

## ACT 139

H.B. NO. 2878

A Bill for an Act Relating to Meat Inspection.

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

SECTION 1. Chapter 159, Hawaii Revised Statutes, is amended by adding a new part, to be appropriately designated and to read as follows:

**“PART . EXOTIC ANIMALS; REIMBURSABLE INSPECTION**

**§159- Inspection of exotic animals.** Persons desiring certification as to wholesomeness and unadulteration for meat and meat products derived from exotic animals may request the department to conduct an inspection under this chapter.

**§159- Reimbursement for inspection.** The department may perform inspection of meat and meat products derived from exotic animals when requested by persons desiring such inspection. Persons requesting and receiving inspection service under this part shall reimburse the State for all costs incurred by the State in the provision of the service. All such reimbursements shall be deposited into the general fund.

**§159- Conduct of exotic animal inspection.** Inspection of exotic animals, their carcasses, and meat and meat products derived therefrom, shall be conducted in accordance with this chapter and rules adopted pursuant to this chapter. Persons requesting and receiving inspection service under this part, and the meat and meat products derived from exotic animals that are inspected by the department under this part, shall be subject to all requirements and penalties of this chapter and of the rules adopted under this chapter.

**§159- Prohibitions.** The preparation, sale, offering for sale, or transportation or receipt for transportation in intrastate commerce of meat and meat products derived from exotic animals, unless inspected and passed as provided for under this part, is prohibited. Violators shall be subject to all requirements and penalties of this chapter.”

SECTION 2. Section 159-3, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “adulterated” to read:

““Adulterated” shall apply to any carcass, part thereof, meat or meat products 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 meat [and] or meat products shall not be considered adulterated under this paragraph if the quantity of the substance in or on the meat [and] or meat products 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 animal 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, may make the meat [and] or meat products 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 within the meaning of the Hawaii Food, Drug, and Cosmetic Act or section 408 of the Federal Food, Drug, and Cosmetic Act.
  - (C) If it bears or contains any food additive which is unsafe within the meaning of the Hawaii Food, Drug, and Cosmetic Act or section 409 of the Federal Food, Drug, and Cosmetic Act.
  - (D) If it bears or contains any color additive which is unsafe within the meaning of the Hawaii Food, Drug, and Cosmetic Act or section 706 of the Federal Food, Drug, and Cosmetic Act, provided that meat [and] or meat products which are unadulterated under subparagraphs (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on the meat [and] or meat products is prohibited by [regulations] rules of the board in establishments at which inspection is maintained under part IV [of this chapter].
- (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.
  - (4) If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.
  - (5) If it is, in whole or in part, the product of an animal which had 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 rule, regulation, or exemption in effect pursuant to the Hawaii Food, Drug, and Cosmetic Act or section 409 of the Federal 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 therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.
  - (9) If it is margarine containing animal fat and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance.”

2. By amending the definition of “animal food manufacturer” to read: ““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 cattle, sheep, swine, goats, horses, mules, [or] other equines[.], or exotic animals.”

3. By adding four new definitions to be appropriately inserted and to read:

“Certification” means the act of applying the official certificate or official mark by persons performing official functions under this chapter.

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

“Exotic animal” means any cloven-hoofed ruminant animal considered feral in nature, other than domestic cattle, sheep, goats, or equines. For the purposes of this chapter, domestic rabbits shall be considered exotic animals.

“Federal Meat Inspection Act” means the Act so entitled, approved March 4, 1907 (34 Stat. 1260) as amended by the Wholesome Meat Act of 1967 (81 Stat. 584), including any amendments thereto.”

4. By amending the definition of “labeling” to read:

“Labeling” means all labels and other written, printed, or graphic matter upon any meat [and] or meat products or any of its containers or wrappers, or accompanying the meat [and] or meat products.”

5. By amending the definition of “meat broker” to read:

“Meat broker” means any person[,] who sells or offers to sell, or buys or offers to buy, carcasses, parts of carcasses, meat or meat products of cattle, sheep, swine, goats, horses, mules, [or] other equines, or exotic animals on commission or who otherwise negotiates the purchase [or], sale, or exchange of the meat or meat products other than for the person’s own account or as an employee of another person.”

6. By deleting the definition of “Meat Inspection Act”.

[“Meat Inspection Act” means the Act so entitled, approved March 4, 1907 (34 Stat. 1260), as amended by the Wholesome Meat Act of 1967 (81 Stat. 584), including any amendments thereto.”]

7. By amending the definition of “meat or meat products” to read:

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

8. By adding a new definition to be appropriately inserted and to read:

“Meat or meat products derived from exotic animals” means any product capable of use as human food which is made wholly or in part from any meat or other portions of the carcass of any exotic animal, excepting products which contain meat or other portions of the carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry, and which are exempted from the definition as meat products by the board under the conditions as it may prescribe to assure that the meat or other portions of the carcasses contained in the products are not adulterated and that the products are not represented as meat products.”

9. By amending the definition of “misbranded” to read:

“Misbranded” shall apply to any carcass, part thereof, meat or meat products 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 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.
  - (B) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided that [under subparagraph (B) of this paragraph,] reasonable variations may be permitted and exemptions as to small packages may be prescribed by the board.
- (6) If any word, statement, or other information required by or under authority of this chapter to appear on the label or other labeling is not prominently placed thereon with the conspicuousness as compared with other words, statements, designs, or devices, in the labeling and in the terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.
- (7) If it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by the board under this chapter unless:
  - (A) It conforms to the definition and standard.
  - (B) Its label bears the name of the food specified in the definition and standard and, insofar as may be required by the regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in the food.
- (8) If it purports to be or is represented as a food for which a standard of fill of container has been prescribed by the board under this chapter, and it falls below the standard of fill of container applicable thereto, unless its label bears, in the manner and form as the board prescribes, a statement that it falls below the standard.
- (9) If it is not subject to paragraph (7), unless its label bears:
  - (A) The common or usual name of the food, if any there be.
  - (B) In case it is fabricated from two or more ingredients, the common or usual name of each ingredient; except that spices, flavorings, and colorings may with the approval of the board be designated as spices, flavorings, and colorings without naming each; provided that to the extent that compliance with the requirements of this subparagraph [(B) of this paragraph (9)] is impracticable, or results in deception or unfair competition, exemptions shall be established by the board.
- (10) If it purports to be or is represented for special dietary uses, unless its label bears the information concerning its vitamin, mineral, and other dietary properties as the board, after consultation with the [secretary of agriculture] Secretary of Agriculture and concurrence by the department of health, determines to be and prescribes as necessary in order fully to inform purchasers as to its value for the 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 this paragraph [(11)] is impracticable, exemptions shall be established by the board.

- (12) If it fails to bear, directly thereon or on its container, as the board may prescribe, the inspection legend and, unrestricted by any of the foregoing, other information as the board may require to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the meat [and] or meat products in a wholesome condition.”

10. By amending the definition of “official certificate” to read:

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

11. By amending the definition of “official inspection legend” to read:

““Official inspection legend” means any symbol prescribed by the board showing that meat [and] or meat products were inspected and passed in accordance with this chapter.”

12. By amending the definition of “official mark” to read:

““Official mark” means the official inspection legend or any other symbol prescribed by the board to identify the status of any meat [and] or meat products or animal under this chapter.”

13. By amending the definition of “pesticide chemical”, “food additive”, “color additive”, and “raw agricultural commodity” to read:

““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.”

14. By amending the definition of “renderer” to read:

““Renderer” means any person engaged in the business of rendering carcasses, or part or products of the carcasses, of cattle, sheep, swine, goats, horses, mules, [or] other equines, or exotic animals, except rendering conducted under inspection under part IV [of this chapter].”

15. By amending the definition of “Secretary of agriculture” to read:

““Secretary of [agriculture] Agriculture” means the [secretary of agriculture] Secretary of Agriculture of the United States.”

16. By amending the definition of “wholesaler” to read:

““Wholesaler” means any person[,] who buys or sells carcasses, parts of carcasses, meat or meat products of cattle, sheep, swine, goats, horses, mules, [or] other equines, or exotic animals in trade channels other than retail. For the purpose of this chapter, a wholesaler who also has retail operations will be deemed to be a wholesaler.” ”

SECTION 3. Section 159-7, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§159-7~~]]~~ **General powers.** The department through its board is hereby vested with the following powers:

- (1) Regulate, supervise, inspect, and control the manufacture, processing, slaughtering, transportation, packaging, labeling, and disposal of meat or meat products involved in intrastate commerce.
- (2) Adopt, amend, and repeal rules [and regulations] as are necessary to implement this chapter, subject to chapter 91, on the following matters:
  - (A) The issuance of licenses, including the class of licenses to be issued.

- (B) The type of equipment or facilities which may be used in slaughtering and meat processing operations.
  - (C) The internal operations of [a slaughterhouse] slaughterhouses and of meat processing establishments.
  - (D) Inspection procedures for ante-mortem and post-mortem inspections and the reinspection of meat or meat products used in processing and the disposal of diseased carcasses and parts of carcasses and meat or meat products found unwholesome or otherwise unfit for human consumption.
  - (E) The hours of slaughtering, processing, and conditions under which slaughtering and processing may be conducted at other than scheduled times.
  - (F) The labeling and packaging of meat or meat products.
  - (G) Storing, handling, and transportation of meat or meat products.
  - (H) Sanitary conditions of all establishments where meat or meat products are slaughtered, processed, or prepared.
  - (I) Any other matter as may be necessary or desirable to effectuate the [purpose] purposes of this chapter.
- (3) Provide for the inspection and certification of meat derived from exotic animals when these services are requested by producers of these products, and obtain from users of these services reimbursement for all costs incurred in the provision of these services."

SECTION 4. Section 159-11, Hawaii Revised Statutes, is amended to read as follows:

“~~[[[§159-11]]]~~ **Certificate of sanitation.** (a) The board may issue certificates of sanitation to slaughterhouses, meat processors, and animal food manufacturers which are subject to this chapter and which meet minimum sanitary specifications required for:

- (1) The slaughtering of animals for use of the meat or meat products in intrastate commerce.
- (2) [For the] The processing, rendering, transporting, storing, and handling of the meat or meat products in intrastate commerce. The board may [promulgate and] adopt rules, [and regulations] subject to chapter 91, governing the minimum sanitary specifications and prescribing forms, requiring reports, and providing for periodic renewals of such certificates.

(b) Notwithstanding any requirement under this chapter or the rules [and regulations promulgated hereunder] adopted under this section which require the renovation or upgrading of the physical facilities of slaughterhouses, meat processors, or animal food manufacturers in order to obtain a certificate of sanitation, the board [shall], as of July 1, 1969, shall continue to issue certificates of sanitation to slaughterhouses now licensed by the State, and to meat processors and animal food manufacturers who are in business, to continue their operations; provided that [the]:

- (1) The facilities of the slaughterhouses, meat processors, and animal food manufacturers 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]
- (2) Upon the sale or transfer of any of the foregoing businesses, the [purchasers] person to whom the business is transferred shall be

required to meet all of the requirements provided [herein] in and the rules [and regulations promulgated] adopted [hereunder.] under this chapter.”

SECTION 5. Section 159-27, Hawaii Revised Statutes, is amended to read as follows:

“[[§159-27]] **Inspector.** [Veterinarian and inspector] Veterinarians and inspectors shall examine and inspect all cattle, sheep, swine, goats, horses, mules, and other equines the inspection of which is hereby provided for, and [of] all carcasses and parts thereof, and [of] all [meats] meat or meat products thereof, and [of] the sanitary conditions of all establishments in which the meat or meat products are prepared; [and the veterinarian and inspectors] veterinarians and inspectors shall refuse to stamp, mark, tag, or label any carcass or any part thereof, or meat products therefrom, prepared in any establishment, until the same shall have actually been inspected and found to be unadulterated; and veterinarians and inspectors shall perform other duties as are provided by this chapter and by the rules [and regulations to be prescribed] adopted by the board and the board [shall], from time to time, [make] shall adopt such rules [and regulations] in accordance with chapter 91 which are necessary for the efficient execution of this chapter, and all inspections and examinations made under this chapter shall be [and] made in a manner as described in the rules [and regulations prescribed] adopted by the board not inconsistent with this chapter.”

SECTION 6. Section 159-28, Hawaii Revised Statutes, is amended to read as follows:

“[[§159-28]] **Bribery.** Any person or employee of any person, who shall give, pay, or offer, directly or indirectly, to any inspector, or any other officer or employee of the State authorized to perform any of the duties prescribed by this chapter or by the rules [and regulations] of the board, any money or other thing of value, with intent to influence the inspector, or other officer or employee of this State, in the discharge of any duty shall be [fined not more than \$5,000 or imprisoned not more than three years, or both; and any] guilty of a Class C felony; provided the minimum sentence shall be a \$5,000 fine and a three-year term of imprisonment. Any inspector, or other officer or employee of this State authorized to perform any of the duties prescribed by this chapter, who shall accept any money, gift, or other thing of value from any person, or officers, agents, or employees thereof, given with intent to influence the inspector’s, officer’s,<sup>1</sup> or employee’s official action, or who shall receive or accept from any person engaged in intrastate commerce subject to this chapter any gift, money, or other thing of value given with or without intent to influence the inspector’s, officer’s, or employee’s official actions, shall be discharged from office and [be fined not more than \$5,000 or imprisoned not more than three years, or both.”] shall be guilty of a class C felony, provided the minimum fine shall be \$1,000.”

SECTION 7. Section 159-29, Hawaii Revised Statutes, is amended to read as follows:

“**§159-29 Exemptions.** (a) This chapter requiring inspection of the slaughtering of animals and the preparation of the carcasses, parts thereof, and meat or meat products at establishments conducting such operations shall not apply:

- (1) To the slaughtering by any person of animals of the person’s own raising, and the preparation and transportation by the person of the

carcasses, parts thereof, and meat or meat products of the animals exclusively for use by the person [and], members of the person's household, and the person's nonpaying guests and employees; provided that the slaughter of the animals is performed in compliance with part II[,] of chapter 146.

- (2) To the custom slaughter by any person of cattle, sheep, swine,<sup>1</sup> or goats delivered by the owner thereof or the owner's agent for slaughter, and the preparation by [slaughter] that slaughterer of the carcasses, parts thereof, and meat or meat products of the animals[,] exclusively for use, in the household of the owner, by the owner, [and] members of the owner's household, and the owner's nonpaying guests and employees; [provided that the custom slaughterer does not engage in the business of buying or selling any carcasses, parts of carcasses, meat or meat products of any cattle, sheep, swine, goats or equines, capable of use as human food; and provided further that the] nor:
- (3) To the custom preparation by any person of carcasses, parts thereof, and meat or meat products derived from the slaughter by any person of cattle, sheep, swine, or goats of the owner's own raising or from exotic animals delivered by the owner thereof for that custom preparation, and transportation of those custom prepared articles exclusively for use, in the household of the owner, by the owner, members of the owner's household, and the owner's nonpaying guests and employees.
- (4) To the person engaging in custom operations at an establishment at which inspection under this chapter is maintained; provided that:
  - (A) Any carcasses, parts thereof, and meat or meat products wherever handled on a custom basis, or any containers or packages containing those articles, are separated at all times from carcasses, parts thereof, and meat or meat products prepared for sale; and
  - (B) All articles prepared on a custom basis, or any containers or packages containing such articles, are plainly marked "not for sale" immediately after being prepared and kept so identified until delivered to the owner.

A person conducting custom exempt operations shall be registered with the board as a custom exempt operator under this paragraph and obtain a permit for exemption from the board to conduct those operations. The board may refuse, withdraw, or modify any permit for exemption under this paragraph in its discretion whenever it determines the action is necessary to effectuate the purposes of this chapter.

(b) The custom slaughter of animals and preparation of meat or meat products shall be conducted in accordance with the sanitary conditions[,] and the recordkeeping, registration, and disease control provisions [as] that the board may prescribe.

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

[(c)] (d) This chapter requiring inspection of meat or meat products shall not apply to operations of types traditionally and usually conducted at retail stores and restaurants, when conducted at any retail store or restaurant or similar retail-type establishment for sale at the establishments in normal retail quantities or service of meat or meat products to consumers[.]; provided that the

meat or meat products shall have been inspected and passed previously in compliance with this chapter and that the preparation, handling, and storage of meat or meat products is conducted in accordance with the sanitary conditions [as] that the board may prescribe.

[(d)] (e) In order to accomplish the objectives of this chapter, the board [may by regulation], by rule, may exempt operations which the board determines would best be exempted to further the purposes of this chapter, to the extent that the exemptions conform to the Federal Meat Inspection Act and the regulations thereunder.

[(e)] (f) The adulteration and misbranding provisions of this chapter, other than the requirement of the official inspection legend, shall apply to meat or meat products which are not required to be inspected under this section.”

SECTION 8. Section 159-36, Hawaii Revised Statutes, is amended to read as follows:

**“[[§159-36]] Inspection and sanitary requirements; sale; transportation.** The board may provide for inspection and sanitary requirements under part IV [of this chapter] at any establishment for the slaughter of cattle, sheep, swine, goats, horses, mules, or other equines, or the preparation of any carcasses or parts or products of animals, which are not intended for use as human food, but the meat or meat products [shall], prior to their offer for sale or transportation in intrastate commerce, unless naturally inedible by humans, shall be denatured or otherwise identified as prescribed by 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, or meat or meat products of any animals, which are not intended for use as human food unless they are denatured or otherwise identified as required by the [regulations of] rules adopted by the board or are naturally inedible by humans.”

SECTION 9. Section 159-37, Hawaii Revised Statutes, is amended to read as follows:

**“[[§159-37]] Records; subject to examination.** (a) For the enforcement of this chapter, the following classes of persons shall keep records as the board may prescribe and all persons subject to the requirements shall, at all reasonable times, upon notice by a duly authorized representative of the board, afford the representative and any duly authorized representative of the [secretary of agriculture] 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] of those records, and to take reasonable samples of their inventory upon payment of the fair market value therefor:

- (1) Any person who engages, in or for intrastate commerce, in the business of slaughtering any cattle, sheep, swine, goats, horses, mules, or other equines, or preparing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any animals, for use as human food or animal food.
- (2) Any person who engages in the business of buying or selling as meat broker, wholesaler or otherwise, or transporting in intrastate commerce, or storing in or for commerce, any carcasses, or parts or products of carcasses, of any animals.
- (3) Any person who engages in business, in or for intrastate commerce, as renderer, or [engage] engages in the business of buying, selling, or transporting, in commerce, any dead, dying, disabled, or diseased

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cattle, sheep, swine, goats, horses, mules, or other equines, or parts of the carcasses of such animals that died otherwise than by slaughter.

- (4) Any person who engages in the business of custom slaughtering or preparing any cattle, sheep, swine, goats, horses, or other equines for use as human food or animal food.

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

SECTION 10. Section 159-39, Hawaii Revised Statutes, is amended to read as follows:

“**§159-39 Dead, dying, disabled, or diseased animals.** No person engaged in the business of buying, selling, or transporting in intrastate commerce, dead, dying, disabled, or diseased animals, or any parts of the carcasses of any animals that died otherwise than by slaughter, shall buy, sell, transport, offer for sale [for] or transportation, or receive for transportation, in commerce, any dead, dying, disabled, or diseased cattle, sheep, swine, goats, horses, mules,<sup>1</sup> or other equines, or parts of the carcasses of any such animals that died otherwise than by slaughter, unless the transaction or transportation is made in accordance with the [regulations as] rules that the board may [prescribe] adopt to assure that the animals, or the [unwholesome] parts or products thereof, will be prevented from being used for human food purposes.”

SECTION 11. Section 159-46, Hawaii Revised Statutes, is amended to read as follows:

“**§159-46 Inspection; overtime compensation.** All animals slaughtered by any slaughterhouse duly licensed under this part shall be inspected by an inspector duly authorized by the department, both before and after slaughtering, and no animal shall be slaughtered, or after slaughter be sold, transported, offered for sale or transportation, or received for transportation in [intrastate] commerce unless the slaughtering thereof or the use thereof in [intrastate] commerce, after slaughtering, is approved by an inspector.

The management of any processing establishment, slaughterhouse, or the owner of any animal to be slaughtered requiring the services of an inspector in excess of eight consecutive hours on any [work day,] workday, or [on Sundays,] in excess of forty hours in any workweek, or [other] on legal holidays, shall pay to the department for overtime inspection services, the current state overtime rate for each [man-hour] hour of work performed by the inspector.

The department shall pay the inspector 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 12. Section 159-48, Hawaii Revised Statutes, is amended to read as follows:

“**§159-48 Refusal and withdrawal of inspection.** The board [may], for the period, or indefinitely, as it deems necessary to effectuate the purposes of this chapter, may refuse to provide, or withdraw, inspection service under this chapter with respect to any establishment if it determines, after opportunity for a hearing is accorded to the applicant for[, ] or a recipient of the service, that the applicant or recipient is unfit to engage in any business requiring inspection

under this chapter because the applicant or recipient, or anyone responsibly connected with the applicant or recipient, has been convicted, in any federal or state court, of (1) any felony, or (2) more than one violation of any law, based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food. This section shall not affect, in any way, the other provisions of this chapter for withdrawal of inspection services from establishments failing to maintain sanitary conditions or to destroy condemned carcasses, parts thereof, or meat or meat products.

For the purpose of this section a person shall be deemed to be responsibly connected with the business if the person was a partner, officer, director, holder, or owner of ten per cent or more of its voting stock or an 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.”

SECTION 13. Section 159-51, Hawaii Revised Statutes, is amended to read as follows:

“**[[§159-51]] Interstate and federal compacts.** (a) The board is hereby designated as the state agency which [shall be] is responsible for cooperating with the [secretary of agriculture] Secretary of Agriculture under section 301 of the Federal Meat Inspection Act, and the board is directed to cooperate with the [secretary of agriculture] Secretary of Agriculture in [developing and] administering the meat inspection program of this State under this chapter to assure that [not later than November 15, 1969,] its requirements [will be] remain at least equal to those imposed under [titles I and IV of] the Federal Meat Inspection Act and in [developing and] administering the program of this State under this chapter in a manner [as] that will effectuate the purposes of this chapter [and], the Federal Meat Inspection Act[,], and rules and regulations adopted thereunder.

(b) In cooperative efforts, the board may accept from the [secretary of agriculture] Secretary of Agriculture advisory assistance in [planning and otherwise developing] administering the state program, technical and laboratory assistance and training, including necessary curricular and instructional materials and equipment, and financial and other aid for administration of the program.

(c) The board may recommend to the [secretary of agriculture] Secretary of Agriculture, the officials or employees of this State as the board shall designate[,] for appointment to the advisory committees provided for in section 301 of the Federal Meat Inspection Act; and the board shall serve as the representative of the governor for consultation with the [secretary of agriculture of the United States] Secretary of Agriculture under paragraph (c) of section 301 of the Federal Meat Inspection Act unless the governor shall select another representative.”

SECTION 14. Section 159-52, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Whenever any carcass, part of a carcass, or meat[,] or meat product of cattle, sheep, swine, goats, horses, mules, or other equines or any product exempted from the definition of a meat or meat product or any dead, dying, disabled, or diseased cattle, sheep, swine, goat, or equine 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 meat or meat product is adulterated or misbranded and is capable of use as human food, or that it has not been inspected in violation of this chapter [or of], the Federal Meat Inspection Act, or the Hawaii or Federal Food, Drug, and Cosmetic Act, or that the meat or meat product or animal has been or is intended to be distributed in violation of any provisions, it may be detained by the representative for a period not to exceed twenty days, pending action or notification of any federal authorities having jurisdiction over the meat or meat product or animal, and shall not be moved by any person from the place at which it is located when detained unless<sup>1</sup> released by the representative. All official marks may be required by the representative to be removed from the meat or meat product or animal before it is released unless it appears to the satisfaction of the board that the meat or meat product or animal is eligible to retain the marks.

(b) Any carcass, part of a carcass, or meat[,] or meat product of cattle, sheep, swine, goats, horses, mules, or other equines or any dead, dying, disabled, or diseased cattle, sheep, swine, goat, or equine that is being transported in [intrastate] commerce or is held for sale in the State after being so transported and that (1) is or has been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of this chapter, or (2) is capable of use as human food and is adulterated or misbranded, or (3) in any other way is in violation of this chapter, shall be liable to be proceeded against and seized and condemned, at any time, in any [circuit] court within the jurisdiction of which the meat or meat product or animal is found. If the meat or meat 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 general fund of the State, but the meat or meat product or animal shall not be sold contrary to this chapter [or], the Federal Meat Inspection Act, or the Hawaii or Federal Food, Drug, and Cosmetic Act; provided that upon the execution and delivery of a good and sufficient bond issued on the condition that the meat or meat product or animal shall not be sold or otherwise disposed of contrary to this chapter or the laws of the United States, the court may direct that the meat or meat product or animal be delivered to the owner thereof subject to supervision by authorized representatives of the board as is necessary to [insure] ensure compliance with the applicable laws. When a decree of condemnation is entered against the meat or meat 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 meat or meat product or animal."

SECTION 15. Section 159-52, Hawaii Revised Statutes, is amended by amending subsections (d), (e), and (f) to read as follows:

"(d) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person engaged in the performance of, or on account of, official duties under this chapter shall be fined not more than \$5,000 or imprisoned not more than [three] five 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 meat or meat product that is adulterated, the person shall be fined not more than \$10,000 or imprisoned for not more than [three] five years, or both; provided that

no person shall be subject to penalties under this section for receiving for transportation any meat or meat product or animal in violation of this chapter if the receipt was made in good faith, unless the person refuses to furnish on request of a representative of the board the name and address of the person from whom the meat or meat product or animal was received and copies of all documents, if any there be, pertaining to the delivery of the meat or meat product or animal.

(f) Nothing in this chapter shall be construed as requiring the board to issue citations and summons or to report for prosecution or injunction proceedings minor violations of this chapter whenever it believes that the public interest will be adequately served by a suitable written notice of warning. In determining whether the public interest will be adequately served by a written notice of warning, the board shall take into account, among other factors:

- (1) The compliance history of those persons;
- (2) The magnitude of the violation;
- (3) Whether compliance with this chapter would likely result from that notice; and
- (4) Whether the violation is of a minor or technical nature.”

SECTION 16. The department of agriculture shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 1991. The report shall include, but not be limited to, the number of exotic animals inspected in 1990 on each island and the effectiveness of enforcement regarding the custom slaughtering and preparation of domestic and exotic animals.

SECTION 17. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 18. This Act shall take effect upon its approval and shall be repealed on June 30, 1991.

(Approved June 15, 1990.)

**Note**

1. So in original.