

**"CHAPTER 161  
POULTRY INSPECTION**

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## "PART I. GENERAL PROVISIONS

[§161-1] **Short title.** This chapter shall be known and may be cited as the "Hawaii Poultry Inspection Act". [L 1969, c 212, §1]

" **§161-2 Findings and declaration of necessity.** It is hereby declared that the poultry industry is a paramount agricultural industry of this State and the production and marketing of poultry is an enterprise that is of significant importance to the economy of the 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 poultry or poultry products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged. Unwholesome, adulterated, or misbranded poultry or poultry products are injurious to the public health and welfare, destroy markets for wholesome, not adulterated, and properly labeled and packaged poultry or poultry products, and result in sundry losses to poultry producers and processors of poultry 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, not adulterated, 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 chapter is appropriate to protect the health and welfare of consumers and otherwise to effectuate the purposes of this chapter.

The 90th Congress enacted Public Law 90-492, entitled "The Wholesome Poultry Products Act", which is now redesignated as the "Poultry Products Inspection Act". The Poultry Products Inspection Act is intended to protect the consuming public from adulterated or misbranded poultry or poultry products and to assist the states in their efforts to accomplish this objective. The Poultry Products Inspection Act authorizes the United States Secretary of Agriculture to furnish financial and related assistance to states for the administration of poultry inspection programs which conform to established federal standards up to fifty per cent of the estimated total cost of the cooperative program. Hawaii's poultry industry is not subject to poultry inspection law or rules and regulations that meet the minimum federal requirement in this area. In order to qualify for the cooperative program, the State must demonstrate "progressive action" by July 18, 1970; and, further, all physical facilities must be upgraded in accordance with the

established federal standards by July 18, 1971. Failure to comply with the standards prescribed by the Poultry Products Inspection Act will result in federal control of the poultry or poultry processing industries of the State. Accordingly, the State of Hawaii deems it to be in the interest of the State's public health and welfare to take such steps as are necessary to qualify for federal financial and related assistance for the administration of a poultry inspection program which conforms to federal standards prescribed in the Poultry Products Inspection Act. [L 1969, c 212, §2; am L 1993, c 92, §1]

" **§161-3 Definitions.**

"Adulterated" includes any poultry or poultry product in one or more of the following circumstances:

- (1) It bears or contains any poisonous or deleterious substance which may render it injurious to health; provided that if the substance is not an added substance, the poultry or poultry product shall not be considered adulterated if the quantity of the substance in or on the poultry or poultry product does not ordinarily render it injurious to health.
- (2) (A) It bears or contains by reason of administering any substance to the live poultry, including 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 may make the poultry or poultry product unfit for human consumption in the judgment of the board.
- (B) It is, in whole or in part, a raw agricultural commodity and the commodity bears or contains a pesticide chemical which is unsafe under the Federal Food, Drug, and Cosmetic Act or chapter 328.
- (C) It bears or contains any food additive which is unsafe under the Federal Food, Drug, and Cosmetic Act or chapter 328.
- (D) It bears or contains any color additive which is unsafe under the Federal Food, Drug, and Cosmetic Act or chapter 328.
- (E) Poultry or poultry products which are not adulterated under (B), (C) or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on the poultry or poultry products is prohibited by the board in establishments subject to inspection under part IV.

- (3) It consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or unfit for human consumption.
- (4) It has been prepared, packed, or held under unsanitary conditions, whereby it may be contaminated with filth or whereby it may be injurious to health.
- (5) It is, in whole or in part, a product of poultry that has died other than by slaughter.
- (6) Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.
- (7) It has been intentionally or unintentionally subjected to radiation unless the use of the radiation was in conformity with both the Federal Food, Drug, and Cosmetic Act and chapter 328.
- (8) Any valuable constituent has been in whole or in part omitted or abstracted from it; or any substance has been substituted wholly or in part for it; or damage or inferiority has been concealed in any manner; or any substance has been added or mixed into it or packed with it so as to increase its bulk or weight, or to reduce its quality or strength, or to make it appear better or of greater value than it is.

"Board" means the board of agriculture or its designated representative.

"Capable of use as human food" refers to any poultry carcass, poultry part, or poultry product unless it is denatured or identified by rule to deter its use as human food, or unless it is naturally inedible by humans.

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

"Department" means the department of agriculture.

"Federal Food, Drug, and Cosmetic Act" means the federal Act so entitled, approved June 25, 1938 (Public Law 75-675; 52 Stat. 1040; 21 U.S.C.A. section 301 et seq.), and all amendments to that Act.

"Intrastate commerce" means commerce within this State.

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

"Labeling" means all labels and other written, printed, or graphic matter (1) upon any poultry or poultry product or any of its containers or wrappers, or (2) accompanying any poultry or poultry product.

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

"Misbranded" includes any poultry or poultry product in one or more of the following circumstances:

- (1) Its labeling is false or misleading in any particular.
- (2) It is offered for sale under the name of another food.
- (3) 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) Its container is made, formed, or filled as to be misleading.
- (5) It is 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; and
  - (B) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided that the board may permit reasonable variations, and may prescribe exemptions for small packages.
- (6) Any word, statement, or other information required by this chapter to appear on the label or other labeling is not prominently placed with adequate conspicuousness, as compared with other words, statements, designs, or devices, on the labeling, and in adequate terms to be likely to be read and understood by the ordinary individual under customary conditions of purchase and use.
- (7) 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 that definition and standard, and (B) its label bears the name of the food specified in the definition and standard, and bears the common names of optional ingredients, as may be required, other than spices, flavoring, and coloring, present in the food.
- (8) It purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by the board under this chapter, and it falls below the applicable standard of fill of container, unless its label bears, in the manner and form that the board prescribes, a statement that it falls below that standard.
- (9) It is not subject to item (7), unless its label bears, (A) the common or usual name of the food, if any, and,

(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, when authorized by the board, be designated as spices, flavorings, and colorings without naming each; provided that to the extent that compliance with this requirement is impracticable, or results in deception or unfair competition, exemptions shall be established by the board.

- (10) It purports to be or is represented for special dietary uses, unless its label bears information concerning its vitamin, mineral, and other dietary properties that the board, after consultation with the United States Secretary of Agriculture, determines to be and prescribes as necessary, in order to fully inform purchasers as to its value for such uses.
- (11) 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 requirement is impracticable, exemptions shall be established by the board.
- (12) It fails to bear, directly on it 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 the labeling will not be false or misleading and that the public will be informed of the manner of handling required to maintain the poultry or poultry 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 prescribed or authorized by the board for use in applying any official mark.

"Official inspection legend" means any symbol prescribed by the board showing that poultry or poultry 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 poultry or poultry product under this chapter.

"Person" means any individual, firm, corporation, association, 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.

"Poultry" means any domesticated bird, whether live or dead.

"Poultry broker" means any person engaged in the business of buying or selling poultry or poultry products on commission, or who otherwise negotiates the purchase, sale, or exchange of poultry or poultry products other than for the person's own account or as an employee of another person, firm, or corporation.

"Poultry product" means any poultry carcass or part thereof, or any food product which is made wholly or in part from any poultry carcass or part thereof, excepting products which contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry, and which are exempted by the board from definition as poultry food product under conditions as the board may prescribe to assure that the poultry ingredients in the products are not adulterated and that the products are not represented as poultry products.

"Poultry Products Inspection Act" means the federal Act so entitled, approved August 28, 1957 (Public Law 85-172; 71 Stat. 441; 21 U.S.C.A. section 451 et seq.), as amended by the Wholesome Poultry Products Act (Public Law 90-492; 82 Stat. 791; 21 U.S.C.A. section 451 et seq.), and all amendments to those Acts.

"Prepared" or "processed" includes, but is not limited to, slaughtered, canned, boned, salted, stuffed, rendered, cut up, or otherwise manufactured.

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

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

"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 poultry or poultry products 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 212, §3; gen ch 1985; am L 1986, c 207, §2; am L 1993, c 92, §2; am L 1995, c 89, §1]



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

**[\$161-6] Division of animal industry.** The division of animal industry of the department of agriculture shall administer this chapter subject to the supervision of the board. The board may delegate any of its powers under this chapter, 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 poultry inspectors, subject to chapter 76, to carry out a uniform inspection system of poultry or poultry products throughout the State. All poultry inspectors shall be under the supervision and control of a veterinarian employed by the board. [L 1969, c 212, §4; am L 2000, c 253, §150]

" **§161-7 General powers.** The department, through its board, may:

- (1) Regulate, supervise, inspect, and control the slaughtering of poultry and the manufacture, processing, transportation, packaging, labeling, and disposal of poultry or poultry products involved in intrastate commerce; and
- (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 poultry slaughtering and poultry processing operations;
  - (C) The internal operations of poultry slaughterhouses and poultry processing establishments;
  - (D) The procedures for ante-mortem and post-mortem inspections and the reinspection of poultry or poultry products used in processing, and the disposal of diseased carcasses and parts of carcasses and poultry or poultry products found 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 poultry or poultry products;

- (G) The storing, handling, and transportation of poultry or poultry products;
- (H) The sanitary conditions of all establishments where poultry is slaughtered or poultry products are processed or prepared; and
- (I) Any other matter as may be necessary or desirable to effectuate the purposes of this chapter. Notwithstanding the foregoing provisions, the board, without regard to the notice and public hearing requirements of chapter 91, may adopt all federal poultry 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. [L 1969, c 212, §5; am L 1995, c 89, §2]

" **[§161-8] Information, investigations, hearings.** For the purpose of enforcing the provisions of this chapter, the board may:

(a) 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. Information obtained in confidence by the board shall be kept confidential and shall not be disclosed by the board except under order of court.

(b) 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.

(c) Request the attorney general of this State to seek relief from the appropriate circuit courts for writs of mandamus commanding any person, firm, or corporation to comply with the provisions of 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 this 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 212, §6; gen ch 1985]

### "PART III. LICENSING

**§161-11 Certificate of sanitation.** The board may issue certificates of sanitation to poultry slaughterhouses and poultry processors which are subject to this chapter and which meet minimum sanitary specifications required for (1) the slaughtering of poultry for use of the poultry or poultry products in intrastate commerce, and (2) for the processing, transporting, storing, and handling of poultry or poultry 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 certificates of sanitation.

Notwithstanding any requirement under this chapter or the rules adopted under this chapter which require the renovation or upgrading of the physical facilities of poultry slaughterhouses or poultry processors in order to obtain a certificate of sanitation, the board, as of July 1, 1970, shall continue to issue certificates of sanitation to poultry slaughterhouses and poultry processors now licensed by the State, and shall allow them to continue their operations; provided that the facilities of the poultry slaughterhouses and poultry processors shall be sanitary and that the products which emerge from their respective operations are wholesome, not adulterated, and fit for human consumption; and provided further that 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 of this chapter and the rules adopted under this chapter. [L 1969, c 212, §7; am L 1993, c 92, §3]

" **[\$161-12] License required.** It shall be unlawful for any person to engage in the business of slaughtering poultry or manufacturing or processing of poultry or poultry products without a license as required under this part. [L 1969, c 212, §8]

" **[\$161-13] Application for a license.** The board may issue licenses to poultry slaughterhouses and poultry processing establishments having certificates of sanitation issued under section 161-11. An applicant for an original or renewal license to operate as a poultry slaughterhouse operator or poultry processor shall file an application upon a form prepared by the board, containing such information which the board deems necessary for the administration of this chapter.

The license year shall be from July 1 to the following June 30. All applications for renewal of licenses must be made at least thirty days before the commencement of the license year. [L 1969, c 212, §9]

" **[\$161-14] License fees.** A fee of \$25 per license year shall be assessed. The license fees collected shall be deposited with the state general fund. [L 1969, c 212, §10]

" **[\$161-15] Granting, suspending, and revoking licenses.** The action of the board in refusing to grant or renew a license, or in revoking or suspending a license, may be reviewed in the manner provided by chapter 91.

(a) No license shall be denied unless the board finds after due notice and opportunity of hearing in accordance with chapter 91, one or more of the following:

- (1) That the applicant does not qualify or does not 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.

(b) 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 said violation is directly or indirectly involved with the state poultry 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 any of the provisions of this chapter.
- (6) The licensee has ceased to operate the business for which the license was issued.

(c) The board may conditionally renew a license or may conditionally decline to suspend or revoke a license, but such condition shall have appropriate relation to the administration of this chapter. [L 1969, c 212, §11]

" **[\$161-16] Records of licensees.** The board may, by regulations, require licensees to keep such records and information as it deems necessary for the proper enforcement of this chapter. [L 1969, c 212, §12]

#### "PART IV. INSPECTION, LABELING, SANITATION, AND EXEMPTIONS

**[\$161-21] Ante-mortem inspection.** For the purpose of preventing the use in intrastate commerce of poultry or poultry products which are adulterated, the board shall cause to be made, by veterinarians and poultry inspectors appointed for that purpose, an examination and inspection of all poultry, before they are allowed to enter into any poultry slaughtering, packing, poultry-canning, or similar establishment in this State in which slaughtering and processing of poultry or poultry products are conducted solely for intrastate commerce; and all poultry found on such inspection to show symptoms of disease shall be set apart from all other poultry and slaughtered or otherwise disposed of as provided in the rules and regulations,

and when so slaughtered, the carcasses of the poultry shall be subject to a careful examination and inspection, all as provided by the rules and regulations to be prescribed by the board. [L 1969, c 212, §13]

" **[\$161-22] Post-mortem inspection; reinspection.** A post-mortem examination and inspection of the carcasses and parts thereof of all poultry capable of use as human food, to be processed at any slaughtering, poultry-canning, packing, or similar establishment in this State in which such poultry or poultry products are prepared solely for intrastate commerce; and the carcasses and parts thereof of all such poultry or poultry products found to be not adulterated shall be marked, stamped, tagged, or labeled, as "Hawaii Inspected and Passed"; and said inspectors shall label, mark, stamp, or tag as "Hawaii Inspected and Condemned", all carcasses and parts thereof of poultry or poultry products 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 inspectors from any such establishment which fails to so destroy any condemned carcass or part thereof, and the inspectors, after the first inspection shall, when they deem it necessary, reinspect the carcasses or parts thereof to determine whether since the first inspection the same have become adulterated and if any carcass or any part thereof shall, upon examination and inspection subsequent to the first 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 so destroy any condemned carcass or part thereof.

The foregoing provisions, including those in section 161-21, shall apply to all poultry and carcasses or parts of carcasses of poultry or poultry products thereof, capable of use as human food, which may be brought into any poultry slaughtering, poultry-canning, packing, or similar establishment, where inspection under this part is maintained, and such examination and inspection shall be made before the carcasses or parts thereof shall be allowed to enter into any establishment wherein the same are to be treated and prepared for poultry products; and the foregoing provisions shall also apply to all such products which, after having been issued from any poultry slaughtering, poultry-canning, packing, or similar establishment, shall be returned to the same or to any similar establishment where such inspection is maintained. The board may limit the entry of poultry or poultry products, and other materials into any establishment at which inspection under this

part is maintained, under such conditions it may prescribe to assure that allowing the entry of such poultry or poultry products into such inspected establishments will be consistent with the purpose of this chapter.

The board shall cause to be made by veterinarians and poultry inspectors appointed for that purpose an examination and inspection of all poultry or poultry products processed in any poultry slaughtering, poultry-canning, packing, or similar establishment, where such poultry or poultry products are prepared solely for intrastate commerce and for the purposes of any examination and inspection the inspectors shall have access at all times, by day or night, whether the establishment is operating or not, to every part of said establishment; and the inspectors shall mark, stamp, tag or label as "Hawaii Inspected and Passed" all such poultry or poultry products found to be not adulterated; and said inspectors shall label, mark, stamp, or tag as "Hawaii Inspected and Condemned" all such poultry or poultry products found adulterated, and all condemned poultry or poultry products shall be destroyed for food purposes and the board may withdraw inspection from any establishment which fails to so destroy such condemned poultry or poultry products. [L 1969, c 212, §14]

" **§161-23 Labeling, marking, and branding.** (a) When any poultry or poultry products processed for intrastate commerce which has been inspected as hereinbefore provided and marked "Hawaii Inspected and Passed" is 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 processing 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 poultry or poultry 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 such poultry or poultry products have been sealed or inclosed in said can, tin, pot, canvas, or other receptacle or covering under the supervision of an inspector.

(b) All carcasses, parts of carcasses, poultry or poultry products inspected at any establishment under this chapter and found to be not adulterated, 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 161-3.

(c) The board, whenever it determines such action is necessary for the protection of the public, may prescribe by rules: (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 poultry or poultry products subject to this chapter; (2) definitions and standards of identity or composition for poultry or poultry products subject to this chapter and standards of fill of container for such poultry or poultry products not inconsistent with any standards established under the Federal Food, Drug, and Cosmetic Act, or under the Poultry Products Inspection Act, and there shall be consultation between the board and the United States Secretary of Agriculture prior to the issuance of the standards to avoid inconsistency between those standards and the federal standards.

(d) No poultry or poultry product 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 poultry or poultry product or other products subject to this chapter is false or misleading in any particular, it may direct that use be withheld unless the marking, labeling, or container is modified in such 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, such person may request a hearing before the board but the use of the marking, labeling, or container shall, if the board so directs, be withheld pending hearing and final determination by the board. Any such determination by the board shall be conclusive unless, within thirty days after receipt of notice of a final determination, the person adversely affected appeals to the circuit court. The appeal shall be based on the record upon which the determination was based. [L 1969, c 212, §15; am L 1993, c 92, §4]

" **[\$161-24] Sanitation.** The board shall cause to be made by veterinarians or poultry inspectors, an inspection of the sanitary conditions of all poultry slaughtering, poultry-canning, packing, or similar establishments in which poultry are slaughtered and the poultry or poultry products thereof are



processed solely for intrastate commerce and to prescribe the rules and regulations of sanitation under which such establishments shall be maintained; and where the sanitary conditions of any such establishment are such that the poultry or poultry products are rendered adulterated, it shall refuse to allow the poultry or poultry products to be labeled, marked, stamped, or tagged as "Hawaii Inspected and Passed". [L 1969, c 212, §16]

" **[\$161-25] Slaughter, processing, transportation, and selling.** No person shall, with respect to any poultry or poultry product:

- (1) Slaughter any such poultry or process any such poultry or poultry products which are capable of use as human food, at any establishment processing such poultry or poultry products solely for intrastate commerce, except in compliance with the requirements of this chapter.
- (2) Sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, (A) any such poultry or poultry products which are capable of use as human food, and are adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation; or (B) any poultry or poultry products required to be inspected under this chapter unless they have been so inspected and passed.
- (3) Do, with respect to any such poultry or poultry products which are capable of use as human food, any act while they are being transported in intrastate commerce or held for sale after such transportation, which is intended to cause or has the effect of causing such poultry or poultry product to be adulterated or misbranded. [L 1969, c 212, §17]

" **[\$161-26] 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 or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the board.

- (b) No person shall:
  - (1) Forge any official device, mark, or certificate;
  - (2) Without authorization from the board, use any official device, mark, or certificate, or simulation thereof, or alter, detach, deface, or destroy any official device, mark, or certificate;

- (3) Contrary to the regulations prescribed by the board, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;
- (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 poultry or poultry product 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; or
- (6) Knowingly represent that any poultry or poultry product has been inspected and passed, or exempted, under this chapter when, in fact, it has, respectively, not been so inspected and passed, or exempted. [L 1969, c 212, §18]

" **§161-27 Inspectors.** Veterinarians and poultry inspectors shall examine and inspect all poultry, all carcasses and parts thereof, and all poultry products, and the sanitary conditions of all establishments in which poultry or poultry products are processed; and the veterinarians and poultry inspectors shall refuse to stamp, mark, tag, or label any carcass or any part thereof, or poultry product, prepared in any establishment until it shall have actually been inspected and found to be not adulterated; and shall perform such other duties as are provided by this chapter and by the rules and regulations to be prescribed by the board and the board shall, from time to time, make such rules and regulations in accordance with chapter 91, as are necessary for the efficient execution of this chapter, and all inspections and examinations made under this chapter shall be in accordance with the rules and regulations prescribed by the board and this chapter. [L 1969, c 212, §19]

" **§161-28 Bribery.** (a) Any person or employee of any person, who gives, pays, or offers, directly or indirectly, to any inspector, or to any other officer or employee of the State authorized to perform any of the duties prescribed by this chapter or by the rules adopted by 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. The minimum fine shall be \$5,000.

(b) Any inspector or other officer or employee of this State authorized to perform any of the duties prescribed by this chapter who accepts any money, gift, or other thing of value from any person, officer, agent, or employee of any person, given with intent to influence the state inspector's, officer's, or employee's official actions, shall be discharged from office and shall be guilty of a class C felony. The minimum fine shall be \$1,000.

(c) Notwithstanding subsection (a), any inspector or other officer or employee of this State authorized to perform any of the duties prescribed by this chapter who receives or accepts from any person who is engaged in intrastate commerce and is 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. The minimum fine shall be \$1,000. [L 1969, c 212, §20; gen ch 1985; am L 1993, c 92, §5]

" **§161-29 Exemptions.** (a) The provisions of this chapter requiring inspection of the slaughtering of poultry and the processing of carcasses, parts thereof, and poultry products at establishments conducting those operations shall not apply:

- (1) To the slaughtering by any person of poultry of the person's own raising, and the processing by the person of the carcasses, parts thereof, and poultry products of the poultry exclusively for use by the person and members of the person's household and the person's nonpaying guests and employees;
- (2) To the slaughtering or processing of poultry or poultry products which are wholesome, unadulterated, and fit for human consumption by a producer on the producer's own premises and of the producer's own raising for sale to a consumer and received directly by the consumer on the producer's premises for exclusive use by the consumer and members of the consumer's household, the consumer's nonpaying guests, and employees; or
- (3) To the custom slaughter by any person of poultry delivered by the owner thereof or the owner's agent for slaughter, and the processing by the slaughterer of the carcasses, parts thereof, and poultry product of the poultry, exclusively for use in the household of the owner, by the owner, and members of the owner's household and the owner's nonpaying guests and employees; provided that the custom slaughterer does not engage in the business of buying or selling any

carcasses, parts thereof, of poultry or poultry products, capable of use as human food; and provided further that the slaughter of poultry and processing of poultry or poultry products shall be conducted in accordance with the sanitary conditions, record keeping, registration, and disease control provisions specified by rule.

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

(c) The provisions of this chapter requiring inspection of poultry or poultry products shall not apply to operations of a type traditionally and usually conducted at retail stores or 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 poultry or poultry products to consumers; provided that:

- (1) The poultry or poultry products have been inspected and passed previously in compliance with this chapter; and
- (2) The processing, handling, and storage of poultry or poultry products shall be conducted in accordance with sanitary conditions the board may specify by rule.

(d) In order to accomplish the objectives of this chapter, the board may by rule 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 Poultry Products Inspection Act and the regulations thereunder.

(e) A person conducting custom exempt operations shall register with the board as a custom exempt operator under this subsection and shall obtain a permit for exemption from the board to conduct those operations. In its discretion, the board may refuse, withdraw, or modify any permit for exemption under this subsection if it determines that the action is necessary to effectuate the purposes of this chapter.

(f) The adulteration and misbranding provisions of this chapter, other than the requirement of the inspection legend, shall apply to poultry or poultry products which are not required to be inspected under this section. [L 1969, c 212, §21; gen ch 1985; am L 1993, c 92, §6]

" **[\$161-30] Storing, handling, and transporting.** The board may by regulations prescribe conditions under which poultry or poultry products, 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 poultry or poultry products, whenever the board deems such action necessary to assure that the poultry or poultry products will not be adulterated or misbranded when delivered to the consumer. Violation of any such regulation is prohibited. [L 1969, c 212, §22]

**"PART V. POULTRY PROCESSORS AND RELATED INDUSTRIES**

**§161-36 Records; subject to examination.** (a) For the enforcement of this chapter, the following classes of persons shall keep records, as the board by rule may require, that will fully and correctly disclose all transactions; and all persons subject to these requirements shall, at all reasonable times, upon notice by an authorized representative of the board, afford that representative or any authorized representative of the United States Secretary of Agriculture access to their places of business and opportunity to examine the facilities, inventory, and records thereof, to copy all those records, and to take reasonable samples of their inventory upon payment of the fair market value therefor:

- (1) Any person that is engaged, in or for intrastate commerce, in the business of slaughtering any poultry or processing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any poultry capable of use as human or animal food, including any person operating under the exemptions in section 161-29(a)(2) or (3);
- (2) Any person that is engaged in the business of buying or selling, as poultry brokers, wholesalers, or otherwise, or transporting in intrastate commerce, or storing in or for intrastate commerce, any carcasses, or parts or products of carcasses, of any poultry;
- (3) Any person that is engaged in business, in or for intrastate commerce, as renderers, or engaged in the business of buying, selling, or transporting, in intrastate commerce, any dead, dying, disabled, or diseased poultry, or parts of the carcasses of any such poultry that died otherwise than by slaughter.

(b) Any record required to be maintained by this section shall be maintained for the period specified by rule. [L 1969, c 212, §23; am L 1993, c 92, §7]

" **§161-37 Articles not intended for human food.** Inspection shall not be made under this chapter at any establishment for the slaughter of poultry or the processing of any carcasses or parts or products of poultry, which are not intended for use as

human food, provided that the poultry or poultry products shall, prior to their offer for sale or transportation in intrastate commerce, unless naturally inedible by humans, be denatured or otherwise identified as specified by rule 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, poultry, or poultry products of any poultry 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 212, §24; am L 1993, c 92, §8]

" **§161-38 Dead, dying, disabled, or diseased poultry.** No person engaged in the business of buying, selling, or transporting in intrastate commerce dead, dying, disabled, or diseased poultry, or any parts or carcasses of any poultry that died otherwise than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for transportation in intrastate commerce any dead, dying, disabled, or diseased poultry or parts or carcasses of any poultry that died otherwise than by slaughter, unless the transaction or transportation is made in accordance with rules that the board may adopt to assure that the poultry, or the unwholesome parts or products thereof, will be prevented from being used for human food purposes. [L 1969, c 212, §25; am L 1993, c 92, §9]

" **[§161-39] Registration.** No person shall engage in business in or for intrastate commerce, as a poultry broker, renderer, or animal food manufacturer, or as the wholesaler of any carcasses, or parts or products of the carcasses, of any poultry, whether intended for human food or other process, or engage in business as a public warehouse worker storing any such articles in or for intrastate commerce, or engage in the business of buying, selling, or transporting in intrastate commerce, any dead, dying, disabled, or diseased poultry or parts of the carcasses of any poultry 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 212, §26; gen ch 1985, 1993]

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

**§161-41 Inspection; compensation.** All poultry slaughtered by any slaughterhouse licensed under this part shall be inspected by inspectors authorized by the department, both

before and after slaughtering, and no poultry shall be slaughtered, or after slaughter, be sold, transported, offered for sale or transportation, or received for transportation, in intrastate commerce unless the slaughtering or the use after slaughtering in intrastate commerce is approved by an inspector.

The management of any processing establishment or slaughterhouse, or the owner of any poultry 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 any overtime inspection services the current state overtime rate for each hour of work performed by the inspector.

The department shall pay the inspector, or inspectors, 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 212, §27; am L 1993, c 92, §10]

" **[\$161-42] Refusal and withdrawal of inspection.** The board may, for such period, or indefinitely, as it deems necessary to effectuate the purposes of this chapter, 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 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 under any law, based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food. This section shall not affect in any way other provisions of this chapter for withdrawal of inspection services from establishments failing to maintain sanitary conditions or to destroy condemned carcasses, poultry or poultry 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 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 212, §28; gen ch 1985]

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

**[\$161-46] Interstate and federal compacts.** (a) The board is designated as the state agency which shall be responsible for cooperating with the United States Secretary of Agriculture under section 5 of the Federal Poultry Products Inspection Act and the board is directed to cooperate with the United States Secretary of Agriculture in developing and administering the poultry inspection program of this State under this chapter to assure that not later than July 18, 1970, its requirements will be at least equal to those imposed under the Federal Poultry Products Inspection Act, and in developing and administering the program of this State under this chapter in a manner that will effectuate the purposes of this chapter and the Federal Act.

(b) In such cooperative efforts, the board is authorized to accept from the United States Secretary of Agriculture advisory assistance in planning and otherwise developing the state program, technical and laboratory assistance and training, including necessary curricular and instructional materials and equipment, and financial and other aid for the administration of such program.

(c) The board is also authorized to recommend to the United States Secretary of Agriculture such officials or employees of this State as the board may designate, for appointment to the advisory committees provided for in section 5 of the Federal Poultry Products Inspection Act; and the board shall serve as the representative of the governor for consultation with the United States Secretary of Agriculture unless the governor selects another representative. [L 1969, c 212, §29]

**" §161-47 Penalties; prosecution.** (a) Whenever any carcass, part of a carcass, poultry, or poultry product or any product exempted from the definition of a poultry product 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 poultry or poultry 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 or of the Poultry Products Inspection Act or chapter 328, or that the poultry or poultry product has been or is intended to be



distributed in violation of any of those laws, 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 poultry or poultry product, and shall not be moved by any person from the place at which it is located when detained until released by the representative. All official marks may be required by the representative to be removed from the poultry or poultry product before it is released unless it appears to the satisfaction of the board that the poultry or poultry product is eligible to retain the marks.

(b) Any carcass, part of a carcass, poultry, or poultry product, or any dead, dying, disabled, or diseased poultry that is being transported in intrastate 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 poultry or poultry product is found. If the poultry or poultry product 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 poultry or poultry product shall not be sold contrary to this chapter or the Poultry Products 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 poultry or poultry product 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 poultry or poultry product be delivered to the owner thereof subject to supervision by authorized representatives of the board as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the poultry or poultry product 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 poultry or poultry product.

(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 official duties under this chapter shall be guilty of a class C felony.

(e) Any person who violates any provision of this chapter for which no other criminal penalty is provided by this chapter shall be guilty of a misdemeanor; but if the violation involves intent to defraud or any distribution or attempted distribution of poultry or poultry product that is adulterated, the person shall be guilty of a class C felony; provided that no person shall be subject to penalties under this section for receiving for transportation any poultry or poultry product 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 poultry or poultry product was received and copies of all documents, if there are any, pertaining to the delivery of the poultry or poultry product.

(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 for 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 the persons responsible;
- (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 212, §30; gen ch 1985; am L 1986, c 207, §3; am L 1993, c 92, §§11, 12]

" **§161-48 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, poultry, and poultry products regulated under the Poultry Products Inspection Act only to the extent provided for in section 23 of the Act.

The operation and effect of and provision 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 stated in section 161-2.

If any of the provisions of this chapter are in conflict with any statute, rule, or ordinance, this chapter shall take precedence. [L 1969, c 212, §31; am L 1993, c 92, §13]

" **[§161-49] 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 poultry or poultry 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 poultry inspection laws, to issue a citation for any violation of this chapter and related rules. [L 1986, c 207, pt of §1]

" **[\$161-50] Citation and summons.** (a) There shall be a printed 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 content 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 207, pt of §1]

" **[\$161-51] 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 207, pt of §1]

" **[\$161-52] 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 poultry 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 207, pt of §1]