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## State Meat Inspection Laws:

*Virginia*



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**State Meat Inspection Laws: Virginia**

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*Current through the End of 2019 Reg. Session and include 2020 Regular Session cc. 1, 64, 198, 201, 202, 247, 249, 255, 278, 356 & 478.*

**§ 3.2-100. Definitions**

As used in this title, unless the context requires a different meaning:

“Board” means the Board of Agriculture and Consumer Services.

“Commissioner” means the Commissioner of Agriculture and Consumer Services.

“Department” means the Department of Agriculture and Consumer Services.

**§ 3.2-5400. Definitions**

As used in this chapter, unless the context requires a different meaning:

“Animal food manufacturer” means any person engaged in the business of preparing animal (including poultry) food derived wholly or in part from livestock or poultry carcasses or parts or products of such carcasses.

“Broker” means any person engaged in the business of buying or selling livestock products or poultry products on commission, or otherwise negotiating purchases or sales of such articles other than for his own account or as an employee of another person.

“Capable of use as human food” shall apply to any livestock or poultry carcass, or part or product of any such carcass, 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.

“Container” or “package” means any box, can, tin, cloth, plastic, or other receptacle, wrapper, or cover.

“Federal Food, Drug, and Cosmetic Act” means the act so entitled, approved June 25, 1938 (52 Stat. 1040), and acts amendatory thereof or supplementary thereto.

“Federal Meat Inspection Act” means the act so entitled approved March 4, 1907 (34 Stat. 1260), as amended by the Wholesale Meat Act (81 Stat. 584); the term “Federal Poultry Products Inspection Act” means the act so entitled approved August 28, 1957 (71 Stat. 441), as amended by the Wholesale Poultry Products Act (82 Stat. 791); and the term “federal acts” means these two federal laws.

“Immediate container” means any consumer package; or any other container in which livestock products or poultry products, not consumer packaged, are packed.

“Inspector” means an employee or official of the Commonwealth authorized by the Commissioner or any employee or official of the government of any locality authorized by the Commissioner to perform any inspection functions under this article under an agreement between the Commissioner and such governmental subdivision.

“Label” means a display of written, printed, or graphic matter upon any article or the immediate container (not including package liners) of any article.

“Labeling” means all labels and other written, printed, or graphic matter: (i) upon any article or any of its containers or wrappers; or (ii) accompanying such article.

“Livestock” means any cattle, sheep, swine, goats, horses, mules, or other equines, whether live or dead.

“Livestock product” means any carcass, part thereof, meat, or meat food product of any livestock.

“Meat food product” means any product capable of use as human food that is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, or goats. Products that contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry, and that are exempted from definition as a meat food product by the Commissioner under such conditions as he may prescribe to assure that the meat or other portions of such carcass contained in such product are not adulterated and that such products are not represented as meat food products. This term as applied to food products of equines shall have a comparable meaning.

“Official certificate” means any certificate prescribed by regulations of the Board for issuance by an inspector or other person performing official functions under this article.

“Official device” means any device prescribed or authorized by the Commissioner for use in applying any official mark.

“Official establishment” means any establishment as determined by the Commissioner at which inspection of the slaughter of livestock or poultry or the preparation of livestock products or poultry products is maintained under the authority of this article.

“Official inspection legend” means any symbol prescribed by regulations of the Board showing that an article was inspected and passed in accordance with this article.

“Official mark” means the official inspection legend or any other symbol prescribed by regulations of the Board to identify the status of any article or livestock or poultry under this article.

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

“Poultry” means any domesticated bird, whether live or dead.

“Poultry product” means any poultry carcass or part thereof; or any product that is made wholly or in part from any poultry carcass or part thereof, excepting products that 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 that are exempted by the Commissioner from definition as a poultry product under such conditions as he may prescribe to assure that the poultry ingredients in such products are not adulterated and that such products are not represented as poultry products.

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

“Render” means any person engaged in the business of rendering livestock or poultry carcasses, or parts of products of such carcasses, except rendering conducted under inspection or exemption under this article.

“Shipping container” means any container used or intended for use in packaging the product packed in an immediate container.

### **§ 3.2-5401. Adulterated livestock product or poultry product**

Any livestock product or poultry product shall be deemed to be adulterated:

1. If it bears or contains any poisonous or deleterious substance that may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;
2. If it bears or contains (by reason of administration of any substance to the livestock or poultry or otherwise) any added poisonous or added deleterious substance (other than one that is: (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) that may, in the judgment of the Commissioner, make such article unfit for human food;

3. If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical that is unsafe within the meaning of § 408 of the Federal Food, Drug, and Cosmetic Act;
4. If it bears or contains any food additive that is unsafe within the meaning of § 409 of the Federal Food, Drug, and Cosmetic Act;
5. If it bears or contains any color additive that is unsafe within the meaning of § 706 of the Federal Food, Drug, and Cosmetic Act; provided, that an article that is not otherwise deemed adulterated under subsection C or D of this section shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations of the Board in official establishments;
6. 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;
7. 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;
8. If it is, in whole or in part, the product of an animal (including poultry) that has died otherwise than by slaughter;
9. If its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health;
10. If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to § 409 of the Federal Food, Drug, and Cosmetic Act;
11. 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; or
12. 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.

### **§ 3.2-5402. Misbranded livestock product or poultry product**

Any livestock product or poultry product shall be deemed to be misbranded:

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 so made, formed, or filled as to be misleading;

5. Unless it bears a label showing: (i) the name and place of business of the manufacturer, packer, or distributor; and (ii) an accurate statement of the quantity of the product in terms of weight, measure, or numerical count; provided, that under this subsection, exemptions as to livestock products not in containers may be established by regulations prescribed by the Board; and provided, further, that under clause (ii) of this subsection, reasonable variations may be permitted, and exemptions as to small packages may be established for livestock products or poultry products by regulations 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 such conspicuousness (as compared with other words, statements, designs, or devices, in labeling) and in such 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 regulations of the Board under § 3.2-5404 unless: (i) it conforms to such definition and standard; and (ii) its label bears the name of the food specified in the definition and standard and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food;
8. If it purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations of the Board under § 3.2-5404 and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;
9. If it is not subject to the provisions of subdivision 7, unless its label bears: (i) the common or usual name of the food, if any there be; and (ii) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the Commissioner, be designated as spices, flavorings, and colorings without naming each; provided that, to the extent that compliance with the requirements of clause (ii) of this subsection is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Board;
10. If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Commissioner, after consultation with the U.S. Department of Agriculture, determines to be, and prescribes as, necessary in order fully to inform purchasers as to its value for such 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 the requirements of this subsection is impracticable, exemptions shall be established by regulations adopted by the Board; or
12. If it fails to bear, directly thereon and on its containers, as the Board may by regulations prescribe, the official inspection legend and establishment number of the establishment where the product was prepared and, unrestricted by any of the foregoing, such other information as the Board may require in such regulations 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 article in a wholesome condition.

### **§ 3.2-5403. Department to cooperate with U.S. Department of Agriculture**

The Department shall cooperate with the U.S. Department of Agriculture in administration of this chapter to provide for meat and poultry products inspection programs. These programs will impose and enforce requirements with respect to intrastate operations and commerce that are at least equal to those imposed and enforced under the Federal Meat Inspection Act and the Federal Poultry Products Inspection Act with respect to operations and transactions in interstate commerce; and the Commissioner is directed to administer this chapter so as to accomplish this purpose.

### **§ 3.2-5404. Duties of the Board**

In order to accomplish the objective stated in § 3.2-5403, the Board:

1. Shall, by regulations, require antemortem and postmortem inspections, quarantine, segregation and reinspections with respect to the slaughter of livestock and poultry and the preparation of livestock products and poultry products at all establishments in the Commonwealth, except those exempted by the Commissioner pursuant to subdivision 9 of § 3.2-5405, at which livestock or poultry are slaughtered or livestock products or poultry products are prepared for human food solely for distribution in intrastate commerce;
2. Shall, by regulations, require the identification of livestock and poultry for inspection purposes and the marking and labeling of livestock products or poultry products or their containers, or both, as "Virginia Inspected and Passed" if the products are found upon inspection to be not adulterated and as "Virginia Inspected and Condemned" if they are found upon inspection to be adulterated, and the destruction for food purposes of all such condemned products under the supervision of an inspector;
3. Shall prohibit the entry into official establishments of livestock products and poultry products not prepared under federal inspection or inspection pursuant to this article and further limit the entry of such articles and other materials into such establishments under such conditions as it deems necessary to effectuate the purposes of this article;
4. Shall, by regulations, require that when livestock products and poultry products leave official establishments they shall bear directly thereon or on their containers, or both, as it may require, all information required under § 3.2-5402; and require approval of all labeling and containers to be used for such products when sold or transported in intrastate commerce to assure that they comply with the requirements of this article;
5. Shall require the investigation of the sanitary conditions of each establishment within subdivision 1 of this section and require the Commissioner to withdraw or otherwise refuse to provide inspection service at any such establishment where the sanitary conditions are such as to render adulterated any livestock products or poultry products prepared or handled thereat;
6. Shall prescribe regulations relating to sanitation for all establishments required to have inspection under subdivision 1 of this section;
7. Shall, by regulations, require that the following classes of persons shall keep such records and for such periods as are specified in the regulations to fully and correctly disclose all transactions involved in their business, and afford to the Commissioner access to such places of business, an opportunity, at all reasonable times, to examine the facilities, inventory and records thereof, to copy the records, and to

take reasonable samples of the inventory upon payment of the fair market value therefor: any persons that engage in or for intrastate commerce: (i) in the business of slaughtering any livestock or poultry, or preparing, freezing, packaging or labeling, buying or selling (as brokers, wholesalers or otherwise), transporting, or storing any livestock products or poultry products for human or animal food; or (ii) in business as renderers or in the business of buying, selling or transporting any dead, dying, disabled or diseased livestock or poultry, or parts of the carcasses of any such animals (including poultry) that died otherwise than by slaughter;

8. Shall, by regulations, prescribe the size and style of type to be used for labeling information required under this article, and definitions and standards of identity or composition or standards of fill of container, consistent with federal standards, when it deems such action appropriate for the protection of the public;

9. Shall, by regulations, prescribe conditions of storage and handling of livestock products and poultry products by persons engaged in the business of buying, selling, freezing, storing, or transporting such articles in or for intrastate commerce to assure that such articles will not be adulterated or misbranded when delivered to the consumer;

10. Shall, by regulations, require that every person engaged in business in or for intrastate commerce as a broker, renderer, animal food manufacturer, or wholesaler or public warehouseman of livestock products or poultry products, or engaged in the business of buying, selling or transporting in intrastate commerce, any dead, dying, disabled or diseased livestock or poultry or parts of the carcasses of any such animals (including poultry) that died otherwise than by slaughter shall register with the Commissioner his name and the address of each place of business at which and all trade names under which he conducts such business;

11. May adopt by reference or otherwise such provisions of the rules and regulations under the federal acts (with such changes therein as it deems appropriate to make them applicable to operations and transactions subject to this article) that shall have the same force and effect as if promulgated under this article, and promulgate such other rules and regulations it deems necessary for the efficient execution of the provisions of this article; and

12. Shall promulgate rules of practice providing opportunity for hearing in connection with issuance of orders under subdivision 5 of this section or subdivision A 1, A 2, or A 3 of § 3.2-5405 pending issuance of a final order in any such proceeding.

### **§ 3.2-5405. Powers of Commissioner**

A. The Commissioner may:

1. Order removal of inspectors from any establishment that fails to destroy condemned products as required under subdivision 2 of § 3.2-5404;

2. Order cessation of inspection service under this chapter with respect to any establishment for causes specified in § 401 of the Federal Meat Inspection Act or § 18 of the Federal Poultry Products Inspection Act;

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



4. Require that equines be slaughtered and prepared in establishments separate from establishments where other livestock are slaughtered or their products are prepared;
  5. Appoint and prescribe the duties of such inspectors and other personnel as he deems necessary for the efficient execution of the provisions of this chapter;
  6. Cooperate with the U.S. Department of Agriculture in administration of this chapter to effectuate the purposes stated in § 3.2-5403; accept federal assistance for that purpose and spend public funds of the Commonwealth appropriated for administration of this chapter to pay 50 percent of the estimated total cost of the cooperative program;
  7. Recommend to the U.S. Department of Agriculture for appointment to the advisory committees provided for in the federal acts, such officials or employees of the Department as the Commissioner shall designate;
  8. Serve as the representative of the Governor for consultation with said Secretary under paragraph (c) of § 301 of the Federal Meat Inspection Act and paragraph (c) of § 5 of the Federal Poultry Products Inspection Act unless the Governor selects another representative; and
  9. Exempt the operations of any person from inspection or other requirements of this article if and to the extent such operations would be exempt from the corresponding requirements under the Federal Meat Inspection Act or the Federal Poultry Products Inspection Act if they were conducted in or for interstate commerce or if the Commonwealth was designated under the federal acts as one in which the federal requirements apply to intrastate commerce.
- B. Any order issued under subdivisions 1, 2, or 3 of subsection A shall be final unless appealed in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

### **§ 3.2-5406. Meat inspection regulations**

A. The Commissioner may adopt: (i) by reference any regulation under the federal acts as it pertains to this chapter, amending it as necessary for intrastate applicability; and (ii) any regulation containing provisions no less stringent than those contained in federal regulation. Such regulation adopted by the Commissioner shall be effective upon filing with the Registrar of Regulations, who shall publish the regulation as a final regulation in the Virginia Register of Regulations.

The regulation shall contain a preamble stating that the Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision of such regulation.

B. The Board, after giving notice in the Virginia Register of Regulations, may reconsider and revise the regulation adopted by the Commissioner. Such revised regulation shall be effective upon filing with the Registrar of Regulations, who shall publish the regulation as a final regulation in the Virginia Register of Regulations. Neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption, reconsideration, or revision of any regulation adopted pursuant to this section.

### **§ 3.2-5407. Prohibitions in general**

A. No person shall, with respect to any livestock or poultry or any livestock products or poultry products:

1. Slaughter any such animals or prepare any such articles that are capable of use as human food, at any establishment preparing such articles 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, any such articles that: (i) are capable of use as human food, and (ii) are adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation; or any articles required to be inspected under this chapter unless they have been so inspected and passed; or
3. Perform any act, with respect to any articles that are capable of use as human food, while they are being transported in intrastate commerce or held for sale after such transportation, that is intended to cause or has the effect of causing such articles to be adulterated or misbranded.

B. No person shall sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, or from an official establishment, any slaughtered poultry from which the blood, feathers, feet, head, or viscera have not been removed in accordance with regulations promulgated by the Board.

C. No person shall violate any provision of the regulations of the Board under subdivisions 7, 8, 9, or 10 of § 3.2-5404 or orders of the Commissioner under subdivisions A 3 and A 4 of § 3.2-5405.

### **§ 3.2-5408. Prohibitions against unauthorized use of any official marks**

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 Commissioner.

B. No person shall:

1. Forge any official device, mark, or certificate;
2. Without authorization from the Commissioner, 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 Commissioner any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label or any carcass of any animal (including poultry), 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; or

6. Knowingly represent that any article has been inspected and passed, or exempted, under this article when, in fact, it has, respectively, not been so inspected and passed, or exempted.

**§ 3.2-5409. Prohibition against intrastate distribution of equine, livestock and poultry products**

A. 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 food products thereof, unless they are plainly and conspicuously marked or labeled or otherwise identified as required by regulations prescribed by the Board to show the kinds of animals from which they were derived.

B. No person shall buy, sell, transport, or offer for sale or transportation, or receive for transportation, in intrastate commerce, any livestock products or poultry products that are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Board or are naturally inedible by humans.

C. 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 such commerce, any dead, dying, disabled, or diseased livestock or poultry or the products of any such animals that died otherwise than by slaughter, unless such transaction or transportation, is made in accordance with such regulations as the Board may prescribe to assure that such animals, or the unwholesome parts or products thereof, will be prevented from being used for human food purposes.

**§ 3.2-5410. Prohibitions of bribery or gifts to state employees; assaults or interference with such employees**

A. Any person that shall give, pay, or offer, directly or indirectly, to any officer or employee of the Commonwealth authorized to perform any of the duties prescribed by this chapter or by the regulations of the Board, any money or other thing of value, with intent to influence said officer or employee in the discharge of any such duty, is guilty of a Class 6 felony. Any officer or employee of the Commonwealth authorized to perform any of the duties prescribed by this article who shall accept any money, gift, or other thing of value from any person, given with intent to influence his official action, or who shall receive or accept from any person engaged in intrastate commerce any gift, money, or other thing of value given with any purpose or intent whatsoever, is guilty of a Class 6 felony and shall, upon conviction, be summarily discharged from office.

B. Any person that forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person engaged in or on account of the performance of his official duties under this chapter with the intent to hinder, delay, or prevent the performance of such duties is guilty of a Class 6 felony.

**§ 3.2-5411. Limitation of inspection to plants preparing products for human food**

Inspection shall not be provided under this chapter at any establishment for the slaughter of livestock or poultry or the preparation of any livestock products or poultry products that are not intended for use as human food, but such articles shall, prior to their offer for sale or transportation in intrastate commerce,

unless naturally inedible by humans, be denatured or otherwise identified as prescribed by regulations of the Board to deter their use for human food.

**§ 3.2-5412. Inspection of products placed in container; right of access to plants at any time**

A. No inspection of products placed in any container at any official establishment shall be deemed to be complete until the products are sealed or enclosed therein under the supervision of an inspector.

B. For purpose of any inspection of products required by this chapter, inspectors authorized by the Commissioner shall have access at all times, by day or night, to every part of every establishment required to have inspection under this chapter, whether the establishment is operated or not.

**§ 3.2-5413. Administrative detention of violative animals and products**

Whenever any livestock product or poultry product exempted from the definition of a livestock product and from the definition of a poultry product, or any dead, dying, disabled, or diseased livestock or poultry, is found by the Commissioner upon any premises where it is held for purposes of, or during or after distribution in, intrastate commerce or is otherwise subject to this chapter, and there is reason to believe that any such article is adulterated or misbranded and is capable of use as human food, or that it has not been inspected, in violation of the provisions of this chapter or of the Federal Meat Inspection Act or the Federal Poultry Products Inspection Act or the Federal Food, Drug, and Cosmetic Act, or that such article or animal has been or is intended to be distributed in violation of any such provisions, it may be detained for a period not to exceed 20 days, pending action under § 3.2-5414 or notification of any federal authorities having jurisdiction over such article or animal, and shall not be moved by any person from the place where it is located when so detained, until released. All official marks may be required to be removed from such article or animal before it is released unless it appears to the satisfaction of the Commissioner that the article or animal is eligible to retain such marks.

**§ 3.2-5414. Seizure and condemnation provisions**

A. Any livestock product or poultry product or any dead, dying, disabled, or diseased livestock or poultry that is being transported in intrastate commerce, or is otherwise subject to this chapter, or is held for sale in the Commonwealth after such transportation, and that: (i) is or has been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of this chapter; (ii) is capable of use as human food and is adulterated or misbranded; or (iii) in any other way is in violation of this chapter, shall be liable to be proceeded against and seized and condemned.

At any time prior to the expiration of the 20-day detention period provided by § 3.2-5413, the Commissioner shall notify the attorney for the Commonwealth for the city or county where such detention was made in writing of said detention. Upon receiving such written notification, the attorney for the Commonwealth shall forthwith file in the name of the Commonwealth an information against the detained property in the clerk's office of the circuit court of the county or city where detention was made. Upon the filing of such information, the clerk of court shall forthwith issue a warrant directing the sheriff to seize the detained property and see to its transportation to a suitable place of storage that, if necessary, may be outside of the county or city served by the sheriff. Should the attorney for the Commonwealth, for any reason, fail to file such information within five days after receipt of written notice of detention of articles or animals, the same may, at any time within 30 days thereafter be filed

by the Attorney General and the proceedings thereon shall be the same as if filed by the attorney for the Commonwealth.

Such information shall allege the seizure, and set forth in general terms the grounds of forfeiture of the seized property, and shall petition that the same be condemned and sold and the proceeds disposed of according to law, and that all persons concerned or interested be cited to appear and show cause why such property should not be condemned and sold to enforce the forfeiture. After the filing of the information, the attorney for the Commonwealth shall apply to the judge of the court wherein the information was filed for a hearing on the matters contained in the information. The judge of the court shall move the matter to the head of the docket and such hearing shall be had as soon as practical to do so.

The owner of and all persons in any manner then indebted or liable for the purchase price of the article or animal, and any person having a lien thereon, if they be known to the attorney who files the information, shall be made parties defendant thereto, and shall be served with the notice hereinafter provided for, in the manner provided by law for serving a notice, at least ten days before the day therein specified for the hearing on the information, if they be residents of the Commonwealth; and if they be unknown or nonresidents, or cannot with reasonable diligence be found in the Commonwealth, they shall be deemed sufficiently served by publication of the notice once a week for two successive weeks in some newspaper published in such county or city, or if none be published therein, then in some newspaper having general circulation therein, and a notice shall be sent by registered mail of such seizure to the last known address of the owner of such article or animal. If any such person be served by publication, then no hearing shall be had prior to the expiration of 10 days from the date of the record publication of the notice.

Any person claiming to be the owner of such seized article or animal, or to hold a lien thereon, may appear at any time before final judgment of the trial court, and be made a party defendant to the information so filed, which appearance shall be in person or by answer, under oath, in which shall be clearly set forth the nature of such defendant's claim, whether as owner or as lienor, and if as owner, the right or title by which he claims to be such owner, and if lienor, the amount and character of his lien, and the evidence thereof; and in either case, such defendant shall set forth fully any reason or cause that he may have to show against the forfeiture of the article or animal.

If such article 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 treasury of the Commonwealth, but the article or animal shall not be sold contrary to the provisions of this chapter, or the Federal Meat Inspection Act or the Federal Poultry Products Inspection Act, or the Federal Food, Drug, and Cosmetic Act; provided, that upon the execution and delivery of a good and sufficient bond conditioned that the article or animal shall not be sold or otherwise disposed of contrary to the provisions of this chapter, or the laws of the United States, the court may direct that such article or animal be delivered to a claimant thereof, who may have appeared in the proceedings, subject to such supervision by the Commissioner as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the article or animal and it is released under bond, or destroyed, court costs and fees, and storage and other proper expenses may as the court deems just, be awarded against the person, if any, intervening as claimant of the article or animal.

If a claimant shall deny for any reason that the article or animal to be condemned is subject to condemnation as provided by this section, and shall demand a trial by jury of the issue thus made, the court shall, under proper instructions, submit the same to a jury of five, to be selected and empanelled

as prescribed by law, and if such jury shall find on the issue in favor of such claimant, or if the court, trying such issue without a jury, shall so find, the judgment of the court shall be to entirely relieve the property from forfeiture, and no costs shall be taxed against such claimant.

B. The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this chapter, or other laws.

### **§ 3.2-5415. General criminal penalties; warning letter**

A. Any person that violates any provisions of this chapter for which no other criminal penalty is provided is guilty of a Class 1 misdemeanor. If such violation involves intent to defraud, or any distribution or attempted distribution of an article that is adulterated (except as defined in subdivision 11 of § 3.2-5401) knowing the article to be adulterated, such person is guilty of a Class 6 felony.

B. Nothing in this chapter shall be construed as requiring the Commissioner to report for prosecution or for the institution of condemnation or injunction proceedings, minor violations of this chapter whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

### **§ 3.2-5416. Authority of Commissioner**

The Commissioner shall have power:

1. To gather and compile information concerning and, to investigate the organization, business, conduct, practices, and management of any person engaged in intrastate commerce, and the relation thereof to other persons; and
2. To require, by general or special orders, persons engaged in intrastate commerce, or any class of them, or any of them, to file with the Commissioner in such form as the Commissioner may prescribe, annual or special, or both annual and special, reports or answers in writing to specific questions furnishing the Commissioner such information as he may require as to the organization, business, conduct, practices, management, and relation to other persons, of the person filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the Commissioner may prescribe, and shall be filed with the Commissioner within such reasonable period as the Commissioner may prescribe, unless additional time be granted in any case by the Commissioner.
  - a. For the purpose of this chapter the Commissioner shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person being investigated or proceeded against, and may require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence of any person relating to any matter under investigation. The Commissioner may sign subpoenas and may administer oaths and affirmations, examine witnesses, and receive evidence.
  - b. Such attendance of witnesses, and the production of such documentary evidence, may be required at any designated place of hearing. In case of disobedience to a subpoena, the Commissioner may invoke the aid of an appropriate circuit court to require the attendance and testimony of witnesses and the production of documentary evidence.

c. Any circuit court within the jurisdiction where such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear before the Commissioner or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

d. The Commissioner may order testimony to be taken by deposition in any proceeding or investigation pending under this chapter at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commissioner and having the power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence before the Commissioner as hereinbefore provided.

e. Witnesses summoned before the Commissioner shall be paid the same fees and mileage that are paid witnesses in the courts of the Commonwealth, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for the like services in such courts.

f. No person shall be excused from attending and testifying or from producing books, papers, schedules of charges, contracts, agreements, or other documentary evidence before the Commissioner or in obedience to the subpoena of the Commissioner, whether such subpoena be signed or issued by him or his delegate, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of this chapter, or of any amendments thereto, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him or it may tend to incriminate him or it or subject him or it to a penalty or forfeiture; but no individual shall be prosecuted or subjected to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

g. Any person that shall refuse to attend and testify or to answer any lawful inquiry, or to produce documentary evidence, if in his or its power to do so, in obedience to the subpoena of the Commissioner is guilty of a Class 1 misdemeanor.

h. Any person that shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this chapter, or that shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any person subject to this chapter or that shall willfully neglect or fail to make or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions appertaining to the business of such person or that shall willfully remove out of the jurisdiction of the Commonwealth, or willfully mutilate, alter or by any other means falsify any documentary evidence of any person subject to this chapter or that shall willfully refuse to submit to the Commissioner, for the purpose of inspection and taking copies, any documentary evidence of any person subject to this chapter in his possession or within his control, is guilty of a Class 6 felony.

i. If any person required by this chapter to file any annual or special report shall fail so to do within the time fixed by the Commissioner for filing the same, and such failure shall continue for 30 days after notice of such default, such person shall forfeit to the Commonwealth the sum of \$100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the treasury of the Commonwealth, and shall be recoverable in a civil suit in the name of the Commonwealth brought in

the city or county where the person has his principal office or in any city or county where he shall do business. It shall be the duty of the Attorney General to prosecute for the recovery of such forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the Department.

j. Any officer or employee of the Commonwealth who shall make public any information obtained by the Commissioner, without his authority, unless directed by a court, is guilty of a Class 1 misdemeanor.

### **§ 3.2-5417. Power of injunction**

The Commissioner is authorized to apply to any appropriate court for an injunction and such court may grant a temporary or permanent injunction restraining a person from violating or continuing the violation of any provision of this chapter, when the court determines that the testimony and evidence presented warrants such action, without reference to adequacy of any remedy existing at law.

### **§ 3.2-5418. Limitation on applicability of chapter to matters regulated under federal acts**

The requirements of this chapter shall apply to persons, establishments, animals, and articles regulated under the Federal Meat Inspection Act or the Federal Poultry Products Inspection Act only to the extent provided for in said federal acts.

### **§ 3.2-5419. Smithfield hams defined**

Genuine Smithfield hams are hereby defined to be hams processed, treated, smoked, aged, cured by the long-cure, dry salt method of cure and aged for a minimum period of six months; such six-month period to commence when the green pork cut is first introduced to dry salt, all such salting, processing, treating, smoking, curing, and aging to be done within the corporate limits of the town of Smithfield, Virginia.

### **§ 3.2-5420. Only genuine Smithfield hams to be labeled or advertised as such**

No person shall knowingly, label, stamp, pack, advertise, sell, or offer for sale any ham, either wrapped or unwrapped, in a container or loose, as a genuine Smithfield ham unless such ham be a genuine Smithfield ham as defined in § 3.2-5419.

### **§ 3.2-5421. Penalty for violation**

Any person violating any of the provisions of this article is guilty of a Class 4 misdemeanor.