

ACT 212

H. B. NO. 38

A Bill for an Act Relating to Poultry Inspection.

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I. GENERAL PROVISIONS**

SECTION 1. Short title. This Act shall be known and may be cited as the "Hawaii Poultry Inspection Act."

SECTION 2. Findings and declaration of necessity. It is hereby declared that the poultry industry is a paramount agricultural industry of this State and the production and marketing of poultry is an enterprise that is of significant importance to the economy of the State and to the health of the consuming public. It is essential to the public health and welfare of consumers that they be protected by assuring that poultry or poultry products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged. Unwholesome, adulterated, or misbranded poultry or poultry products are injurious to the public health and welfare, destroy markets for wholesome, not adulterated, and properly labeled and packaged poultry or poultry products, and

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result in sundry losses to poultry producers and processors of poultry as well as injury to consumers. The unwholesome, adulterated, mislabeled, or deceptively packaged articles can be sold at lower prices and compete unfairly with the wholesome, not adulterated, and properly labeled and packaged articles, to the detriment of consumers and the public generally. It is hereby found that regulation by the Department of Agriculture and cooperation by this State with the United States Department of Agriculture as contemplated by this Act is appropriate to protect the health and welfare of consumers and otherwise to effectuate the purposes of this Act.

The 90th Congress enacted Public Law 90-492, entitled "The Wholesome Poultry Products Act". Said Act is intended to protect the consuming public from adulterated or misbranded poultry or poultry products and to assist the states in their efforts to accomplish this objective. The Act authorizes the United States Secretary of Agriculture to furnish financial and related assistance to states for the administration of poultry inspection programs which conform to established federal standards up to 50% of the estimated total cost of the cooperative program. Hawaii's poultry industry is not subject to poultry inspection law or rules and regulations that meet the minimum federal requirement in this area. The State in order to qualify for the cooperative program, must demonstrate "progressive action" by July 18, 1970; and, further, all physical facilities must be upgraded in accordance with the established federal standards by July 18, 1971. Failure to comply with the standards prescribed by said Act will result in Federal control of the poultry or poultry processing industries of the State. Accordingly, the State of Hawaii deems it to be in the interest of the State's public health and welfare to take such steps as are necessary to qualify for federal financial and related assistance for the administration of a poultry inspection program which conforms to federal standards prescribed in said Federal Act.

### SECTION 3. Definitions.

"Animal Food Manufacturer" means any person engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of poultry.

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

"Department" means the department of agriculture.

"Person" is defined in the manner set forth in section 1-19, Hawaii Revised Statutes.

"Wholesaler" means any person who buys or sells poultry or poultry products in trade channels other than retail. For the purpose of this Act a wholesaler who also has retail operations will be deemed to be a wholesaler.

"Intrastate commerce" means commerce within this State.

"Licensee" means a person issued a license under Part III of this Act.

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

"Poultry product" means any poultry carcass or part thereof, or any food product which is made wholly or in part from any poultry carcass or part thereof, excepting products which contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers

as products of the poultry food industry, and which are exempted by the board from definition as poultry food product under such conditions as the board may prescribe to assure that the poultry ingredients in the products are not adulterated and that the products are not represented as poultry products.

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

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

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

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

“Adulterated” shall apply to any poultry or poultry product under one or more of the following circumstances:

(1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, the poultry or poultry product shall not be considered adulterated under this clause if the quantity of substance in or on such poultry or poultry product does not ordinarily render it injurious to health.

(2) (A) if it bears or contains by reason of administration of any substance to the live poultry or otherwise any added poisonous or added deleterious substance other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive which may, in the judgment of the board make the poultry or poultry product unfit for human consumption.

(B) if it is, in whole or in part, a raw agricultural commodity and the commodity bears or contains a pesticide chemical which is unsafe under the Federal Food, Drug, and Cosmetic Act or the Hawaii Food, Drug and Cosmetic Act.

(C) if it bears or contains any food additive which is unsafe under the Federal Food, Drug, and Cosmetic Act or the Hawaii Food, Drug and Cosmetic Act.

(D) if it bears or contains any color additive which is unsafe under the Federal Food, Drug, and Cosmetic Act or the Hawaii Food, Drug, and Cosmetic Act; provided that poultry or poultry products which are not adulterated under clauses (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such poultry or poultry products are prohibited by regulations of the board in establishments at which official inspection is maintained under Part IV of this Act;

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

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

(5) if it is, in whole or in part, a product of poultry which has died otherwise than by slaughter;

(6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(7) if it has been intentionally or unintentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect under the Federal Food, Drug, and Cosmetic Act or the Hawaii Food, Drug, and Cosmetic Act.

(8) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part thereof; 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.

“Misbranded” shall apply to any poultry or poultry product under one or more of the following circumstances:

(1) if its labeling is false or misleading in any particular;

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

(3) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word “imitation” and immediately thereafter, the name of the food imitated;

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

(5) if in a package or other container unless it bears a label showing (A) the name and place of business of the manufacturer, packer, or distributor; and (B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided that, under clause (B) of this subparagraph (5), reasonable variations may be permitted, and exemptions as to small packages may be established, by regulations prescribed by the board;

(6) if any word, statement, or other information required by or under authority of this Act 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 the 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 regulations of the board under this Act unless (A) it conforms to such definition and standard, and (B) 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 this Act, and it falls below the applicable standard of fill of container,

unless its label bears, in such manner and form that the regulations specify, a statement that it falls below such standard;

(9) if it is not subject to the provisions of subparagraph (7), unless its label bears (A) the common or usual name of the food, if any, and (B) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient, except that spices, flavorings, and colorings may when authorized by the board be designated as spices, flavoring, and colorings without naming each; provided that, to the extent that compliance with the requirements of clause (B) of this subparagraph (9) 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 board, after consultation with the United States Secretary of Agriculture, determines to be, and by regulations 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 subparagraph (11) is impracticable, exemptions shall be established by regulations promulgated by the board; or

(12) if it fails to bear, directly thereon or on its container, as the board may by regulations prescribe, the inspection legend and, unrestricted by any of the foregoing, such other information as the board may require in 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 poultry or poultry products in a wholesome condition.

“State” means State of Hawaii.

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

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

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

“Federal Poultry Products Inspection Act” means the Act so entitled approved August 28, 1957, (Public Law 85-172; 71 Stat. 441, USC 451 et. seq.), as amended by the Wholesome Poultry Products Act (Public Law 90-492; 82 Stat. 791), and Acts amendatory thereof or supplementary thereto.

“Federal Food, Drug, and Cosmetic Act” means the Act so entitled, approved June 25, 1938 (Public Law 75-765; 52 Stat. 1040), and Acts amendatory thereof or supplementary thereto.

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

“Official mark” means the official inspection legend or any other symbol

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prescribed by regulations of the board to identify the status of any poultry or poultry product under this Act.

“Official inspection legend” means any symbol prescribed by regulations of the board showing that poultry or poultry products were inspected and passed in accordance with this Act.

“Official certificate” means any certificate prescribed by regulations of the board for issuance by veterinarians, meat inspectors, or other persons performing official functions under this Act.

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

“Official establishment” means any establishment as determined by the board at which inspection of the slaughter of poultry, or the processing of poultry products, is maintained under this Act.

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

### PART II. ADMINISTRATION, POWERS AND DUTIES

SECTION 4. Division of animal industry. The division of animal industry of the department of agriculture shall administer this Act subject to the supervision of the board. The board may delegate any of its powers under this Act, except the power to make rules and regulations, or may direct any of its duties to be performed by any appropriate agents, officers, or employees of the board.

The board may employ on a full or part-time basis veterinarians and poultry inspectors, subject to chapters 76 and 77, Hawaii Revised Statutes, to carry out a uniform inspection system of poultry or poultry products throughout the State. All poultry inspectors shall be under the supervision and control of a veterinarian employed by the board.

SECTION 5. General powers. The department of agriculture through its board shall regulate, supervise, inspect and control the manufacture, processing, slaughtering, transportation, packaging, labeling, and disposal of poultry or poultry products involved in intrastate commerce. The board may make, amend, and repeal rules and regulations necessary to implement the intent and purpose of this Act, subject to chapter 91, Hawaii Revised Statutes, governing the following matters:

- (1) The issuance of licenses, including the class or classes of licenses to be issued;
- (2) The type of equipment or facilities which may be used in poultry slaughtering and poultry processing operations;
- (3) The internal operations of poultry slaughterhouses and of poultry processing establishments;
- (4) Inspection procedures for ante-mortem and post-mortem inspections and the reinspection of poultry or poultry products used in processing and in the disposal of diseased carcasses and parts of carcasses and poultry or poultry products found unwholesome or otherwise unfit for human consumption;

(5) The hours of slaughtering and processing, and the conditions under which slaughtering and processing may be conducted at other than scheduled times;

(6) The labeling and packaging of poultry or poultry products.

(7) Storing, handling, and transportation of poultry or poultry products.

(8) Such other matters as may be necessary to implement the purposes of this Act.

**SECTION 6. Information, Investigations, Hearings.**

For the purpose of enforcing the provisions of this Act, the board may:

(a) Gather and compile information which relates to the business operations of persons being regulated under this Act and such other information necessary to effectuate the purposes of this Act.

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

(b) Hold hearings, take testimony, administer oaths, subpoena witnesses and issue subpoenas for the production of records, or documents of any kind. Upon failure or refusal of any witness to obey any subpoena, the board may petition the circuit court, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the order of court shall be punishable as a contempt of court.

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

(c) Request the attorney general of this state to seek relief from the appropriate circuit courts for writs of mandamus commanding any person, firm, or corporation to comply with the provisions of this Act or any order of the board made in pursuance thereof or to enjoin any violation of this Act or any order of the board.

Witnesses summoned before the board shall be paid the same fees and mileage that are paid witnesses in the circuit courts of this state, and witnesses whose depositions are taken and the persons taking them shall severally be entitled to the same fees as are paid for like services in said courts.

**PART III. LICENSING**

**SECTION 7. Certificate of sanitation.** The board may issue certificates of sanitation to poultry slaughter-houses, and poultry processors, which are subject to the provisions of this Act and which meet minimum sanitary speci-

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cations required for (a) the slaughtering of poultry for use of the poultry or poultry products in intrastate commerce, and (b) for the processing, transporting, storing, and handling of such poultry or poultry products in intrastate commerce. The board may promulgate and adopt rules and regulations, subject to chapter 91, Hawaii Revised Statutes, governing the minimum sanitary specifications required to be met in connection therewith and prescribing forms, requiring reports and providing for periodic renewals of such certificates.

Notwithstanding any requirement under this Act or the rules and regulations promulgated hereunder which require the renovation or upgrading of the physical facilities of poultry slaughterhouses or poultry processors in order to obtain a certificate of sanitation, the board shall, as of the effective date of this Act, issue certificates of sanitation to poultry slaughterhouses and poultry processors who are now in business, and shall otherwise call on them to continue their operations; provided, however, that the facilities of said poultry slaughterhouses and poultry processors shall be sanitary and that the products which emerge from their respective operations are wholesome, not adulterated and fit for human and other consumption; and provided further, that upon the sale or transfer of any of the foregoing businesses, the purchasers shall be required to meet all of the requirements provided herein and the rules and regulations promulgated hereunder.

**SECTION 8. License required.** It shall be unlawful for any person to engage in the business of slaughtering poultry or manufacturing or processing of poultry or poultry products without a license as required under this part.

**SECTION 9. Application for a license.** The board may issue licenses to poultry slaughterhouses and poultry processing establishments having certificates of sanitation issued under section 7. An applicant for an original or renewal license to operate as a poultry slaughterhouse operator or poultry processor shall file an application upon a form prepared by the board, containing such information which the board deems necessary for the administration of this Act.

The license year shall be from July 1 to the following June 30. All applications for renewal of licenses must be made at least 30 days before the commencement of the license year.

**SECTION 10. License fees.** A fee of \$25 per license year shall be assessed. The license fees collected shall be deposited with the state general fund.

**SECTION 11. Granting, suspending, and revoking licenses.** The action of the board in refusing to grant or renew a license, or in revoking or suspending a license, may be reviewed in the manner provided by chapter 91, Hawaii Revised Statutes.

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

(1) That the applicant does not qualify or does not possess the facilities to conduct a business properly.

(2) That the applicant does not have the financial responsibility to con-



duct a business properly.

(3) That the issuance of a license is otherwise not in the public interest.

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

(1) The licensee has been adjudged a bankrupt.

(2) The licensee has violated chapter 480, Hawaii Revised Statutes, and said violation is directly or indirectly involved with the State poultry industry.

(3) The licensee has failed to keep records or to furnish the statements or information required by the board.

(4) The licensee has intentionally made a false or misleading statement upon which the license was issued.

(5) The licensee has violated or failed to comply with any of the provisions of this Act.

(6) The licensee has ceased to operate the business for which the license was issued.

(c) The board may conditionally renew a license or may conditionally decline to suspend or revoke a license, but such condition shall have appropriate relation to the administration of this Act.

**SECTION 12. Records of Licensees.** The board may, by regulations, require licensees to keep such records and information as it deems necessary for the proper enforcement of this Act.

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

**SECTION 13. Ante-mortem inspection.** For the purpose of preventing the use in intrastate commerce of poultry or poultry products which are adulterated, the board shall cause to be made, by veterinarians and poultry inspectors appointed for that purpose, an examination and inspection of all poultry, before they are allowed to enter into any poultry slaughtering, packing, poultry-canning, or similar establishment in this state in which slaughtering and processing of poultry or poultry products are conducted solely for intrastate commerce; and all poultry found on such inspection to show symptoms of disease shall be set apart from all other poultry and slaughtered or otherwise disposed of as provided in the rules and regulations, and when so slaughtered, the carcasses of said poultry shall be subject to a careful examination and inspection, all as provided by the rules and regulations to be prescribed by the board.

**SECTION 14. Post-mortem inspection; reinspection.** A post-mortem examination and inspection of the carcasses and parts thereof of all poultry capable of use as human food, to be processed at any slaughtering, poultry-canning, packing, or similar establishment in this state in which such poultry or poultry products are prepared solely for intrastate commerce; and the carcasses and parts thereof of all such poultry or poultry products found to be not adulterated shall be marked, stamped, tagged, or labeled, as "Hawaii inspected and passed"; and said inspectors shall label, mark, stamp, or tag as "Hawaii inspected and condemned", all carcasses and parts thereof of poultry or poultry products found to be adulterated; and all carcasses and parts thereof thus in-

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spected and condemned shall be destroyed for food purposes by the establishment in the presence of an inspector, and the board may remove inspectors from any such establishment which fails to so destroy any condemned carcass or part thereof, and the inspectors, after the first inspection shall, when they deem it necessary, reinspect said carcasses or parts thereof to determine whether since the first inspection the same have become adulterated and if any carcass or any part thereof shall, upon examination and inspection subsequent to the first examination and inspection, be found to be adulterated, it shall be destroyed for food purposes by the establishment in the presence of an inspector, and the board may withdraw inspection from any establishment which fails to so destroy any condemned carcass or part thereof.

The foregoing provisions, including those in section 13, shall apply to all poultry and carcasses or parts of carcasses of poultry or poultry products thereof, capable of use as human food, which may be brought into any poultry slaughtering, poultry-canning, packing, or similar establishment, where inspection under this part is maintained, and such examination and inspection shall be made before the carcasses or parts thereof shall be allowed to enter into any establishment wherein the same are to be treated and prepared for poultry products; and the foregoing provisions shall also apply to all such products which, after having been issued from any poultry slaughtering, poultry-canning, packing, or similar establishment, shall be returned to the same or to any similar establishment where such inspection is maintained. The board may limit the entry of poultry or poultry products, and other materials into any establishment at which inspection under this part is maintained, under such conditions it may prescribe to assure that allowing the entry of such poultry or poultry products into such inspected establishments will be consistent with the purpose of this Act.

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

### SECTION 15. Labeling, marking, and branding.

(a) When any poultry or poultry products processed for intrastate commerce which has been inspected as hereinbefore provided and marked "Hawaii inspected and passed" is placed or packed in any can, pot, tin, canvas, or other receptacle or covering in any establishment where inspection under this Act is

maintained, the person processing said product shall cause a label to be attached to said can, pot, tin, canvas, or other receptacle or covering, under supervision of an inspector, which label shall state that the contents thereof have been "Hawaii inspected and passed" under this Act, and no inspection and examination of poultry or poultry products deposited or inclosed in cans, tins, pots, canvas, or other receptacle or covering in any establishment where inspection under this Act is maintained shall be deemed to be complete until such poultry or poultry products have been sealed or inclosed in said can, tin, pot, canvas, or other receptacle or covering under the supervision of an inspector.

(b) All carcasses, parts of carcasses, poultry or poultry products inspected at any establishment under this Act and found to be not adulterated, shall at the time they leave the establishment bear, in distinctly legible form, directly thereon or on their containers, as the board may require, the information required under the definition of the word "misbranded" in section 3.

(c) The board, whenever it determines such action is necessary for the protection of the public, may prescribe by rules and regulations: (1) the styles and sizes of type to be used with respect to material required to be incorporated in labeling to avoid false or misleading labeling of any poultry or poultry products subject to this Act; (2) definitions and standards of identity or composition for poultry or poultry products subject to this Act and standards of fill of container for such poultry or poultry products not inconsistent with any standards established under the Federal Food, Drug, and Cosmetic Act, or under the Federal Poultry Products Inspection Act, and there shall be consultation between the board and the United States Secretary of Agriculture prior to the issuance of such standards to avoid inconsistency between such standards and the federal standards.

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

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

SECTION 16. Sanitation. The board shall cause to be made by veterinarians or poultry inspectors, an inspection of the sanitary conditions of all poultry slaughtering, poultry-canning, packing, or similar establishments in which poultry are slaughtered and the poultry or poultry products thereof are processed solely for intrastate commerce and to prescribe the rules and regulations of sanitation under which such establishments shall be maintained; and where the sanitary conditions of any such establishment are such that the poultry or poultry products are rendered adulterated, it shall refuse to allow said poultry or poultry products to be labeled, marked, stamped, or tagged as "Hawaii inspected and passed".

SECTION 17. Slaughter, processing, transportation, and selling. No person shall, with respect to any poultry or poultry product:

(a) Slaughter any such poultry or process any such poultry or poultry products which are capable of use as human food, at any establishment processing such poultry or poultry products solely for intrastate commerce, except in compliance with the requirements of this Act.

(b) Sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, (1) any such poultry or poultry products which are capable of use as human food, and are adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation; or (2) any poultry or poultry products required to be inspected under this Act unless they have been so inspected and passed.

(c) Do, with respect to any such poultry or poultry products which are capable of use as human food, any act while they are being transported in intrastate commerce or held for sale after such transportation, which is intended to cause or has the effect of causing such poultry or poultry product to be adulterated or misbranded.

SECTION 18. Forgery of mark, brand, or label.

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

(b) No person shall:

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

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

(3) contrary to the regulations prescribed by the board, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(4) knowingly possess, without promptly notifying the board or its representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label or any poultry or poultry product bearing any counterfeit, simulated, forged, or improperly altered official mark;

(5) knowingly make any false statement in any shipper's certificate or

other non-official or official certificate provided for in the regulations prescribed by the board; or

(6) knowingly represent that any poultry or poultry product has been inspected and passed, or exempted, under this Act when, in fact, it has, respectively, not been so inspected and passed, or exempted.

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

SECTION 20. Bribery. Any person or any agent or employee of any person who gives, pays, or offers, directly or indirectly, to any inspector, or any other officer or employee of this State authorized to perform any of the duties prescribed by this Act or by the rules and regulations of the board, any money or other thing of value, with intent to influence said inspector, or other officer or employee of this State in the discharge of any duty herein provided for in this Act shall be deemed guilty of a felony, and shall upon conviction thereof, be punished by a fine not more than \$5,000 or imprisoned not more than three years, or both fine and imprisonment; and any inspector, or other officer or employee of this State authorized to perform any of the duties prescribed by this Act who shall accept any money, gift, or other thing of value from any person engaged in intrastate commerce subject to this Act, given with or without intent to influence his official action shall be guilty of a felony and shall, upon conviction be summarily discharged from office and shall be fined not more than \$10,000 or imprisoned not more than three years, or both fine and imprisonment.

SECTION 21. Exemptions.

(a) The provisions of this Act requiring inspection of the slaughtering of poultry and the processing of carcasses, parts thereof, and poultry products at establishments conducting such operations shall not apply;

(1) To the slaughtering by any person of poultry of his own raising, and the processing by him of the carcasses, parts thereof, and poultry products of such poultry exclusively for use by him and members of his household and his non-paying guests and employees; nor

(2) To the slaughtering or processing of poultry or poultry products by a producer on his own premises and of his own raising for sale to a consumer and received directly by the consumer on the producer's premises for exclusive use by said consumer and members of his household, his non-paying guests, and employees; nor

(3) To the custom slaughter by any person of poultry delivered by the owner thereof or his agent for such slaughter, and the processing by such slaughterer of the carcasses, parts thereof, and poultry product of such poultry, exclusively for use in the household of such owner, by him, and members of his household and his non-paying guests and employees; provided, that such custom slaughterer does not engage in the business of buying or selling any carcasses, parts thereof, of poultry or poultry products, capable of use in human foods; and provided further, that such slaughter of poultry and processing of poultry or poultry products shall be conducted in accordance with such sanitary conditions, record keeping, registration and disease control provisions as the board may by regulation prescribe;

(b) The transportation of carcasses, parts thereof, poultry or poultry products produced without inspection under the provisions of paragraphs (a)(1), (a)(2), and (a)(3) of this section is prohibited, except under permit issued by the board.

(c) The provisions of this Act requiring inspection of poultry or poultry products shall not apply to operations of type traditionally and usually conducted at retail stores or restaurants, when conducted at any retail store or restaurant store or restaurant or similar retail-type establishment for sale at such establishments and normal retail quantities or service of such poultry or poultry products to consumers; and provided that the processing, handling and storage of poultry or poultry products shall be conducted in accordance with sanitary conditions as the board may by regulation prescribe.

(d) In order to accomplish the objectives of this Act, the board may by regulations exempt such other operations which the board determines would best be exempted to further the purposes of this Act, to the extent that such exemptions conform to the Federal Poultry Products Inspection Act and the federal regulations thereunder.

(e) The board may by order suspend or terminate any exemptions under this section with respect to any person whenever it finds that such action will aid in effectuating the purposes of this Act.

(f) The adulteration and misbranding provisions of this Act, other than the requirement of the inspection legend, shall apply to poultry or poultry products which are not required to be inspected under this section.

**SECTION 22. Storing, handling, and transporting.** The board may by regulations prescribe conditions under which poultry or poultry products, capable of use as human food, shall be stored or otherwise handled by any person engaged in the business of buying, selling, freezing, storing or transporting, in or for intrastate commerce, such poultry or poultry products, whenever the board deems such action necessary to assure that the poultry or poultry products will not be adulterated or misbranded when delivered to the consumer. Violation of any such regulation is prohibited.

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

**SECTION 23. Records; subject to examination.** For the enforcement of this Act, (a) the following classes of persons shall keep such records, as the

board by regulations may prescribe, that will fully and correctly disclose all transactions; and all persons subject to such requirements shall, at all reasonable times, upon notice by an authorized representative of the board afford such representative and any authorized representative of the United States Secretary of Agriculture accompanied by the representative of the board access to their places of business and opportunity to examine the facilities, inventory, and records thereof, to copy all such records, and to take reasonable samples of their inventory upon payment of the fair market value therefor;

(1) Any person that is engaged, in or for intrastate commerce, in the business of slaughtering any poultry or processing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any such poultry, capable of use as human food, or animal food;

(2) Any person that is engaged in the business of buying or selling, as poultry brokers, wholesalers, or otherwise, or transporting in intrastate commerce, or storing in or for such commerce, any carcasses, or parts or products of carcasses, of any such poultry;

(3) Any person that is engaged in business, in or for intrastate commerce, as renderers, or engaged in the business of buying, selling, or transporting, in such commerce, any dead, dying, disabled, or diseased poultry, or parts of the carcasses of any such poultry that died otherwise than by slaughter.

(b) Any record required to be maintained by this section shall be maintained for such period of time as the board may by regulations prescribe.

**SECTION 24.** Inspection and sanitary requirements; sale; transportation. The board may provide by regulations for inspection and sanitary requirements under part IV of this Act at any establishment for the slaughter of poultry or the processing of any carcasses or parts or products of poultry, which are not intended for use as human food, but such poultry or poultry products shall, prior to their offer for sale or transportation in intrastate commerce, unless naturally inedible by humans, be denatured or otherwise identified as prescribed by regulations of the board to deter their use for human food. No person shall buy, sell, transport, or offer for sale or transportation, or receive for transportation, in intrastate commerce, any carcasses, parts thereof, poultry or poultry products of any such poultry, which 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.

**SECTION 25.** Dead, dying, disabled, or diseased poultry. No person engaged in the business of buying, selling, or transporting in intrastate commerce, dead, dying, disabled, or diseased poultry, or any parts of the carcasses of any poultry 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 poultry or parts of the carcasses of any such poultry 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 poultry, or the unwholesome parts or products

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thereof, will be prevented from being used for human food purposes.

**SECTION 26. Registration.** No person shall engage in business in or for intrastate commerce, as a poultry broker, renderer, or animal food manufacturer, or as the wholesaler of any carcasses, or parts or products of the carcasses, of any poultry, whether intended for human food or other process, or engage in business as a public warehouseman storing any such articles in or for intrastate commerce, or engage in the business of buying, selling, or transporting in intrastate commerce, any dead, dying, disabled, or diseased poultry or parts of the carcasses of any poultry that died otherwise than by slaughter, unless he has registered with the board his name and the address of each place of business at which, and all trade names under which, he conducts such business.

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

**SECTION 27. Inspection; compensation.** All poultry slaughtered by any slaughterhouse licensed under this part shall be inspected by poultry inspectors authorized by the department, both before and after slaughtering, and no such poultry shall be slaughtered, or after slaughter, be sold, transported, offered for sale or transportation, or received for transportation, in intrastate commerce unless the slaughtering or the use after slaughtering in intrastate commerce is approved by poultry inspectors.

The management of any processing establishment, slaughterhouse, or the owner of any poultry to be slaughtered requiring the services of a poultry inspector in any work day, or on Sundays, or other legal holidays, shall pay to the department of agriculture for any overtime inspection services, the current state overtime rate for each man-hour of work performed by the inspector.

The department of agriculture shall pay the inspector, or inspectors, for all overtime inspection services performed, provided that the party requesting or requiring the overtime inspection services shall sufficiently in advance of the overtime period, arrange with the department for the services.

**SECTION 28. Refusal and withdrawal of inspection.** The board may, for such period, or indefinitely, as it deems necessary to effectuate the purposes of this Act, refuse to provide, or withdraw, inspection service under this Act with respect to any establishment if it determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, the service, that the applicant or recipient is unfit to engage in any business requiring inspection under this Act because the applicant or recipient, or anyone responsibly connected with the applicant or recipient, has been convicted, in any federal or state court, of (1) any felony, or (2) more than one violation under any law, based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food. This section shall not affect in any way other provisions of this Act for withdrawal of inspection services from establishments failing to maintain sanitary conditions or to destroy condemned carcasses, poultry or poultry products.

For the purpose of this section a person shall be deemed to be responsibly connected with the business if he was a partner, officer, director, holder, or owner of ten percent or more of its voting stock or employee in a managerial or



executive capacity. The determination and order of the board with respect thereto under this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty days after the effective date of such order in the appropriate court as provided in part VII. Judicial review of any such order shall be upon the record upon which the determination and order are based.

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

**SECTION 29. Interstate and federal compacts.**

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

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

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

**SECTION 30. Penalties; prosecution.** Whenever any carcass, part of a carcass, poultry or poultry product or any product exempted from the definition of a poultry product, is found by any representative of the board upon any premises where it is held for purposes of, or during or after distribution in intrastate commerce, and there is reason to believe that any poultry or poultry product is adulterated or misbranded and is capable of use as human food, or that it has not been inspected, in violation of the provisions of this Act or of the Federal Poultry Products Inspection Act or the Hawaii or Federal Food, Drug and Cosmetic Act, or that the poultry or poultry product has been or is intended to be, distributed in violation of any such provisions, it may be detained by such representative for a period not to exceed twenty days, pending action or notification of any federal authorities having jurisdiction over such poultry or poultry products, and shall not be moved by any person from the place at which it is located when so detained, until released by such representative. All official marks may be required by the representative to be removed from the poultry or poultry product before it is released unless it appears to the

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satisfaction of the board that the poultry or poultry product is eligible to retain such marks.

Any carcass, part of a carcass, poultry or poultry product or any dead, dying, disabled, or diseased poultry that is being transported in intrastate commerce, or is held for sale in this State after such transportation, and that (1) is or has been processed, sold, transported, or otherwise distributed or offered or received for distribution in violation of this Act, 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 Act, shall be liable to be proceeded against and seized and condemned, at any time, in any circuit court within the jurisdiction of which the poultry or poultry product is found. If the poultry or poultry product is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the general fund of this State, but the poultry or poultry product shall not be sold contrary to the provisions of this Act, or the Federal Poultry Products Inspection Act or the Hawaii or Federal Food, Drug, and Cosmetic Act; provided that, upon the execution and delivery of a good and sufficient bond conditioned that the poultry or poultry product shall not be sold or otherwise disposed of contrary to the provision of this Act, or the laws of the United States, the court may direct that such poultry or poultry product be delivered to the owner thereof subject to such supervision by representatives of the board as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the poultry or poultry product and it is released under bond or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the poultry or poultry product.

The circuit courts of the State are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this Act, and shall have jurisdiction in all other kinds of cases as may be provided by law.

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

Nothing in this Act shall be construed as requiring the board to report for prosecution or injunction proceedings, minor violations of this Act whenever it believes that the public interest will be adequately served by a suitable written notice of warning.

Any person who neglects or refuses to attend and testify or to answer any

lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the board shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

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

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

Any officer or employee of this State who makes public any confidential information obtained by the board unless directed by a court, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

**SECTION 31. Construction.** The licenses required by this Act shall be in addition to any other licenses required by law.

The requirements of this Act shall apply to persons, establishments, poultry and poultry products regulated under the Federal Poultry Products Inspection Act only to the extent provided for in section 23 of said Federal Act.

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

If any of the foregoing provisions are in conflict with any statute, regulation or ordinance, the provisions of this Act shall take precedence.

**SECTION 32. Severability.** If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 33.** This Act shall take effect on July 1, 1970.

(Approved July 14, 1969.)