting stock or an employee in a managerial or executive capacity. The determination and order of the board with respect thereto under this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty days after the effective date of such order in the

appropriate court as provided in part VII. Judicial review of any such order shall be upon the record upon which the determination and order are based. [L 1969, c 214, pt of §1; gen ch 1985; am L 1990, c 139, §12; am L 1991, c 88, §1]

**"PART VII. VIOLATIONS, PENALTIES, PROSECUTION, COMPACTS, CONSTRUCTION**

**§159-51 Interstate and federal compacts.** (a) The board is hereby designated as the state agency which is responsible for cooperating with the Secretary of Agriculture under section 301 of the Federal Meat Inspection Act, and the board is directed to cooperate with the Secretary of Agriculture in administering the meat inspection program of this State under this chapter to assure that its requirements remain at least equal to those imposed under the Federal Meat Inspection Act and in administering the program of this State under this chapter in a manner that will effectuate the purposes of this chapter, the Federal Meat Inspection Act, and rules and regulations adopted thereunder.

(b) In cooperative efforts, the board may accept from the Secretary of Agriculture advisory assistance in administering the state program, technical and laboratory assistance and training, including necessary curricular and instructional materials and equipment, and financial and other aid for administration of the program.

(c) The board may recommend to the Secretary of Agriculture, the officials or employees of this State as the board shall designate for appointment to the advisory committees provided for in section 301 of the Federal Meat Inspection Act; and the board shall serve as the representative of the governor for consultation with the Secretary of Agriculture under paragraph (c) of section 301 of the Federal Meat Inspection Act unless the governor shall select another representative. [L 1969, c 214, pt of §1; am L 1990, c 139, §13; am L 1991, c 88, §1]

" **§159-52 Penalties; prosecution.** (a) Whenever any carcass, part of a carcass, or meat or meat product of cattle, sheep, swine, goats, horses, mules, or other equines or any product exempted from the definition of a meat or meat product or any dead, dying, disabled, or diseased cattle, sheep, swine, goat, or equine is found by any authorized representative of the board upon any premises where it is held for purposes of, or during or after distribution in, intrastate commerce and there is reason to believe that any meat or meat product is adulterated or misbranded and is capable of use as human food,

or that it has not been inspected in violation of this chapter, the Federal Meat Inspection Act, or the Hawaii or Federal Food, Drug, and Cosmetic Act, or that the meat or meat product or animal has been or is intended to be distributed in violation of any provisions, it may be detained by the representative for a period not to exceed twenty days, pending action or notification of any federal authorities having jurisdiction over the meat or meat product or animal, and shall not be moved by any person from the place at which it is located when detained unless released by the representative. All official marks may be required by the representative to be removed from the meat or meat product or animal before it is released unless it appears to the satisfaction of the board that the meat or meat product or animal is eligible to retain the marks.

(b) Any carcass, part of a carcass, or meat or meat product of cattle, sheep, swine, goats, horses, mules, or other equines or any dead, dying, disabled, or diseased cattle, sheep, swine, goat, or equine that is being transported in commerce or is held for sale in the State after being so transported and that (1) is or has been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of this chapter, or (2) is capable of use as human food and is adulterated or misbranded, or (3) in any other way is in violation of this chapter, shall be liable to be proceeded against and seized and condemned, at any time, in any court within the jurisdiction of which the meat or meat product or animal is found. If the meat or meat product or animal is condemned, it shall, 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, shall be paid into the general fund of the State, but the meat or meat product or animal shall not be sold contrary to this chapter, the Federal Meat Inspection Act, or the Hawaii or Federal Food, Drug, and Cosmetic Act; provided that upon the execution and delivery of a good and sufficient bond issued on the condition that the meat or meat product or animal shall not be sold or otherwise disposed of contrary to this chapter or the laws of the United States, the court may direct that the meat or meat product or animal be delivered to the owner thereof subject to supervision by authorized representatives of the board as is necessary to ensure compliance with the applicable laws. When a decree of condemnation is entered against the meat or meat product or animal and it is released under bond, or destroyed, court costs and fees and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the meat or meat product or animal.

(c) The circuit courts of the State are vested with jurisdiction specifically to enforce and to prevent and restrain violations of this chapter and shall have jurisdiction in all other kinds of cases arising under this chapter; provided that the district courts of the State shall have jurisdiction over misdemeanors committed under this chapter.

(d) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person engaged in the performance of, or on account of, official duties under this chapter shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

(e) Any person who violates any provision of this chapter for which no other criminal penalty is provided by this chapter shall be fined not more than \$1,000 or imprisoned not more than one year, or both, but if the violation involves intent to defraud or any distribution or attempted distribution of meat or meat product that is adulterated, the person shall be fined not more than \$10,000 or imprisoned for not more than five years, or both; provided that no person shall be subject to penalties under this section for receiving for transportation any meat or meat product or animal in violation of this chapter if the receipt was made in good faith, unless the person refuses to furnish on request of a representative of the board the name and address of the person from whom the meat or meat product or animal was received and copies of all documents, if any there be, pertaining to the delivery of the meat or meat product or animal.

(f) Nothing in this chapter shall be construed as requiring the board to issue citations and summons or to report for prosecution or injunction proceedings minor violations of this chapter whenever it believes that the public interest will be adequately served by a suitable written notice of warning. In determining whether the public interest will be adequately served by a written notice of warning, the board shall take into account, among other factors:

- (1) The compliance history of those persons;
- (2) The magnitude of the violation;
- (3) Whether compliance with this chapter would likely result from that notice; and
- (4) Whether the violation is of a minor or technical nature.

(g) Any person who neglects or refuses to attend and testify or to answer any 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 board, shall be guilty of an offense and, upon conviction thereof by a

court of competent jurisdiction, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(h) Any person who wilfully makes, or causes to be made, any false entry or statement of fact in any report required to be made under this chapter, or who wilfully makes, or causes to be made, any false entry in any account, record, or memorandum kept by any person subject to this chapter, or wilfully neglects or fails to make, or causes not to be made, full, true, and correct entries in the accounts, records, or memoranda of all facts and transactions appertaining to the business of the person, or wilfully removes out of the jurisdiction of the State, or wilfully mutilates, alters, or by any other means falsifies any documentary evidence of any person, or wilfully refuses to submit to the board or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any person in the person's possession or within the person's control, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(i) If any person required by this chapter to file any annual or special report fails to do so within the time fixed by the board and the failure continues for thirty days after notice of default, that person shall forfeit to the State the sum of \$100 for each day of the continuance of the failure, which forfeiture shall be payable into the state general fund and shall be recoverable in a civil suit in the name of the State brought in the county where the person's principal office is located or in any county in which the person does business. It shall be the duty of the county attorneys or corporation counsel of the respective counties within the State, upon request of the attorney general, to prosecute for the recovery of the forfeitures.

(j) Any officer or employee of the State who makes public any confidential information obtained by the board, unless directed by a court, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. [L 1969, c 214, pt of §1; gen ch 1985; am L 1986, c 206, §3; am L 1990, c 139, §§14, 15; am L 1991, c 88, §1]

### **Cross References**

Classification of offenses and authorized punishment, see §§701-107, 706-610(2), 640, 660, 663.

" **[§159-53] Construction.** The licenses required by this chapter shall be in addition to any other licenses required by law.



The requirements of this chapter shall apply to persons, establishments, animals, and meat or meat products regulated under the Federal Meat Inspection Act only to the extent provided for in section 408 of the Federal Meat Inspection Act.

The operation and effect of this chapter conferring a general power shall not be impaired or qualified by the granting of a specific power or powers. Each provision of this chapter is intended to be construed liberally in light of the declaration set forth in section 159-2.

If any of the foregoing provisions are in conflict with any existing statute, ordinance or regulation, the provisions of this chapter shall take precedence. [L 1969, c 214, pt of §1]

" **[\$159-54] Enforcement.** (a) Inspectors shall enforce this chapter and related rules adopted by the department.

(b) Inspectors shall be provided with suitable badges or insignia of office by the department, and shall have power to detain or impound meat or meat product that is in violation of this chapter. The division head of the division of animal industry of the department or the division head's designees shall have the power to serve and execute warrants in all matters relating to the meat inspection laws and to issue a citation for any violation of this chapter or related rules. [L 1986, c 206, pt of §1]

" **[\$159-55] Citation and summons.** (a) There shall be printed a form of citation and summons for use in citing violators warning the person to appear and answer the charge against the person at a certain place and at a time within seven days after the citation. The citation and summons shall be so designed to include all necessary information to make it valid and legal within the laws and rules of the State. The form and contents of the citation and summons shall be adopted or prescribed by the district courts.

(b) In every case when a citation and summons is issued, the original of the same shall be given to the accused; provided that the district courts may prescribe the issuance to the accused of a carbon copy of the citation and summons and provide for the disposition of the original and any other copies.

(c) Every citation and summons shall be consecutively numbered and each carbon copy shall bear the number of its original. [L 1986, c 206, pt of §1]

" **[\$159-56] Administration of oath.** When a complaint is made to any prosecuting officer of the violation of this chapter or the rules adopted pursuant thereto, the division head or the division head's designee who issued the citation and summons

shall subscribe to the complaint under oath. [L 1986, c 206, pt of §1]

" **[\$159-57] Failure to obey summons.** (a) Any person who fails to appear at the place and time specified in the citation and summons issued to that person by the division head or the division head's designee upon the person's citation for violation of the meat inspection laws or rules shall be guilty of a misdemeanor and, upon conviction, fined not more than \$500 or imprisoned not more than six months, or both.

(b) If any person fails to comply with a citation and summons issued to that person, the division head or the division head's designee shall cause a complaint to be entered against the person and secure the issuance of a warrant for that person's arrest.

(c) When a complaint is made to any prosecuting officer of the violation of any provision of this chapter or any rule adopted thereunder, the division head or the division head's designee who issued the complaint and summons shall subscribe to it under oath. [L 1986, c 206, pt of §1]