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State Meat Inspection Laws: *Vermont*



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State Meat Inspection Laws: Vermont

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Current through April of 2020

§ 3131. Definitions

As used in this chapter:

- (1) “Secretary” means the Secretary of Agriculture, Food and Markets.
- (2) “Slaughterer” means any person regularly engaged in the commercial slaughtering of livestock.
- (3) “Livestock” means cattle, calves, sheep, swine, horses, mules, goats, fallow deer, American bison, and any other animal which can or may be used in and for the preparation of meat or meat products.
- (4) “Packer” means any person engaged in the business of slaughtering, manufacturing, or preparing meat or meat products for sale.
- (5) “Stockyard” means any place, establishment, or facility conducted or operated for compensation or profit as a public market, consisting of pens, or other enclosures, and their appurtenances, for the handling, keeping, and holding of livestock for sale or shipment.

(6) "Humane method" means either:

(A) A method whereby the animal is rendered insensible to pain by mechanical, electrical, chemical, or other means that is rapid and effective before being shackled, hoisted, thrown, cast, or cut.

(B) A method in accordance with ritual requirements of the Jewish faith or any other religious faith whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

§ 3132. Prohibition

No slaughterer, packer, or stockyard operator may bleed or slaughter livestock except by a humane method. The use of a manually operated hammer, sledge, poleax, or similar instrument is not a humane method within the meaning of this chapter.

§ 3133. Administration; rules and regulations

The Secretary shall administer this chapter, and shall adopt and from time to time revise rules and regulations to affect its purpose. The rules and regulations shall conform substantially with those promulgated by the Secretary of Agriculture of the United States under the Federal Humane Slaughter Act of 1958, 1 Public Law 85-765, 72 Statute 862, as from time to time amended, but may be modified to meet local conditions.

§ 3134. Penalty

A person who violates section 3132 of this title shall be guilty of a misdemeanor and shall be fined upon conviction not more than \$1,000.00 for the first violation, not more than \$5,000.00 for the second violation, and not more than \$10,000.00 per violation for the third and any subsequent violations, or imprisoned not more than two years, or both. In addition to the penalties provided in this subsection, the Secretary may seek an injunction against a slaughterer, packer, or stockyard operator who engages in practices which are prohibited by section 3132 of this title, by application to the Superior Court for the county in which such slaughterer, packer, or stockyard operator resides, or where such violations occur. The Secretary may refer a violation of section 3132 of this title to the attorney general or the State's Attorney for criminal prosecution. The Secretary may also take any action authorized under chapter 1 of this title.

§ 3301. Legislative findings

Meat, meat food products, poultry, and poultry products are an important source of the State's total supply of food. They are consumed throughout the State. It is essential to the public interest that the health and welfare of consumers be protected by assuring that these

commodities are wholesome, unadulterated, and properly marked, labeled, and packaged. Unwholesome, adulterated, or misbranded meat, meat food products, and poultry products impair the effective regulation of intrastate commerce, are injurious to the public welfare, destroy markets for wholesome, not adulterated and properly labeled and packaged meat, meat food product, and poultry product, as well as cause injury to consumers. The unwholesome, adulterated, mislabeled, or deceptively packaged articles can be sold at lower prices and compete unfairly with the wholesome, unadulterated, correctly labeled, or nondeceptively packaged articles, to the detriment of consumers and the public generally. It is hereby found that the regulation, enforcement, licensing, and other provisions contained within this chapter are necessary to protect the health and welfare of consumers.

§ 3302. Definitions

As used in this chapter, except as otherwise specified, the following terms shall have the meanings stated below:

(1) "Adulterated" shall apply to any livestock product or poultry product under one or more of the following circumstances:

(A) If it contains any poisonous or harmful substance which may render it injurious to health. The product shall not be considered adulterated under this definition if the quantity of the substance in or on the product does not ordinarily render it injurious to health.

(B) If it contains any added poisonous or harmful substance which may, in the judgment of the Secretary, make the product unfit for human food.

(C) If it is a raw agricultural commodity and the commodity contains a pesticide chemical which is unsafe within the meaning of 21 U.S.C. § 346a (tolerances for pesticide residues).

(D) If it contains any food additive which is unsafe within the meaning of 21 U.S.C. § 348 (unsafe food additives).

(E) If it contains any color additive which is unsafe within the meaning of 21 U.S.C. § 379e (listing of color additives). A product which is not otherwise deemed adulterated under subdivisions (C) and (D) of this subdivision (1) shall be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on the product is prohibited by rules of the Secretary in official or licensed establishments.

(F) If it consists of any filthy, putrid, or decomposed substance or is unsound, unhealthful, unwholesome, or otherwise unfit for human food.

(G) If it has been prepared, packed, or held under unsanitary conditions where it may have become contaminated with filth, or where it may have been rendered injurious to health.

(H) If it is the product of an animal, including poultry, which has died in a manner other than by slaughter.

(I) If its container is composed of any poisonous or harmful substance which may render the contents injurious to health.

(J) If it has been subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to 21 U.S.C. § 348.

(K) If any valuable constituent has been omitted or abstracted; or if any substance has been substituted, wholly or in part; or if damage or inferiority has been concealed in any manner; or if any substance has been added or mixed or packed 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.

(L) If it is margarine containing animal fat and any of the raw material used consisted of any filthy, putrid, or decomposed substance.

(2) "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 carcasses.

(3) "Broker" or "meat and poultry products broker" means any person engaged in the business of buying or selling livestock products or poultry products for other persons on commission, or otherwise negotiating purchases or sales of these products other than for his or her own account or as an employee of another person.

(4) "Capable of use as human food" shall apply to any livestock or poultry carcass, or part or product of any livestock or poultry carcass, unless it is denatured or otherwise identified as required by rules prescribed by the Secretary to deter its use as human food, or which is naturally inedible by humans.

(5) "Commercial processor" means any person who maintains an establishment under this chapter for the purpose of processing livestock, meat, meat food product, poultry, or poultry product other than for the exclusive use in the household of the owner of the commodity, by him or her and members of his or her household and his or her nonpaying guests and employees.

(6) "Commercial slaughterhouse" means any person engaged in the business of slaughtering livestock or poultry other than as a custom slaughterer or a person conducting slaughter under subsections 3312(b), (c), and (d) of this title.

(7) "Secretary" means the Secretary of Agriculture, Food and Markets or designee.

(8) "Container" or "package" means any box, can, tin, cloth, plastic, or other receptacle, wrapper, or cover.

(9) "Custom processor" means any person who maintains an establishment under this chapter for the purpose of processing livestock, meat, meat food product, poultry, or poultry product exclusively for use, in the household of the owner of the commodity, by him or her and members of his or her household, and his or her nonpaying guests and employees.

(10) "Custom slaughterhouse" means a person who maintains a slaughtering establishment under this chapter for the purposes of slaughtering livestock or poultry for another person's exclusive use by him or her and members of his or her household and his or her nonpaying guests and employees.

(11) "Federal Food, Drug, and Cosmetic Act" means the Act so entitled, approved June 25, 1938 (52 Stat. 1040), and amendatory or supplementary acts codified at 21 U.S.C. §§ 301-399f. It shall include as part of its meaning the Vermont Food, Drug, Cosmetic and Hazardous Substance Labeling Act codified at 18 V.S.A. chapter 82, subchapter 1, rules adopted under that chapter, and amendatory or supplementary acts, where not inconsistent with the Federal Food, Drug, and Cosmetic Act.

(12) "Federal Meat Inspection Act"¹ means the Act so entitled approved March 4, 1907 (34 Stat. 1260), as amended by the Wholesome Meat Act (81 Stat. 584); the term "Federal Poultry Products Inspection Act"² means the Act so entitled approved August 28, 1957 (71 Stat. 441), as amended by the Wholesome Poultry Products Act (82 Stat. 791); and the term "Federal Acts" mean these two federal laws.

(13) "Handler of dead, dying, disabled, or diseased animals" means any person who buys, sells, transports, or otherwise handles any animal which died other than by slaughter, or any animal which displays symptoms of having any of the following:

(A) central nervous system disorder;

(B) abnormal temperature, high or low;

(C) difficult breathing;

(D) abnormal swellings;

(E) lack of muscular coordination;

(F) inability to walk normally or stand; or

(G) any of the conditions for which livestock is required to be condemned on antemortem inspection in accordance with the requirements of this chapter and the rules adopted pursuant to this chapter.

(14) "Head of service" means the person designated by the Secretary to be in charge of the day-to-day operations of the Vermont Meat and Poultry Inspection and Licensing Program established by this chapter.

(15) "Immediate container" means any consumer package, or any other container in which livestock products or poultry products, not consumer packaged, are packed.

(16) "Inspector" means an employee or official of the State of Vermont authorized by the Secretary or any employee or official of the federal government or of any other governmental entity of this State, authorized by the Secretary to perform any inspection functions under this chapter under an agreement between the Secretary and the governmental entity.

(17) "Intrastate commerce" means any commerce within this State.

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

(19) "Labeling" means all labels and other written, printed, or graphic matter:

(A) upon any product or any of its containers or wrappers; or

(B) accompanying the product.

(20) "Licensed establishment" means any person required to hold a license under section 3306 of this title.

(21) "Livestock" means any cattle, sheep, swine, goats, domestic rabbits, horses, mules, or other equines, whether live or dead.

(22) "Livestock product" means any carcass, or part of a carcass, meat, or meat food product of any livestock.

(23) "Meat" means the part of the muscle of any cattle, sheep, swine, goats, horses, mules, or other equines which is skeletal or which is found in the tongue, in the diaphragm, in the heart, or in the esophagus, with or without the accompanying and overlying fat, and the portions of bone, skin, sinew, nerve, blood vessels that normally accompany the muscle tissue and that does not include the muscle found in the lips, snout, or ears.

(24) "Meat food product" and "meat product" mean any product capable of use as human food which is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, domestic rabbits, or goats, excepting products which are exempted from definition as a meat food product by the Secretary under conditions which he or she may prescribe to assure that the meat or other portions of carcass contained in products are unadulterated and that products are not represented as meat food products. This term as applied to food products of equines shall have a meaning comparable to that provided in this subdivision with respect to cattle, sheep, swine, domestic rabbits, and goats.

(25) "Misbranded" shall apply to any livestock product or poultry product under one or more of the following circumstances:

(A) if its labeling is false or misleading in any way;

(B) if it is offered for sale under the name of another food;

(C) 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;

(D) if its container is made, formed, or filled as to be misleading;

(E) 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 subdivision (E), exemptions as to livestock products not in containers may be established by rules prescribed by the Secretary and provided, further, that under subdivision (ii) of this subdivision (E), reasonable variations may be permitted, and exemptions as to small packages may be established for livestock products or poultry products by rule prescribed by the Secretary;

(F) 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 with such conspicuousness as compared with other words, statements, designs, or devices, in the labeling and in terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(G) if it is represented as a food for which a definition and standard of identity or composition has been prescribed by the rules of the Secretary under section 3305 of this title unless:

(i) it conforms to the 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 rules, the common names of optional ingredients other than spices, flavoring, and coloring present in the food;

(H) if it is represented as a food for which a standard or standards of fill of container have been prescribed by rules of the Secretary under section 3305 of this title and it falls below the standard of fill of container, unless its label bears, in such manner and form as the rules specify, a statement that it falls below the standard;

(I) if it is not subject to the provisions of subdivision (G) of this subdivision (25), unless its label bears:

(i) the common or usual name of the food, if any; and

(ii) in case it is fabricated from two or more ingredients, the common name of each ingredient, except that spices, flavorings, and colorings may, when authorized by the Secretary, be designated as spices, flavorings, and colorings without naming each; provided, that, to the extent that compliance with the requirements of subdivision (ii) of this subdivision (I) is impracticable, or results in deception or unfair competition, exemptions shall be established by rules adopted by the Secretary;

(J) if it is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Secretary determines to be, and by rules prescribe as, necessary in order to fully inform purchasers as to its value for these uses;

(K) if it contains any artificial flavoring, artificial coloring, or chemical preservative, unless it has a label stating that fact; provided, that to the extent that compliance with the requirements of this subdivision (K) is impracticable, exemptions shall be established by rules adopted by the Secretary;

(L) if it fails to have, directly on its containers, as the Secretary may by rules 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 Secretary may require in rules 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 product in a wholesome condition.

(26) "Official certificate" means any certificate prescribed by rules of the Secretary for issuance by an inspector or other person performing official functions under this chapter.

(27) "Official device" means any device prescribed or authorized by the Secretary for use in applying any official mark.

(28) "Official establishment" means any establishment as determined by the Secretary at which inspection of the slaughter of livestock or poultry or the preparation of livestock products or poultry products is maintained under the authority of this chapter.

(29) "Official inspection legend" means any symbol prescribed by rules of the Secretary showing that a product was inspected and passed in accordance with this chapter.

(30) "Official mark" means the official inspection legend or any other symbol prescribed by rules of the Secretary to identify the status of any product of livestock or poultry under this chapter.

(31) "Person" includes any individual, partnership, corporation, association, or other business unit, and any officer, agent or employee.

(32) "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.

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

(34) "Poultry product" means any poultry carcass or part of a carcass; or any product which is made wholly or in part from any poultry carcass or part of a carcass, excepting products which are exempted by the Secretary from definition as a poultry product under conditions which he or she may prescribe to assure that the poultry ingredients in products are not adulterated, and that these products are not represented as poultry products.

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

(36) "Public warehouseman" means any person who acts as a temporary custodian of meat, meat food product, or poultry product stored in that person's warehouse for a fee.

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

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

(39) "Retail vendor" means any person who sells, displays, advertises for sale, offers for sale, or has available for sale meat, meat food products, or poultry products for purchase by consumers. Retail vendors include persons who operate stores, sell or attempt to sell to consumers at their homes, or otherwise sell, display, advertise, offer, or have available for sale, meat food products or poultry products at retail for purchase by consumers.

(40) "Shipping container" means any container used or intended for use in packaging the product packed in an immediate container.

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

(42) "Mobile slaughter and processing establishment" means any transportable structure used for slaughtering or processing of meat or poultry products on a farm or on an agricultural fairground registered pursuant to 20 V.S.A. § 3902.

(43) "Itinerant livestock slaughter" means slaughter, in accordance with the requirements of subsection 3311a(e) of this title, of livestock owned by a person for his or her exclusive use or for use by members of his or her household and his or her nonpaying guests and employees.

(44) "Itinerant poultry slaughter" means the slaughter of poultry:

(A) at a person's home or farm in accordance with subsection 3312(b) of this title; or

(B) at a facility approved by the Secretary for the slaughtering of poultry.

(45) "Itinerant slaughterer" means a person who, for compensation or gain, engages in itinerant livestock slaughter or itinerant poultry slaughter.

§ 3303. Purposes

It is the objective of this chapter to provide for meat and poultry products inspection programs that 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 Act¹ and the Federal Poultry Products Inspection Act with respect to operations and transactions in interstate commerce. In addition, it is the further objective of this chapter to provide for licensing, and periodic review of establishments, such as retail vendors, custom licensed establishments, and wholesale distributors, which are not subject to traditional inspection under the Federal Meat Inspection Act and the Federal Poultry Products Inspection Act.² In this way the public will be better protected from uninspected, adulterated, unwholesome, mislabeled, or otherwise illegal meat and poultry products. The Secretary is directed to administer this chapter so as to accomplish these purposes. The Agency of Agriculture, Food and Markets is designated as the appropriate State agency to cooperate with the Secretary of Agriculture of the United States and to administer this chapter.

§ 3304. Powers of the secretary

In order to accomplish the objectives stated in section 3303 of this title, the Secretary shall:

- (1) by rules require ante mortem and post mortem inspections, quarantine, segregation, and reinspections with respect to the slaughter of livestock and poultry and the preparation of livestock products and poultry products at all establishments in this state, except those exempted by him or her under subdivision (13) of section 3305 of this title, 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) by rules 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 "Vermont Inspected and Passed" if the products are not found upon inspection to be adulterated and "Vermont Inspected and Condemned" if they are found upon inspection to be adulterated, and the destruction for food purposes of all the condemned products under the supervision of an inspector;
- (3) prohibit the entry into official establishments of livestock products and poultry products not prepared under federal inspection or inspection pursuant to this chapter and further limit the entry of these articles and other materials into establishments under conditions which he or she deems necessary to accomplish the purposes of this chapter;
- (4) by rules require that when livestock products and poultry products leave official establishments they shall bear directly on the products or on their containers, or both, as he or she may require, all information required under subdivision 3302(25) of this title; and require approval of all labeling and containers to be used for the products when sold or transported in intrastate commerce to assure that they comply with the requirements of this chapter;
- (5) investigate the sanitary conditions of each establishment within subdivision (1) of this section and withdraw or otherwise refuse to provide inspection service at any establishment where the

sanitary conditions are such as to render adulterated any livestock products or poultry products prepared or handled there;

(6) adopt rules relating to sanitation for all establishments required to have inspection under subdivision (1) of this section, or required to be licensed under section 3306 of this title;

(7) by rules require that the following classes of persons shall keep records and for periods as are specified in the rules to fully and correctly disclose all transactions involved in their business, and afford to the Commissioner and his or her representatives, including representatives of other governmental agencies designated by him or her, access to places of business, and opportunity, at all reasonable times, to examine the facilities, inventory, and records, to copy the records, and to take reasonable samples of the inventory upon the payment of the fair market value, any persons that engage in or for intrastate commerce:

(A) 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 for human or animal food;

(B) 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 of these animals including poultry, that died otherwise than by slaughter; or

(C) who are required to be licensed under section 3306 of this title.

§ 3305. Additional powers of the Secretary

In order to accomplish the objectives stated in section 3303 of this title, the Secretary may:

(1) Remove inspectors from any establishment that fails to destroy condemned products as required under subdivision 3304(2) of this title.

(2) Refuse to provide inspection service under this chapter with respect to any establishment for reasons specified in section 401 of the Federal Meat Inspection Act¹ or section 18 of the Federal Poultry Products Inspection Act² or for any other violation of this chapter and the regulations promulgated under it.

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

(4) By rules, prescribe the sizes, style, and type to be used for labeling information required under this chapter, and definitions and standards of identity or composition or standards of fill of container, consistent with federal standards, when he or she deems the action appropriate for the protection of the public.

(5) By rules, prescribe conditions for storage and handling of livestock products and poultry products by persons engaged in the business of buying, selling, freezing, storing, or transporting

these products in or for intrastate commerce to assure that these products will not be adulterated or misbranded when delivered to the consumer.

(6) Require that equines be slaughtered and prepared in establishments separate from establishments where other livestock are slaughtered or their products are prepared.

(7) Authorize inspection to continue at official establishments on State holidays, or beyond the regular work shift or workweek for State inspectors; provided that the necessary inspectors are available and the official establishment pays all overtime salaries of inspections necessary to keep the plant open and other expenses occasioned by the overtime employment. All of these payments shall be retained in a revolving fund for administering this chapter.

(8) Adopt rules as necessary for the efficient execution of the provisions of this chapter, including rules of practice providing opportunity for hearing in connection with issuance of orders under subdivision 3304(5) or subdivision (1), (2), or (3) of this section and establishing a procedure for proceedings in these cases. This shall not preclude a requirement that a label or container be withheld from use, or a refusal of inspection under subdivision 3304(5) or subdivision (1) or (3) of this section pending issuance of a final order in any proceeding. The federal meat inspection regulations and federal poultry inspection regulations of the U.S. Department of Agriculture, Title 9, Code of Federal Regulations, Chapter 3, 9 CFR §§ 300.1 et seq., together with any amendments, supplements, or revisions thereto, are adopted as part of this chapter.

(9) Appoint and prescribe the duties for a head of service and such inspectors and other personnel as he or she deems necessary for the efficient execution of the provisions of this chapter.

(10) Cooperate with the U.S. Secretary of Agriculture in administration of this chapter to accomplish the purposes stated in section 3303; accept federal assistance for that purpose and spend public funds of this State appropriated for administration of this chapter to pay the State's proportionate share of the estimated total cost of the cooperative program.

(11) Recommend to the U.S. Secretary of Agriculture, officials or employees of the Agency of Agriculture, Food and Markets for appointment to the advisory committees provided for in the federal acts.

(12) Serve as the representative of the Governor for consultation with the Secretary under subsection (c) of section 301 of the Federal Meat Inspection Act³ and subsection (c) of section 5 of the Federal Poultry Products Inspection Act⁴ unless the Governor selects another representative.

(13) Exempt the operations of any person from inspection or other requirements of this chapter if and to the extent the operations would be exempt from the corresponding requirements under the Federal Meat Inspection Act⁵ or the Federal Poultry Products Inspection Act⁶ if they were conducted in or for interstate commerce or if the State were designated under the federal acts as one in which the federal requirements apply to intrastate commerce.

(14) Require retail vendors who affix labels with a date to meat, meat food products, or poultry products to clearly and conspicuously post their policy concerning date of sale labeling in order to enable consumers to understand the policy.

(15) Establish by rule the method for providing voluntary inspection, and withdrawal of inspection, of exotic animals, wild game, game birds, red deer, and cervidae. These rules may also provide for the inspection of meat and meat food products derived from those animals. The Secretary shall provide voluntary inspection of bison and cervidae produced in Vermont, including the inspection of meat and meat food products processed in Vermont derived from bison and cervidae, wherever produced. For such inspection, the Secretary shall charge a fee equal to the rate for reimbursable inspection services provided under the Vermont Meat and Poultry Inspection Program.

(16) Exempt livestock producers who sell directly to consumers or inspected slaughterhouses in carcass form from the licensing requirements of section 3306 of this title. To be eligible for this exemption, the livestock shall be slaughtered under inspection and the producer shall relinquish control of the carcass at the slaughterhouse. Payment for the carcasses shall be based on hanging weight rather than live weight. This exemption does not apply to any retail operations or poultry.

(17) Authorize and recognize mobile slaughter and processing establishments as official establishments or exempt them under subdivision 3305(13) of this section.

(18) Sell or lease a mobile slaughtering unit, and may retain any proceeds therefrom in a fund designated for the purpose of purchasing additional mobile slaughtering units or providing matching grants for capital investments to increase poultry slaughter or poultry processing capacity.

§ 3306. Licensing

(a) No person shall engage in intrastate commerce in the business of buying, selling, preparing, processing, packing, storing, transporting, or otherwise handling meat, meat food products, or poultry products, unless that person holds a valid license issued under this chapter. Categories of licensure shall include: commercial slaughterers, custom slaughterers, commercial processors, custom processors, wholesale distributors, retail vendors, meat and poultry product brokers, renderers, public warehouse operators, animal food manufacturers, handlers of dead, dying, disabled, or diseased animals, and any other category which the Secretary may by rule establish.

(b) The owner or operator of each plant or establishment of the kind specified in subsection (a) of this section shall apply in writing to the Secretary on a form prescribed by him or her for a license to operate the plant or establishment. In case of change of ownership or change of location, a new application shall be made. Any person engaged in more than one licensed activity shall obtain separate licenses for each activity.

(c) The head of service shall investigate all circumstances in connection with the application for license to determine whether the applicable requirements of this chapter and rules made under it have been complied with. The Secretary shall grant, condition, or refuse the license upon the basis of all information available to him or her including all facts disclosed by investigation. Each license shall bear an identifying number.

(d) The annual fee for a license for a retail vendor is \$15.00 for vendors without meat cutting operations, \$50.00 for vendors with meat cutting space of less than 300 square feet or meat display space of less than 20 linear feet, and \$100.00 for vendors with 300 or more square feet of meat cutting space and 20 or more linear feet of meat display space. Fees collected under this section shall be deposited in a special fund managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and shall be available to the Agency to offset the cost of administering chapter 204 of this title. For all other plants, establishments, and related businesses listed under subsection (a) of this section, except for a public warehouse licensed under chapter 67 of this title, the annual license fee shall be \$150.00.

(e) The Secretary may, after notice and opportunity for hearing, refuse to grant, suspend, or revoke a license, may impose terms or conditions for operation under a license, including video monitoring, or may take any other action which he or she deems appropriate concerning any license, if he or she determines that any false statement was made in the application or if he or she finds that there is any failure to comply with this chapter or the rules made under it.

(f) Repealed.

(g) Producers of livestock and livestock dealers who sell carcasses to or through inspected slaughterhouses are exempt from having to obtain a wholesale distributor's license under this section. All other licensing provisions shall be applicable to such an individual.

(h) The Secretary may deny a commercial slaughter license or the renewal of a commercial slaughter license under this chapter to a person who has been convicted of a felony, convicted of a misdemeanor involving cruelty to animals, or has been found in violation of section 3132 of this title more than once. The Secretary may deny a commercial slaughter license or renewal of a commercial slaughter license under this chapter if a person responsibly connected to the applicant has been convicted of a felony, convicted of a misdemeanor involving cruelty to animals, or has been found in violation of section 3132 of this title more than once. As used in this subsection, a "person responsibly connected to an applicant" is a partner, officer, director, holder, or owner of 10 percent or more of the voting stock of the applicant's business or is an employee in a managerial or executive capacity at the applicant's business.

(i) All applicants for licensure or relicensure as a commercial slaughter facility shall submit a written humane livestock handling plan or a good commercial practices plan for poultry for review and approval by the Secretary of Agriculture, Food and Markets or designee. The Secretary may suspend, revoke, or condition any commercial slaughter facility license, after notice and opportunity for hearing, for a licensee's failure to adhere to the written plan.

(j) Commercial slaughter facilities issued a license by the Agency of Agriculture, Food and Markets shall submit to the Secretary or designee within five days of receipt any documentation

received from the U.S. Department of Agriculture (USDA) related to violations of the Federal Humane Slaughter Act and rules adopted thereunder. The Secretary shall review the documentation submitted under this subdivision for potential action under this chapter or chapter 201 of this title. A failure to submit documentation required under this subdivision shall be a violation of this chapter subject to an administrative penalty under chapter 15 of this title.

§ 3307. Periodic review of noninspected licensed establishments

(a) The Secretary may cause establishments which are required to be licensed under section 3306 of this title, but exempt from inspection under subdivision 3305(13) of this title, to be periodically reviewed by inspectors to assure that the provisions of this chapter and the rules promulgated pursuant to this chapter are complied with, and that the public health, safety, and welfare is protected.

(b) Any periodic review shall include an examination of the licensed establishment's sanitation practices; sanitation of the areas where meat and poultry products are prepared, stored, and displayed; the adequacy of any refrigeration system used for meat food products and poultry products; labeling; and meat food products, or poultry products for wholesomeness and adulteration. In addition, the inspector conducting the periodic review may conduct any other examination necessary to assure compliance with this chapter and the rules adopted pursuant to this chapter.

(c) The inspector may issue a stop sale or use order for any violation of this chapter, or of the rules adopted pursuant to this chapter. Any person receiving a stop sale or use order shall immediately remove the meat, meat food product, or poultry product from sale, or shall immediately cease to use any equipment or area as directed by the order until the order is lifted. The inspector may lift a stop sale or use order once he or she has determined that the violation has been corrected. Any person receiving a stop sale or use order may appeal the decision to the Secretary within five days of receiving the order.

(d) After discovery of a violation of this chapter, or the rules adopted pursuant to this chapter, the Secretary may take any additional action against the licensed establishment which he or she deems appropriate, including: instituting a proceeding under section 3306(e), and causing a civil, equitable, or criminal court proceeding to be brought against the licensed establishment.

(e) The Secretary may adopt all rules necessary to implement and enforce the licensing and periodic review provisions of the chapter, which may include minimum standards for sanitation, refrigeration, labeling, wholesomeness, adulteration, and such other rules as the Secretary deems necessary.

§ 3308. Prohibited acts in general

(a) No person shall, with respect to any livestock or poultry or any livestock products or poultry products:

(1) slaughter any livestock or poultry or prepare any products which are capable of use as human food, at any establishment preparing the products solely for intrastate commerce, except in compliance with the requirements of this chapter and the rules adopted pursuant to this chapter;

(2) sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, any products which:

(A) are capable for use as human food; and

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

(C) have not been inspected and passed unless they are exempt from inspection pursuant to rules adopted by the Secretary; or

(3) do, with respect to any of these products which are capable of use as human food, any act while they are being transported in intrastate commerce or held for sale after transportation, which is intended to cause or has the effect of causing the products 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 rules adopted by the Secretary except as may be authorized by rules.

(c) No person shall violate any provision of this chapter, the rules adopted pursuant to this chapter, the orders of the Secretary, or of his or her inspectors.

§ 3309. Additional prohibited acts; official devices, marks, and certificates

(a) No brand manufacturer, printer, or other person shall cast, print, lithograph, or otherwise make any device containing any official mark or simulation, or any label bearing any mark or simulation, or any form of official certificate or simulation, except as authorized by the Secretary.

(b) No person shall:

(1) forge any official device, mark, or certificate;

(2) without authorization from the Secretary use any official device, mark, or certificate, or simulation, or alter, detach, deface, or destroy any official device, mark, or certificate;

(3) contrary to the rules adopted by the Secretary, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(4) knowingly possess, without promptly notifying the Secretary or his or her representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label of any carcass of any animal including poultry, or part or product of any animal including poultry, 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 rules prescribed by the Secretary; or

(6) knowingly represent that any product has been inspected and passed, or exempted under this chapter when it has not been inspected and passed, or exempted.

§ 3310. Additional prohibited acts: labeling; denaturing; dealing in dead, dying, disabled, and diseased animals; licensing

(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 these carcasses, or the meat or meat food products of these carcasses unless they are plainly and conspicuously marked or labeled or otherwise identified as required by rules prescribed by the Secretary 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 which are not intended for use as human food unless they are denatured or otherwise identified as required by the rules of the Secretary 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 other than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for transportation in commerce, any dead, dying, disabled, or diseased livestock or poultry or the products of any of these animals that died other than by slaughter, unless the transaction or transportation is made in accordance with rules which the Secretary may prescribe to assure that the animals, or the unwholesome parts or products, will be prevented from being used for human food purposes.

(d) No person shall engage in the business of buying, selling, preparing, processing, packing, storing, transporting, or otherwise handling meat, meat food products, or poultry products, unless that person holds a valid license issued in accordance with section 3306 of this title.

§ 3311. Specific offenses; penalties

(a) Any person that gives, pays, or offers, directly or indirectly, any money or other thing of value to any officer or employee of this State authorized to perform any duties prescribed by this chapter or rules promulgated under this chapter, with intent to influence the officer or employee in the discharge of any duty, shall, upon conviction, be punished by a fine of not more than

\$1,000.00 or by imprisonment for not more than five years, or both. Any officer or employee of this State authorized to perform the duties prescribed by this chapter or rules promulgated under this chapter, who accepts any money, gift, or other thing of value from any persons, given with intent to influence his or her 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, shall be subject to the penalties provided in 13 V.S.A. § 1102.

(b) Any person that forcibly assaults, resists, or intimidates any inspector, or other person, engaged in the performance of his or her official duties under this chapter or rules promulgated under this chapter, shall be subject to the penalties provided in 13 V.S.A. § 1023. Any person who impedes, interferes, or hinders any inspector, or other person, engaged in the performance of his or her official duties under this chapter or rules promulgated under this chapter, shall be subject to the penalties provided in 13 V.S.A. § 3001. Whoever in the commission of these acts uses a deadly or dangerous weapon, or who purposely or knowingly causes serious bodily injury to an inspector or other person engaged in the performance of his or her official duties under this chapter or rules promulgated under this chapter, shall be subject to the penalties provided in 13 V.S.A. chapter 53. Any person engaged in official duties under this chapter or rules promulgated under this chapter shall be considered a law enforcement officer for purposes of determining a penalty under 13 V.S.A. chapter 53.

§ 3311a. Livestock; inspection; licensing; personal slaughter; itinerant slaughter

(a) As used in this section:

(1) "Assist in the slaughter of livestock" means the act of slaughtering or butchering an animal and shall not mean the farmer's provision of a site on the farm for slaughter, provision of implements for slaughter, or the service of disposal of the carcass or offal from slaughter.

(2) "Sanitary conditions" means a site on a farm that is:

(A) clean and free of contaminants; and

(B) located or designed in a way to prevent:

(i) the occurrence of water pollution; and

(ii) the adulteration of the livestock or the slaughtered meat.

(b) The requirement for a license under section 3306 of this title or for inspection under this chapter shall not apply to the slaughter by an owner of livestock that the owner raised for the owner's exclusive use or for the use of members of his or her household and his or her nonpaying guests and employees.

(c) The requirement for a license under section 3306 of this title or for inspection under this chapter shall not apply to the slaughter of livestock that occurs in a manner that meets all of the following requirements:

- (1) A person or persons purchases livestock from a farmer who raised the livestock.
- (2) The farmer is registered with the Secretary, on a form provided by the Secretary, as selling livestock for slaughter under this subsection.
- (3) The individual or individuals who purchased the livestock performs the act of slaughtering the livestock, as the owner of the livestock.
- (4) The act of slaughter occurs, after approval from the farmer who sold the livestock, on a site on the farm where the livestock was purchased.
- (5) The slaughter is conducted under sanitary conditions.
- (6) The farmer who sold the livestock to the individual or individuals does not assist in the slaughter of the livestock.
- (7) Not more than the following number of livestock per year are slaughtered under this subsection:
 - (A) 15 swine;
 - (B) five cattle;
 - (C) 40 sheep or goats; or
 - (D) any combination of swine, cattle, sheep, or goats, provided that not more than 6,000 pounds of the live weight of livestock are slaughtered per year.
- (8) The farmer who sold the livestock to the individual or individuals maintains a record of each slaughter conducted under this subsection and reports quarterly to the Secretary, on a form provided by the Secretary, on or before April 15 for the calendar quarter ending March 31, on or before July 15 for the calendar quarter ending June 30, on or before October 15 for the calendar quarter ending September 30, and on or before January 15 for the calendar quarter ending December 31. If a farmer fails to report slaughter activity conducted under this subsection, the Secretary, in addition to any enforcement action available under this chapter or chapter 1 of this title, may suspend the authority of the farmer to sell animals to an individual or individuals for slaughter under this subsection.
- (9) The slaughtered livestock may be halved or quartered by the individual or individuals who purchased the livestock but solely for the purpose of transport from the farm.
- (10) The livestock is slaughtered according to a humane method, as that term is defined in subdivision 3131(6) of this title.

(d) The requirement for a license under section 3306 of this title or for inspection under this chapter shall not apply to an itinerant slaughterer engaged in the act of itinerant livestock slaughter or itinerant poultry slaughter.

(e) An itinerant slaughterer may slaughter livestock owned by a person on the farm where the livestock was raised under the following conditions:

(1) the meat from the slaughter of the livestock is distributed only as whole, halved, or quartered carcasses to the person who owned the animal for his or her personal use or for use by members of his or her household or nonpaying guests;

(2) the slaughter is conducted under sanitary conditions; and

(3) the livestock is slaughtered according to a humane method, as that term is defined in subdivision 3131(6) of this title.

(f) A carcass or offal from slaughter conducted under this section shall be disposed of according to the requirements under the required agricultural practices for the management of agricultural waste.

§ 3312. Inspection; exceptions

(a) Not intended 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 which are not intended for use as human food, but these products 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 rules of the Secretary to deter their use for human food. These licensed establishments shall be subject to periodic review.

(b) 1,000 bird exemption. Inspection shall not be required for the slaughter or preparation of poultry products of the producer's own raising on the producer's own premises, whether or not they are intended for use as human food if:

(1) fewer than 1,000 birds are slaughtered annually;

(2) no poultry products are offered for sale or transportation in interstate commerce; and

(3) the poultry products are only sold, as whole birds only, from the farm, at a farmers' market, or to a food restaurant licensed by the Commissioner of Health, or are for personal use.

(c) 5,000 bird exemption.

(1) Inspection shall not be required for the slaughter or preparation of poultry products of the producer's own raising on the producer's own premises, whether or not they are intended for use as human food if all of the following conditions are satisfied:

(A) No more than 5,000 birds are slaughtered annually.

(B) No poultry products are offered for sale or transportation in interstate commerce.

(C) The poultry products are only sold, as whole birds, from the farm, at a farmers' market, directly to household consumers, or to a food restaurant licensed by the Commissioner of Health, or are for personal use.

(D) The producer's facility is not used to slaughter or process poultry by any other person or business.

(E) The producer does not purchase birds for resale that have been processed under the exemption under this section.

(F) The poultry are healthy when slaughtered.

(G) The poultry are slaughtered and otherwise processed and handled under sanitary standards, practices, and procedures that result in the preparation of poultry products that are sound, clean, and fit for human food when distributed by the producer.

(2) As used in this subsection, "sanitary standards, practices, and procedures" means:

(A) the poultry are slaughtered in a facility that is soundly constructed, kept in good repair, and of sufficient size;

(B) rooms or compartments in which an edible product is processed, handled, or stored shall be separated from areas used for slaughter, provided that a producer may use heavy duty plastic sheeting as a means of separation when such sheeting prevents the creation of insanitary conditions;

(C) all food-contact surfaces and nonfood-contact surfaces in the facility are cleaned and sanitized as frequently as necessary to prevent the creation of insanitary conditions and the adulteration of the products;

(D) pest control shall be adequate to prevent the harborage of pests on the grounds and within the facility;

(E) substances used for sanitation and pest control shall be safe and effective under the conditions of use, and shall not be applied or stored in a manner that will result in the contamination of edible products;

(F)(i) sewage from human waste shall be disposed of in a sewage system separate from other drainage lines; or

(ii) sewage is disposed of through other means to prevent the creation of insanitary conditions or the backup into the area where the product is processed, handled, or stored, including

disposal of process wastewater through on-farm composting under the Required Agricultural Practices;

(G) a supply of potable water of suitable temperature is provided in all areas where required for processing the product, cleaning rooms, cleaning equipment, cleaning utensils, and cleaning packaging materials;

(H) equipment and utensils used for processing or handling edible product are of a material that is cleanable and sanitizable;

(I) receptacles used for storing inedible material are of such material and construction that their use will not result in adulteration of any edible product or create insanitary conditions;

(J) a person working in contact with the poultry products, food-contact surfaces, and product-packaging material shall maintain hygienic practices; and

(K) clothing worn by persons who handle poultry products shall be of material that is cleanable or disposable, and garments shall be cleaned or changed as often as necessary to prevent adulteration of poultry products or the creation of insanitary conditions.

(d) 20,000 bird exemption. Inspection shall not be required for the slaughter or preparation of poultry products of the producer's own raising on the producer's own premises, whether or not they are intended for use as human food if:

(1) no more than 20,000 birds are slaughtered annually;

(2) no birds are offered for sale or transportation in interstate commerce;

(3) the poultry products are only sold, as whole birds, from the farm, at a farmers' market, directly to household consumers, or to a food restaurant licensed by the Commissioner of Health, or are for personal use;

(4) the producer's facility is not used to slaughter or process poultry by any other person or business;

(5) the producer does not purchase birds for resale that have been processed under the exemption under this section;

(6) the poultry are healthy when slaughtered; and

(7) the poultry are slaughtered and otherwise processed and handled according to the sanitary performance standards of 9 C.F.R. §§ 416.1-416.17.

(e) Required label. All poultry sold from the farm, at a farmers' market, or to a food restaurant pursuant to the exemption in subsection (b), (c), or (d) of this section shall be labeled with the following information:

(1) Name of farm and name of producer.

(2) Address of farm, including zip code.

(3) "Exempt per 6 V.S.A. § 3312(b): NOT INSPECTED." This statement shall be prominently displayed with such conspicuousness (as compared with other words or statements, designs, or devices in the labeling) as to render it likely to be read and understood under customary conditions of purchase and use.

(4) Safe handling and cooking instructions as follows:

"SAFE HANDLING INSTRUCTIONS:

Keep refrigerated or frozen. Thaw in refrigerator or microwave.

Keep raw poultry separate from other foods.

Wash working surfaces, including cutting boards, utensils, and hands after touching raw poultry.

Cook thoroughly to an internal temperature of at least 165 degrees Fahrenheit maintained for at least 15 seconds.

Keep hot foods hot. Refrigerate leftovers immediately or discard."

(f) Menu items; label. Any menu item that includes poultry that is exempt under this section shall clearly state the name of the farm from which the poultry was purchased and shall prominently display the words "poultry processed on the farm and not inspected" on the menu in proximity to the menu item. Poultry sold to food restaurants under the exemption in this section shall include a label alerting the purchaser to these labeling requirements.

(g) Food restaurant; signed statement. The poultry producer, upon first selling poultry to a food restaurant, must procure a signed statement from the food restaurant stating that the food restaurant is aware that the poultry is exempted from inspection under subsection (b), (c), or (d) of this section, and that the menu of the food restaurant must have the information required by subsection (e) of this section. The poultry producer must keep the signed statement on file as long as the producer is selling poultry to the food restaurant under this section. The poultry producer must have a signed statement on file from each food restaurant to which poultry is sold under this section and an exact copy of each statement, including the name of the producer and the name of the purchasing restaurant shall be forwarded to the Department of Health.

(h) Approved label. Prior to selling poultry products slaughtered pursuant to the exemption in subsection (c) or (d) of this section, a poultry producer shall submit to the Secretary for approval a copy of the label that the poultry producer proposes to use for compliance with the requirements of subsection (e) of this section.

§ 3313. Inspection and seal

(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 under the supervision of an inspector.

(b) For purposes of any inspection of products required by this chapter, inspectors shall have access at all times, by day or night, to any part of an establishment required to have inspection under this chapter, whether the establishment is operated or not.

(c) For purposes of any periodic review of any licensed establishment, inspectors shall have access during normal business hours to every part of a licensed establishment required to have inspection under this chapter, whether the establishment is operated or not.

§ 3314. Detention

When any livestock product or poultry product or any 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 any authorized representative of the Secretary upon premises where it is held for purposes of, or during or after distribution in, intrastate commerce, or is otherwise subject to the chapter, and there is reason to believe that any product 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 Act¹ or the Federal Poultry Products Inspection Act² or the Federal Food, Drug and Cosmetic Act,³ or that the product or animal has been or is intended to be, distributed in violation of any of these provisions, it may be detained by a representative for a period not to exceed 30 days, pending action under section 3315 of this title or notification of any federal authorities having jurisdiction over the product or animal. The product or animal 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 product or animal before it is released unless it appears to the satisfaction of the Secretary or his or her designee that the product or animal is eligible to retain the marks.

§ 3315. Forfeiture

(a) Any livestock product or poultry product of 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 this State after transportation, 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 the rules promulgated under it; 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, on a complaint in any Superior Court as provided in section 3316 of this title. If the product or animal is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of this State. The product or animal shall not be sold contrary to the provisions of this chapter, the Federal Meat Inspection Act, the Federal Poultry Products Inspection Act, or the Federal Food, Drug and Cosmetic Act. Upon the execution and delivery of a good and sufficient bond guaranteeing that the product or animal 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 the product or animal be delivered to the owner subject to the supervision by authorized representatives of the Secretary as is necessary to ensure compliance with the applicable laws. When a decree of condemnation is entered against the product or animal and it is released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the product or animal.

(b) The provisions of this section shall in no way impair authority for condemnation or seizure conferred by other provisions of this chapter, or other laws.

§ 3316. Appeal and jurisdiction

(a) Any order issued under subdivision 3304(3) of this title, subdivision 3305(1), (2), or (3) of this title, subsection 3306(e) of this title, or a decision issued by the Secretary under subsection 3306(c) of this title shall be final unless appealed to a Superior Court within 15 days after service. An appeal of any other order or decision of the Secretary may be taken pursuant to 3 V.S.A. chapter 25. Review of any order and the determinations upon which it is based shall be upon the record in the administrative proceeding in which the order was issued.

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

§ 3317. Penalties; generally

(a) Any person who violates any provision of this chapter, or the rules promulgated under this chapter, for which no other criminal penalty is provided by this chapter shall upon conviction be subject to imprisonment for not more than one year, or a fine of not more than \$1,000.00, or both. However, if the violation involves intent to defraud, or any distribution or attempted distribution of a product that is adulterated except as defined in subdivision 3302(1)(K) of this title, the person shall be subject to imprisonment for not more than three years or a fine of not more than \$10,000.00, or both.

(b) Nothing in this chapter shall be construed as requiring the Secretary to report for prosecution or for the institution of libel or injunction proceedings minor violations of this chapter whenever

he or she believes that the public interest will be adequately served by a suitable written notice of warning.

(c) Any person who violates this chapter or any rule adopted by the Secretary under this chapter shall be liable for a civil penalty not to exceed \$1,000.00 for each violation. A civil penalty may be imposed by the Washington Superior Court, or by any other Superior Court. The Superior Court shall consider the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation in assessing a civil penalty. Whenever the Secretary finds that the violation occurred despite the exercise of due care, he or she may issue a warning instead of seeking a penalty.

§ 3318. Investigation; record keeping

(a) The Secretary shall also have power:

(1) To gather and compile information and to investigate the organization, business, conduct, practices, and management of any person engaged in intrastate commerce, and the relationship to other persons.

(2) To require, by general or special orders, persons engaged in intrastate commerce to file with the Secretary, in the form that the Secretary may prescribe, annual or special reports or answers in writing to specific questions. The person filing the reports or answers shall furnish the Secretary with any information he or she may require as to the organization, business, conduct, practices, management, and relation to other persons. The reports and answers shall be made under oath, or otherwise, as the Secretary may prescribe, and shall be filed with the Secretary within a reasonable period as the Secretary may prescribe, unless additional time is granted by the Secretary.

(b) For the purpose of this chapter, the Secretary shall at all reasonable times have access to and the right to copy any documentary evidence of any person being investigated or proceeded against. The Secretary may subpoena the attendance and testimony of witnesses and the production of all documentary evidence of any person relating to any matter under investigation or subject to administrative hearing. The Secretary or his or her designee may sign subpoenas and may administer oaths and affirmations, examine witnesses, and receive evidence.

(1) The attendance of witnesses and the production of documentary evidence may be required at any designated place of hearing. In case of disobedience to a subpoena the Secretary may invoke the aid of any district or Superior Court in requiring the attendance and testimony of witnesses and the production of documentary evidence.

(2) Any district or Superior Court within the jurisdiction in which an inquiry is carried on may, in case of resistance or refusal to obey a subpoena issued to any person, issue an order requiring the person to appear before the Secretary or to produce documentary evidence or to give evidence touching the matter in question. Any failure to obey an order of the court may be punished by the court as a contempt.

(3) Upon the application of the Attorney General of this State at the request of the Secretary, the Superior Courts shall have jurisdiction to issue preliminary or permanent injunctions commanding any person to comply with the provisions of this chapter or any order of the Secretary made pursuant to this chapter.

(4) The Secretary may order testimony to be taken by deposition in any proceeding or investigation pending under this chapter at any stage of the proceeding or investigation. The depositions may be taken before any person designated by the Secretary who has the power to administer oaths. The testimony shall be reduced to writing by the person taking the deposition, or under his or her direction, and shall be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Secretary as provided in this chapter.

(5) Witnesses summoned before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of this State. Witnesses whose depositions are taken and the persons taking the same shall each be entitled to the same fees as are paid for like services in the courts.

(6) 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 Secretary. No person shall be excused from obeying a subpoena of the Secretary, whether the subpoena is signed or issued by him or her or his or her designee, or in any proceeding, criminal or otherwise, based upon any alleged violation of this chapter on the ground that the testimony or evidence, documentary or otherwise, required of him or her or by the subpoena may tend to incriminate him or her or subject him or her or it to a penalty or forfeiture. No individual shall be prosecuted or subjected to a penalty or forfeiture for any transaction, matter, or thing concerning which he or she is compelled, after having claimed his or her 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 testifying.

(c) Any person who neglects or refuses to attend and testify or to answer any lawful inquiry, or to produce documentary evidence, if in his or her power to do so, in obedience to the subpoena or lawful requirement of the Secretary or his or her designee shall upon conviction be punished by a fine of not less than \$1,000.00 nor more than \$5,000.00, or by imprisonment for not more than one year, or both.

(d) Any person who willfully makes, or causes to be made, any false entry or statement of fact or who willfully fails to make correct entries in any report, account, record, or memorandum kept by any person which is required by or subject to this chapter or who willfully removes out of the jurisdiction of this State, or willfully mutilates, alters, or by any other means falsifies any documentary evidence of any person subject to this chapter or who willfully refuses to submit to the Secretary or to any of his or her authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any person subject to this chapter in his or her possession or within his or her control, shall upon conviction be subject to a fine of not less than \$1,000.00 nor more than \$5,000.00, or to imprisonment for not more than three years, or both.

(e) If any person required by this chapter fails to file any annual or special report within the time fixed by the Secretary, and the failure continues for 30 days after notice of default, the person shall forfeit \$100.00 after notice to the State for each day. The forfeiture shall be payable into the Treasury of this State, and shall be recoverable in a civil suit in the name of the State brought in the county where the person has his or her or its principal office or in Washington Superior Court.

§ 3319. Skilled meat cutter training

The Secretary shall issue a request for proposals to develop a curriculum and provide classroom and on-the-job training for the occupation of skilled meat cutter.

§ 4011. Purpose

It is the purpose of this chapter to provide for a system of livestock branding in an attempt to reduce the unauthorized sale and movement of livestock.

§ 4012. Rules

The Secretary of Agriculture, Food and Markets may adopt any rules necessary to carry out the purposes of this chapter.

§ 4013. Brands; recording

(a) Any person, firm, or corporation wishing to utilize an artificial mark or brand to distinguish or identify the ownership of any domestic animal or livestock shall apply to the Secretary of Agriculture, Food and Markets. The application shall be in writing and shall contain the name, residence, and post office address of the applicant and the species of animals on which the mark or brand is to be used. The Secretary shall designate a brand for the applicant's use which is different from any other brands recorded in his or her office. The Secretary shall also designate the position on the animals where the mark or brand is to be placed and the species on which the brand is to be used.

(b) The Secretary shall maintain a record of all marks or brands in use, the name of the user, and the date of recording. The records shall be open to public inspection and shall be prima facie evidence of the facts therein recorded.

§ 4014. Right of owner of recorded brand

The person, firm, or corporation in whose name any mark or brand is recorded is entitled to the exclusive use of the mark or brand on the species of animal and in the position designated in the record.

§ 4015. Fees

(a) The Secretary of Agriculture, Food and Markets shall charge and collect the following fees:

Recording of mark or brand

\$10.00

Certified copy of a record

\$ 5.00

Transfer of brand

\$10.00

Re-recording of brand

\$ 5.00

(b) Repealed by 1999, No. 49, § 126, eff. July 1, 1999.