

A Bill for an Act Relating to Inspection of Poultry and Poultry Products.

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

SECTION 1. Chapter 161, Hawaii Revised Statutes, is amended by adding new sections to be appropriately designated and to read as follows:

“§161- Enforcement. (a) Inspectors shall enforce this chapter and related rules adopted by the department.

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

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

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

(c) Every citation and summons shall be consecutively numbered and each carbon copy shall bear the number of its original.

§161- Administration of oath. When a complaint is made to any prosecuting officer of the violation of this chapter or the rules adopted pursuant thereto, the division head or the division head’s designee who issued the citation and summons shall subscribe to the complaint under oath.

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

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

(c) When a complaint is made to any prosecuting officer of the violation of any provision of this chapter or any rule adopted thereunder, the division head or the division head’s designee who issued the complaint and summons shall subscribe to it under oath.”

SECTION 2. Section 161-3, Hawaii Revised Statutes, is amended by amending the definition of “person” to read as follows:

““Person” [is defined in the manner set forth in section 1-19.] means any individual, firm, corporation, association, or partnership, or any organized group of persons whether incorporated or not.”

SECTION 3. Section 161-47, Hawaii Revised Statutes, is amended to read as follows:

“[[]§161-47[]] **Penalties; prosecution.** (a) Whenever any carcass, part of a carcass, poultry, or poultry product or any product exempted from the definition of a poultry product[,] is found by any authorized representative of the board upon any premises where it is held for purposes of, or during or after distribution in, intrastate commerce[,] and there is reason to believe that any poultry or poultry product is adulterated or misbranded and is capable of use as human food, or that it has not been inspected[,] in violation [of the provisions] of this chapter or of the Federal Wholesome 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] the representative for a period not to exceed twenty days, pending action or notification of any federal authorities having jurisdiction over [such] the poultry or poultry [products,] product, and shall not be moved by any person from the place at which it is located when [so] detained[,] until released by [such] the representative. All official marks may be required by the representative to be removed from the poultry or poultry product before it is released unless it appears to the satisfaction of the board that the poultry or poultry product is eligible to retain [such] the marks.

(b) Any carcass, part of a carcass, poultry, or poultry product or any dead, dying, disabled, or diseased poultry that is being transported in intrastate commerce[,] or is held for sale in [this] the State after [such transportation,] being so transported and that (1) is or has been [processed,] prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of this chapter, or (2) is capable of use as human food and is adulterated or misbranded, or (3) in any other way is in violation of this chapter, shall be liable to be proceeded against and seized and condemned, at any time, in any 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] the State, but the poultry or poultry product shall not be sold contrary to [the provisions of] this chapter[,] or the Federal Wholesome 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] issued on the condition that the poultry or poultry product shall not be sold or otherwise disposed of contrary to [the provision of] this chapter[,] or the laws of the United States, the court may direct that [such] the poultry or poultry product be delivered to the owner thereof subject to [such] supervision by authorized representatives of the board as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the poultry or poultry product and it is released under bond, or destroyed, court costs and fees[,] and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the poultry or poultry product.

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

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

(e) Any person who violates any provision of this chapter for which no other criminal penalty is provided by this chapter shall be fined not more than \$1,000 or imprisoned not more than one year, or both, but if the violation involves intent to defraud or any distribution or attempted distribution of poultry [and] or poultry [products] product 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] product in violation of this chapter if [such] the receipt was made in good faith, unless [such] the person refuses to furnish on request of a representative of the board the name and address of the person from whom [he received such] the poultry or poultry product[,] was received and copies of all documents, if any there be, pertaining to the delivery of the poultry or poultry [products.] product.

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

(g) Any person who neglects or refuses to attend and testify or to answer any lawful inquiry[,] or to produce documentary evidence, if in [his] that person's power to do so[,] in obedience to the subpoena or lawful requirement of the board, shall be guilty of an offense and, upon conviction thereof by a court of competent jurisdiction, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

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

(i) If any person required by this chapter to file any annual or special report fails to do so within the time fixed by the board and the failure continues for thirty days after notice of [such] default, [he] that person shall forfeit to [this] the State the sum of \$100 for each day of the continuance of [such] the failure, which forfeiture shall be payable into the State general fund and shall be recoverable in a civil suit in the name of the State brought in the county where the [person has his] person's principal office is located or in any county in which

[he] the person does business. It shall be the duty of the county attorneys or corporation counsel of the respective counties within the State, upon request of the attorney general, to prosecute for the recovery of [such] the forfeitures.

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

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved May 27, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.