

Amendment No. 2 to SB2050

Southerland
Signature of Sponsor

AMEND Senate Bill No. 2050*

House Bill No. 2486

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 53-7-202, is amended by deleting the section and substituting the following:

As used in this part:

(1) "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 or livestock;

(2) "Capable of use as human food" means any carcass or part or product of a carcass of any animal or poultry that is not:

(A) Denatured or otherwise identified as required by rules promulgated by the commissioner to deter its use as human food; or

(B) Naturally inedible by humans;

(3) "Carcass" means all parts, including viscera of a slaughtered animal or poultry, that are capable of being used for human food;

(4) "Color additive" has the same meaning as defined in § 53-1-102;

(5) "Commissioner" means the commissioner of agriculture, or the commissioner's designee;

(6) "Container" and "package" include any box, can, tin, cloth, plastic, or any other receptacle, wrapper, or cover;

(7) "Custom slaughterer" means a person engaged for profit in this state in the business of slaughtering or dressing animals for human consumption that are not to be

Amendment No. 2 to SB2050

Southerland
Signature of Sponsor

AMEND Senate Bill No. 2050*

House Bill No. 2486

sold or offered for sale through a commercial outlet, and may include the boning or cutting up of carcasses of such animals and the grinding, chopping, and mixing of the carcasses of animals;

(8) "Federal Food, Drug and Cosmetic Act" means the federal act compiled at 21 U.S.C. § 301 et seq., as amended;

(9) "Federal Meat Inspection Act" means the federal act compiled in 21 U.S.C. § 601 et seq., and the imported meat provisions of the Tariff Act of 1930, § 306(b) and (c), as amended (21 U.S.C. § 620);

(10) "Federal Poultry Products Inspection Act" means the federal act compiled in 21 U.S.C. § 451 et seq.;

(11) "Food additive" has the same meaning as defined in § 53-1-102;

(12) "Immediate container" means any consumer package, or any other container in which an article, not consumer packaged, is packed;

(13) "Inspection service" means the official government service within the department of agriculture of this state designated by the commissioner as having the responsibility for carrying out this part;

(14) "Inspector" means:

(A) An employee or official of this state authorized by the commissioner to perform any inspection functions under this part; and

(B) An employee or official of a county or municipal government authorized by the commissioner to perform any inspection functions under this

part pursuant to an agreement between the commissioner and the county or municipal government;

(15) "Intrastate commerce" means commerce within this state;

(16) "Label" means a display of written, printed, or graphic material upon any article or the immediate container, excluding packaged liners, of any article;

(17) "Labeling" means all labels and other written, printed, or graphic material:

(A) Upon any article or any of its containers or wrappers; or

(B) Accompanying the article;

(18) "Livestock" means cattle, sheep, swine, goats, or rabbits;

(19)

(A) "Meat" means the edible part of the muscle of livestock or deer that is skeletal or that is found in the tongue, in the diaphragm, in the heart, or in the esophagus, with or without the accompanying and overlying fat, and the portions of bone, skin, sinew, nerve, and blood vessels that normally accompany the muscle tissue and that are not separated from it in the process of dressing; and

(B) "Meat" does not include the muscle found in the lips, snout, or ears;

(20) "Meat broker" means any person engaged in the business of buying or selling carcasses, parts of carcasses, meat, or meat food products of livestock or poultry, on commission or otherwise negotiating purchases or sales of such articles other than for the person's own account or as an employee of another person;

(21)

(A) "Meat food product" means any product capable of use as human food that is made wholly, or in part, from any meat or other portion of the carcass of any livestock; and

(B) "Meat food product" does not include products that contain meat or other portions of 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 by the commissioner under conditions that the commissioner prescribes to assure that the meat or other carcass portions contained in the products are not adulterated and that the products are not represented as meat food products;

(22) "Misbranded" means a product that is misbranded under § 53-1-105;

(23) "Official certificate" means any certificate authorized by rules of the commissioner for issuance by an inspector or other person performing official functions under this part;

(24) "Official device" means any device authorized by the commissioner for use in applying any official mark;

(25) "Official establishment" means any establishment in this state, as determined by the commissioner, at which inspection of the slaughter of livestock or poultry or the processing of livestock, deer, or poultry carcasses or parts of livestock, deer, or poultry carcasses, meat food products, or poultry products, is maintained under the authority of this part;

(26) "Official inspection legend" means any symbol prescribed by rules of the commissioner showing that an article passed inspection in accordance with this part;

(27) "Official mark" means the official inspection legend or any other symbol prescribed by rules of the commissioner to identify the status of any article, poultry, or animal under this part;

(28) "Pesticide chemical" has the same meaning as defined in the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 321);

(29) "Poultry" means any live or slaughtered domesticated bird;

(30)

(A) "Poultry product" means any poultry carcass, or part of a poultry carcass, or any product made wholly or in part from a poultry carcass or part of a poultry carcass; and

(B) "Poultry product" does not include products that contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry, and which are exempted by the commissioner under conditions that the commissioner prescribes to assure that the poultry ingredients contained in the products are not adulterated and that the products are not represented as poultry products;

(31) "Processed" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured;

(32) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(33) "Renderer" means any person engaged in the business of rendering carcasses, parts of carcasses, or products of the carcasses of poultry or livestock, except rendering conducted under inspection or exemption pursuant to this part;

(34) "Shipping container" means any container used or intended for use in packaging the product packed in an immediate container; and

(35) "Unwholesome" means:

(A) Unsound, injurious to health, containing any biological residue not permitted by rules prescribed by the commissioner, or otherwise rendered unfit for human food;

(B) Consisting, in whole or in part, of any filthy, putrid, or decomposed substance;

(C) Processed, packed, or held under unsanitary conditions whereby any livestock, deer, or poultry carcass or part of any livestock, deer, or poultry carcass or any meat food product or poultry product may have become contaminated with filth or may have been rendered injurious to health;

(D) Produced, in whole or in part, from livestock or poultry that is diseased, dead, dying, or disabled and that has died otherwise than by slaughter;

(E) Produced, in whole or in part, from deer that is diseased, dying, or disabled and that has died otherwise than by lawful harvest; or

(F) Packaged in a container composed of any poisonous or deleterious substance that may render the contents injurious to health.

SECTION 2. Tennessee Code Annotated, Section 53-7-203, is amended by deleting the section and substituting the following:

(a)

(1) For the purpose of preventing the use in intrastate commerce, as provided in this part, of meat and meat food products that are adulterated, the commissioner shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all livestock before they are allowed into any slaughtering, packing, meat canning, rendering, or similar establishment in this state in which slaughtering and processing of meat and meat food products of such animals are conducted solely for intrastate commerce, and all livestock found on such inspection to show symptoms of disease must be set apart and slaughtered separately from all other livestock; and, when so slaughtered, the carcasses of such animals are subject to a careful examination and inspection, pursuant to rules promulgated by the commissioner.

(2) For the purpose of preventing the use in intrastate commerce, as provided in this part, of poultry or poultry products that are adulterated, the

commissioner shall, where and to the extent considered necessary by the commissioner, cause to be made, by inspectors appointed for that purpose, an examination and inspection of all live poultry before they are allowed to enter into any slaughtering, packing, meat canning, rendering, or similar establishment in this state in which slaughtering and processing of poultry and poultry products of such birds are conducted solely for intrastate commerce; and all birds found on inspection to show symptoms of disease must be set apart and slaughtered separately from all other birds, and, when slaughtered, the carcasses of such birds are subject to careful examination and inspection, pursuant to rules promulgated by the commissioner.

(b)

(1) For the purposes described in subsection (a), the commissioner shall cause to be made by inspectors appointed for that purpose, a postmortem examination and inspection of the carcasses and parts thereof of all livestock and poultry capable of use as human food to be processed at any slaughtering, meat canning, salting, packing, rendering, or similar establishment in this state in which such articles are processed solely for intrastate commerce.

(2) The carcasses and parts of animal carcasses found to be not adulterated must be marked, stamped, tagged, or labeled as "inspected and passed".

(3)

(A) The carcasses and parts of animal carcasses found to be adulterated must be marked, stamped, tagged, or labeled as "inspected and condemned".

(B) All carcasses and parts of animal carcasses inspected and condemned must be destroyed for food purposes by the establishment in the presence of an inspector.

(4)

(A) When the inspectors determine it to be necessary, the inspectors must reinspect carcasses or parts of carcasses to determine whether, since the first inspection, the articles have become adulterated.

(B) If any carcass or part of a carcass is found to be adulterated upon reinspection, it must be destroyed for food purposes by the establishment in the presence of an inspector.

(5) The commissioner may remove inspectors from any establishment that fails to destroy any condemned carcass or part of a carcass.

(c) Subsections (a) and (b) apply to:

(1) All carcasses or parts of carcasses of livestock and poultry or the meat, meat food products, poultry, or poultry products thereof that are capable of use as human food that may be brought into any slaughtering, meat canning, salting, packing, rendering, or similar establishment where inspection under this part is maintained, and the examination and inspection must occur before the carcasses or parts of carcasses are allowed to enter into any department where such articles are to be treated and processed for meat food products or poultry products; and

(2) All meat food products or poultry products which, after having been issued from any slaughtering, meat canning, salting, packing, rendering, or similar establishment are returned to the issuing establishment or to any similar establishment where inspection under this part is maintained.

(d) The commissioner may limit the entry of carcasses, parts of carcasses, meat, meat food products, poultry products, and other materials into any establishment at which inspection under this part is maintained under such conditions as the commissioner prescribes by rule to assure that allowing the entry of such articles into inspected establishments is consistent with the purposes of this part.

(e)

(1) Nothing in this part requires inspection at any establishment for the slaughter of livestock or poultry or the processing of any carcasses or parts or products of such animals or birds which are not intended for use as human food, but such articles must, prior to their offer for sale or transportation in intrastate commerce, unless naturally inedible by humans, be denatured or otherwise identified as prescribed by the commissioner's rules to deter their use for human food.

(2) It is a violation of this part for any person to buy, sell, transport, or offer for sale or transportation or receive for transportation in intrastate commerce any carcasses, parts of carcasses, meat, meat food products, or poultry products of any animals or birds that are not intended for use as human food unless they are denatured or otherwise identified as required by the commissioner's rules, or are naturally inedible by humans.

SECTION 3. Tennessee Code Annotated, Section 53-7-204, is amended by deleting the section and substituting the following:

No person may engage in business in or for intrastate commerce as a meat broker, renderer, or animal food manufacturer, or engage in business in intrastate commerce as a wholesaler of any carcasses or parts or products of the carcasses of any livestock or poultry, whether intended for human food or other purposes, 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 animals or birds of the specified kinds or parts of the carcasses of any such animals or birds that died otherwise than by slaughter, unless, when required by rules of the commissioner and in such manner as the commissioner prescribes by rule, the person has registered with the commissioner the person's name and the address of each place of business at which, and all trade names under which, the person conducts such business.

SECTION 4. Tennessee Code Annotated, Section 53-7-205, is amended by deleting the section and substituting the following:

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 may buy, sell, transport, offer for sale or transportation, or receive for transportation in such commerce any dead, dying, disabled, or diseased livestock or poultry or parts of the carcasses of any such animals or birds that died otherwise than by slaughter unless such transaction or transportation is made in accordance with any rules promulgated by the commissioner to assure that such animals or birds or the unwholesome parts or products thereof will be prevented from being used for human food purposes.

SECTION 5. Tennessee Code Annotated, Section 53-7-206, is amended by deleting the section and substituting the following:

(a)

(1) For the purposes set forth in § 53-7-203, the commissioner shall cause to be made by inspectors appointed for that purpose an examination and inspection of all meat food products and poultry products processed in any slaughtering, meat canning, salting, packing, rendering, or similar establishment where such articles are processed solely for intrastate commerce.

(2) For the purposes of conducting any examination and inspection under subdivision (a)(1), the inspectors have access at all times, by day or night, whether the establishment is open or not, to every part of the establishment where the articles are being inspected.

(3)

(A) The inspectors shall mark, stamp, tag, or label as "Tennessee inspected and passed" all products found to be not adulterated.

(B)

(i) The inspectors shall mark, label, stamp, or tag as "Tennessee inspected and condemned" all products found adulterated.

(ii) All condemned meat food products or poultry products must be destroyed for food purposes.

(iii) The commissioner may remove inspectors from any establishment that fails to destroy condemned meat food products or poultry products.

(b) When any meat, meat food product, or poultry product processed for intrastate commerce that has been inspected and marked "Tennessee inspected and passed" is placed or packed in any container in any establishment where inspection under this part is maintained, the person processing the product shall cause a label to be attached to the container, which label must state that the contents thereof have been "Tennessee inspected and passed" under this part, and no inspection and examination of meat, meat food products, or poultry products deposited or enclosed in containers in any establishment where inspection under this part is maintained is complete until such meat, meat food products, or poultry products have been sealed or enclosed in the container under the supervision of an inspector.

(c) All carcasses, parts of carcasses, meat, meat food products, and poultry products inspected at any establishment under this part and found to be not adulterated must at the time such articles leave the establishment bear, in distinctly legible form, directly thereon or on their containers, both shipping container and immediate container, as the commissioner may prescribe by rule, such information as will ensure that the articles are not misbranded.

(d) Whenever the commissioner determines it to be necessary for the protection of the public, the commissioner may prescribe by rule definitions and standards of identity or composition for articles subject to this part and standards of fill of containers and styles and sizes of types of containers for such articles not inconsistent with any standards established under the federal Food, Drug and Cosmetic Act, the federal Meat Inspection Act, or the federal Poultry Products Inspection Act. The commissioner shall consult with the United States secretary of agriculture prior to promulgating any rules under this subsection (d).

(e) No article subject to this part may be sold or offered for sale by any person in intrastate commerce under any name or other marking or labeling that is false or misleading or in any container of a misleading form or size; however, established trade names and other marking and labeling and containers that are not false or misleading and that are approved by the commissioner are permitted.

(f)

(1) If the commissioner 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 article subject to this part is false or misleading, the commissioner may direct that such use be discontinued or withheld unless the marking, labeling, or container is modified in such manner as the commissioner may prescribe so that it will not be false or misleading.

(2) If any person using or proposing to use the marking, labeling, or container does not accept the determination of the commissioner, such person may request a hearing before the commissioner, but the use of the marking, labeling, or container shall, if the commissioner so directs, be discontinued or withheld pending hearing and final determination by the commissioner.

(3) A final determination issued by the commissioner under subdivision (f)(2) is conclusive unless, within thirty (30) days after receipt of notice of the final determination, the person adversely affected by the final determination files a complaint in the circuit court of the county where the person resides or where the person's principal place of business is located, or in the circuit court for Davidson County, and such court is vested with jurisdiction and it shall set the matter for hearing upon thirty (30) days' written notice to the commissioner and, thereupon, take testimony and examine the facts of the case and determine, without the intervention of a jury, whether or not the questioned marking or labeling or the size or form of any container in use or proposed for use with respect to any article subject to this part is false or misleading, and the court's determination shall, in the absence of fraud, corruption, bad faith, or gross abuse of discretion, be final.

(g) The commissioner shall cause to be made by experts in sanitation or by other competent inspectors the inspection of all slaughtering, meat canning, salting, packing, rendering, or similar establishments in which livestock and poultry are slaughtered and the meat, meat products, and poultry products thereof are processed solely for intrastate commerce as may be necessary to inform the commissioner concerning the sanitary conditions of such establishments and to prescribe the rules of sanitation under which such establishments must be maintained. Where the sanitary conditions of any such establishment are such that the meat, meat food products, or

poultry products are rendered adulterated, the commissioner shall refuse to allow the meat, meat food products, or poultry products to be labeled, marked, stamped, or tagged as "Tennessee inspected and passed".

(h) The commissioner shall cause an examination and inspection of all livestock and poultry and the food products thereof slaughtered and processed in establishments described in subsection (g) for the purposes of intrastate commerce to be made during the nighttime as well as during the daytime when the slaughtering of animals or birds or the processing of food products therefrom is conducted during the nighttime.

(i) One (1) inspector may be assigned to two (2) or more establishments where few animals or birds are slaughtered or where small quantities of carcasses, meat, poultry, meat food products, or poultry products are processed. When inspector assignments are made, the commissioner shall designate the days and hours when slaughtering and processing will be done.

SECTION 6. Tennessee Code Annotated, Section 53-7-207, is amended by deleting the section and substituting the following:

It is a violation of this part for any person, with respect to any livestock or poultry, or any carcasses, parts of carcasses, meat, meat food products, or poultry products of any such animals, to do the following:

(1) Slaughter any such animals or birds or process any such articles that are capable of being used as human food at any establishment processing such articles solely for intrastate commerce, except in compliance with the requirements of this part;

(2) Sell, transport, offer for sale or transportation, or receive for transportation in intrastate commerce any such articles that are capable of use as human food and are adulterated or misbranded at the time of the sale, transportation, offer for sale or transportation, or receipt for transportation;

(3) Sell, transport, offer for sale or transportation, or receive for transportation in intrastate commerce any articles required to be inspected under this part unless the articles have been inspected and passed inspection;

(4) Do, with respect to any such articles that are capable of use as human food, any act while the articles are being transported in intrastate commerce or held for sale after such transportation that is intended to cause or has the effect of causing the article to be adulterated or misbranded; or

(5) Sell, transport, offer for sale or transportation, or receive for transportation in commerce or from an official establishment any slaughtered poultry from which the blood, feathers, feet, head, or viscera have not been removed in accordance with rules promulgated by the commissioner.

SECTION 7. Tennessee Code Annotated, Section 53-7-208, is amended by deleting the section and substituting the following:

(a) It is a violation of this part for any person to make any device containing any official mark or simulation thereof or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the commissioner.

(b) It is a violation of this part for any person to do the following:

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

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

(3) Fail to use or to detach, deface, or destroy any official device, mark, or certificate contrary to the rules promulgated by the commissioner;

(4) Knowingly possess, without promptly notifying the commissioner, any official device or any counterfeit, simulated, forged, or improperly altered official

certificate or any device or label or any carcass of any animal or part or product of a carcass bearing any counterfeit, simulated, forged, or improperly altered official mark;

(5) Knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the rules promulgated by the commissioner; or

(6) Knowingly represent that any article has been inspected and passed or exempted under this part when the article has not been inspected and passed or exempted.

SECTION 8. Tennessee Code Annotated, Section 53-7-209, is amended by deleting the section and substituting the following:

(a) The commissioner shall appoint, from time to time, inspectors to make examination and inspection of all livestock and poultry, the inspection of which is required by this part, and of all carcasses and parts of carcasses, meats, meat food products, and poultry products, and of the sanitary conditions of all establishments where such meat, meat food products, and poultry products are processed.

(b) An inspector shall refuse to stamp, mark, tag, or label any carcasses, parts of carcasses, meat, meat food products, and poultry products processed in any establishment until the articles are inspected and found to be not adulterated.

(c) Inspectors shall perform such duties as are required by this part and by the rules promulgated by the commissioner.

(d) The commissioner shall promulgate rules as are necessary for the efficient execution of all inspections and examinations made under this part.

SECTION 9. Tennessee Code Annotated, Section 53-7-210, is amended by deleting the section and substituting the following:

Whenever any carcass, part of a carcass, meat, meat food product, poultry, or poultry product or any product exempted from the definition of a meat food product or any dead, dying, disabled, or diseased livestock or poultry is found by any authorized representative of the commissioner 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 such article is adulterated or misbranded and is capable of use as human food or that it has not been inspected, in violation of this part or of the federal Meat Inspection Act or the federal Food, Drug and Cosmetic Act, or that such article or animal has been or is intended to be distributed in violation of any such laws, the commissioner may detain the article or animal for a period not to exceed twenty (20) days, pending action under § 53-7-211 or notification of any federal authorities having jurisdiction over such articles or animal, and must not be moved by any person from the place at which it is located when detained until it is released by the commissioner. The commissioner may require the removal of all official marks from an article or animal before it is released, unless it appears to the satisfaction of the commissioner that the article or animal is eligible to retain such marks.

SECTION 10. Tennessee Code Annotated, Section 53-7-211, is amended by deleting the section and substituting the following:

(a)

(1) Any carcass, part of a carcass, meat, meat food product, or poultry product of any of the animals or birds subject to inspection under this part, or any such animal or bird that is dead, dying, disabled, or diseased that is being transported in intrastate commerce or held for sale in this state after such transportation and that is or has been processed, sold, transported, or otherwise distributed or offered or received for distribution in violation of this part or is capable of use as human food and is adulterated or misbranded or in any other

way is in violation of this part, is subject to seizure and condemnation at any time by writ of attachment for condemnation.

(2) A writ of attachment for condemnation must issue upon the sworn complaint of the commissioner or the commissioner's authorized agent, taken by an officer authorized to administer an oath, to the effect that the carcass, part of a carcass, meat, meat food product, or poultry product is adulterated or misbranded or has not been inspected and examined as required by this part.

(3) A sworn complaint upon which a writ of attachment for condemnation issues may be amended at any stage of the proceedings.

(4) A writ of attachment for condemnation is returnable in five (5) days to the court issuing it, which court shall hear and decide whether the allegations of the complaint are true and whether the article or product must be condemned and confiscated.

(5) A hearing must not be had until five (5) days' notice of the date for the hearing is served on the owner, the owner's agent, or other party having an interest in the article or product, except as otherwise provided in this section. Service of a copy of the writ of attachment for condemnation showing the returns of the attaching officer is sufficient notice for the purposes of this subdivision (a)(5).

(6) A writ of attachment for condemnation may be executed by the commissioner or by any sheriff in this state.

(7) Upon the seizure of the article or product described in the sworn complaint, the officer or person executing the writ shall return the writ to the court with such officer's or person's return on the writ and, within five (5) days after the return, the court shall make up an issue between the state as plaintiff and the property seized as defendant.

(8) If the owner or the owner's agent cannot be found in this state, then service may be perfected by posting a copy of the writ in a conspicuous place upon the premises where the articles or products were found and seized, and by mailing a copy of the writ by registered or certified mail to the last known address of the owner or the owner's agent.

(9) If, upon the return day of a writ of attachment for condemnation, the owner of the article or product, the owner's agent, or other party having an interest in the article or product who was notified fails to appear and show cause why the articles or products should not be condemned, then a judgment of condemnation and confiscation must, upon default, be entered by the court on the basis of the sworn complaint.

(10) If the owner, owner's agent, or other party having an interest in the article or product, on or before the return day of the writ of attachment for condemnation, or on another day that the court, upon application of any such party may determine, files an answer upon oath denying the allegations of adulteration or misbranding or affirming that such articles or products were inspected and examined in accordance with the requirements of this part, as applicable, the issue may be determined by the court after hearing all of the evidence offered by or on behalf of all the parties to the proceeding.

(11) Any party to a proceeding under subdivision (a)(10) may demand a jury trial of any issue of fact and, if a jury trial is demanded, the judgment entered by the court must be in accordance with the facts as found by the jury; provided, however, that the court may set aside the jury's verdict where the verdict is manifestly contrary to the evidence or the law.

(b)

(1) Any article or animal that is condemned under subsection (a) must, after entry of the judgment, be disposed of by destruction or sale as the court directs and the proceeds, if sold, less the court costs and fees and storage and other proper expenses as determined by the court, must be paid into the treasury of this state.

(2) No article or animal may be sold under subdivision (b)(1) if the sale is contrary to this part, the federal Meat Inspection Act, or the federal Food, Drug and Cosmetic Act; provided, that upon the execution and delivery of a good and sufficient bond conditioned that the article or animal will not be sold or otherwise disposed of contrary to this part or federal law, the court may order the delivery of the article or animal to the owner, subject to such supervision by the commissioner as is necessary to insure compliance with this part and any other applicable laws.

(3) When a judgment of condemnation is entered against an article or animal and the article or animal is released under bond or destroyed, the court shall order the person, if any, intervening as claimant of the article or animal, to pay court costs and fees and storage and other proper expenses as determined by the court.

(c) This section does not derogate from authority for condemnation or seizure conferred by other provisions of the laws of this state.

SECTION 11. Tennessee Code Annotated, Section 53-7-212, is amended by deleting the section and substituting the following:

(a) The commissioner may for such period or indefinitely, as the commissioner deems necessary to effectuate the purposes of this part, refuse to provide, or withdraw, inspection service under this part with respect to any establishment if the commissioner determines, after opportunity for a hearing is accorded to the applicant for or recipient of

such service, that the applicant or recipient is unfit to engage in any business requiring inspection under this part because the applicant or recipient or anyone responsibly connected with the applicant or recipient has been convicted in any federal or state court of any felony or of one (1) or more violations of any law other than a felony based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food.

(b) This section does affect any other provisions of this part regarding the withdrawal of inspection services from establishments failing to maintain sanitary conditions or failing to destroy condemned carcasses, parts, meat, meat food products, or poultry products as required by this part.

(c) For the purpose of this section, a person is "responsibly connected with the applicant or recipient" if the person is a partner, officer, director, holder or owner of ten percent (10%) or more of the voting stock, or an employee in a managerial or executive capacity of the applicant or recipient.

(d) The determination and order of the commissioner under this section is final and conclusive unless the affected applicant for or recipient of inspection service applies for judicial review within thirty (30) days after the effective date of the commissioner's order. Judicial review of the commissioner's order must be upon the record upon which the determination and order by the commissioner are based.

SECTION 12. Tennessee Code Annotated, Section 53-7-214, is amended by deleting the section and substituting the following:

(a) The following classes of persons shall keep records of all transactions involved in their businesses:

(1) Any persons who engage for intrastate commerce in the business of slaughtering any livestock or poultry or processing, freezing, packaging, or

labeling any carcasses or parts or products of carcasses of any such animals or birds for use as human food or animal food;

(2) Any meat brokers, wholesalers, or other persons who engage in the business of buying, selling, or transporting in intrastate commerce, or storing in or for intrastate commerce, any carcasses, or parts or products of carcasses of any livestock or poultry; and

(3) Any persons who engage in business in or for intrastate commerce as renderers or engage in the business of buying, selling, or transporting in interstate commerce any dead, dying, disabled, or diseased livestock or poultry or parts of the carcasses of any such animals or birds that died other than by slaughter.

(b) All records required to be maintained by this section must be maintained for such period of time as the commissioner prescribes by rule.

(c) All persons who are subject to the requirements of this section shall, at all reasonable times, upon notice by the commissioner, afford the commissioner and any authorized representative of the United States secretary of agriculture accompanied by the commissioner access to their places of business and opportunity to examine the person's facilities, inventory, and records, to copy all records, and to take reasonable samples of their inventory upon payment of the fair market value for the sampled amount.

SECTION 13. Tennessee Code Annotated, Section 53-7-217, is amended by deleting subsection (c).

SECTION 14. Tennessee Code Annotated, Section 53-7-218, is amended by deleting the section and substituting the following:

(a) The commissioner may:

(1) Gather and compile information concerning, and investigate, the organization, business, conduct, practices, and management of any person engaged in intrastate commerce and the relation of such person to other persons; and

(2)

(A) Require, by general or special order, persons engaged in intrastate commerce to file annual and special reports or answers in writing to specific questions, furnishing to the commissioner such information as the commissioner may require as to the organization, business, conduct, practices, management, and relation to other persons of the person filing such reports or answers.

(B) Reports and answers submitted under this subdivision (a)(2):

(i) Must be made under oath or otherwise as the commissioner prescribes by rule;

(ii) Must be filed with the commissioner within such reasonable period of time as the commissioner prescribes by rule, unless an extension of time is granted by the commissioner; and

(iii) Must be kept confidential by the commissioner, except that the reports and answers may be used without claim of privilege in any judicial proceeding brought for the violation of any provision of this part, or in which compliance with this part is sought to be enforced and in which the person who furnished the report or answer is involved as a party or as owner of any article or product involved in the judicial proceeding.

(b)

(1) The commissioner shall, at all reasonable times, have access to any documentary evidence of any person being investigated or proceeded against under this part for the purpose of examining and copying the documentary evidence.

(2) The commissioner may require the attendance and testimony of witnesses and the production of all documentary evidence of any person relating to any matter under investigation under this part by subpoena.

(3) The commissioner may sign subpoenas and may administer oaths and affirmations, examine witnesses, and receive evidence. In case of a refusal to obey a subpoena issued to any person under this part, any circuit court of this state within the jurisdiction in which the person refusing to obey the subpoena resides or is found may issue to such person, upon application by the commissioner, an order requiring such person to appear before the court to show cause why such person should not be held in contempt for refusal to obey the subpoena. Failure to obey a subpoena may be punished as contempt of court.

(c) Upon application of the attorney general and reporter at the request of the commissioner, the circuit courts have jurisdiction to issue writs of mandamus commanding any person to comply with this part or any order of the commissioner made pursuant to this part.

(d)

(1) The commissioner may order testimony to be taken by deposition in any proceeding or investigation pending under this part at any stage of such proceeding or investigation.

(2) A deposition may be taken before any person designated by the commissioner and having power to administer oaths.

(3) Deposition testimony must be reduced to writing by the person taking the deposition or under the person's direction and must be subscribed by the deponent.

(4) Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commissioner.

(e) Witnesses summoned before the commissioner must be paid the same fees and mileage that are paid witnesses in the courts of this state, and witnesses whose depositions are taken and the persons taking the depositions are entitled to the same fees as are paid for like services in the courts of this state.

(f) No person may be excused from attending and testifying or from producing documentary evidence before the commissioner or in compliance with a subpoena of the commissioner in any cause on the ground of self-incrimination. No person may be prosecuted or subjected to any penalty for forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled, after having claimed the person's privilege against self-incrimination, to testify or produce evidence, documentary or otherwise; except, that any person testifying is not exempt from prosecution for perjury committed while testifying.

SECTION 15. Tennessee Code Annotated, Title 53, Chapter 7, Part 2, is amended by adding the following as new sections:

53-7-221.

(a) The commissioner is designated as the state agency responsible for cooperating with the United States secretary of agriculture under the federal Meat Inspection Act and the federal Poultry Products Inspection Act. The commissioner shall cooperate with the United States secretary of agriculture in developing and administering the meat and poultry inspection program of this state under this part to assure that its

requirements will be at least equal to those imposed by the federal Meat Inspection Act and the federal Poultry Products Inspection Act and in developing and administering the program of this state under this part in a manner that will effectuate the purposes of this part and federal law.

(b) The commissioner may accept from the United States secretary of agriculture advisory assistance in planning and developing the state program, technical and laboratory assistance and training, and financial and other aid for administration of the program.

(c) The commissioner may spend public funds of this state appropriated for administration of this part to pay fifty percent (50%) of this state's estimated total cost of the cooperative programs developed under this section.

(d) The commissioner may recommend to the United States secretary of agriculture such officials or employees of this state as the commissioner designates for appointment to the advisory committee provided for in 21 U.S.C. § 661(a)(4), and the commissioner shall serve as the representative of the governor of this state for consultation with the United States secretary of agriculture under 21 U.S.C. § 661(c), unless the governor designates another representative.

(e) For the purpose of preventing and eliminating burdens on intrastate commerce with respect to meat and poultry and meat products and poultry products, the jurisdiction of the commissioner within the scope of this part is exclusive, and no county or municipal board of health or other county or municipal agency has any power or jurisdiction to regulate the slaughtering of any livestock or poultry or the processing or transportation of the carcasses or parts thereof or the meat, meat products, and poultry products of such animals or birds, nor shall any county or municipal board of health or other county or municipal agency have any power or jurisdiction with regard to the

inspections provided for in this part, nor with respect to any other activity committed to the authority of the commissioner by this part.

(f)

(1) In carrying out this part, the commissioner may cooperate with all other branches of government, county and municipal, and with county and municipal health departments or other agencies and may conduct such examinations, investigations, and inspections as provided for in this part and as the commissioner determines practical through any officer or employee of the state or any municipality or county in the state qualified for such purpose.

(2) The commissioner may contract with any municipal or county health departments to carry out the duties and requirements of this part. Any municipal or county health department may contract with the commissioner for the purpose of meeting the requirements of this part.

(g) This section does not preclude or restrict any municipality or county from the exercise of its police powers with regard to the establishment and maintenance of the facilities at which the activities regulated by this part are conducted.

53-7-222.

(a) The commissioner shall, by rule and under such conditions as to sanitary standards, practices, procedures, and reasonable volume limitations as the commissioner prescribes, exempt from specific provisions of this part:

(1) The slaughtering by any person of animals of the person's own raising and the processing by such person and transportation of the carcasses, parts of carcasses, meat, meat food products, poultry, and poultry products of such animals exclusively for use by such person, members of the person's household, and the person's nonpaying guests and employees;

(2)

(A) The slaughtering by any person of animals of the person's own raising and the processing by such person and transportation of the carcasses or parts of carcasses, not to include meat food products or poultry products, where the carcasses or parts of carcasses are sold directly to household consumers, restaurants, hotels, and boardinghouses for use in their own dining rooms or in the preparation of meals for sale directly to consumers only.

(B) No exemption under subdivision (a)(2) applies:

(i) To any person who engages in slaughtering any of the animals as to which inspection is required by this part or buying or selling of carcasses or parts of carcasses, other than those produced by animals or birds of their own raising; or

(ii) If the value of the annual sales of such person of the articles claimed to be exempt under subdivision (a)(2) exceeds two hundred dollars (\$200); and

(3) The custom slaughter by any person of livestock or poultry delivered by the owner of animal for custom slaughter and the processing by a custom slaughterer and transportation of the carcasses, parts of carcasses, meat, meat food products, and poultry products of such animals or birds 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.

(b) The provisions of this part requiring inspection of the slaughter of animals and the processing of carcasses, parts of carcasses, meat, meat food products, and poultry products do 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 in normal retail quantities or service of such articles to consumers at such establishments.

(c) The provisions of this part requiring inspection of the slaughter of animals and poultry and the processing of carcasses, parts of carcasses, meat, meat food products, and poultry products do not apply to articles that have been or are to be processed as required by recognized religious dietary laws to the extent that the commissioner determines that such articles may be exempted without jeopardy to the purpose and intent of this part.

(d) The slaughter of animals and processing of articles referred to in subdivisions (a)(2) and (a)(3) and subsections (b) and (c) must be conducted in accordance with any sanitary conditions and reasonable volume limitations that the commissioner prescribes by rules, and a violation of any such rule is a violation of this part.

(e) The adulteration and misbranding provisions of this part, other than the requirement of the inspection legend, apply to articles that are exempt from inspection or examination under this section.

53-7-223.

Any meat, meat food products, poultry, or poultry products that have been inspected and passed by inspectors of the United States department of agriculture are exempt from the meat and poultry inspection provisions of this part unless such products are further processed, in which event the products are subject to all other provisions and requirements of this part.

53-7-224.

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

53-7-225.

(a) Unless specifically provided otherwise in this part, the circuit courts of this state are vested with jurisdiction specifically to enforce and to prevent and restrain violations of this part or any rule promulgated under this part by temporary restraining order, permanent injunction, or otherwise.

(b) Petitions for injunctive relief authorized by this section must be filed in the circuit court of the county of residence of the person who violates this part.

(c) Any action commenced under this section based upon facts furnished by the commissioner or others having knowledge thereof may be brought in the name of this state by the attorney general and reporter, subject to the approval of the attorney general and reporter. The attorney general and reporter shall, upon request, be assisted by the district attorney general of the judicial circuit in which injunctive proceedings are filed.

53-7-226.

It is competent evidence in any civil action brought for damages against any person regulated by this part to prove that such person violated this part or any rule promulgated under this part where such act or omission is proximately related to the injury or loss for which damages are claimed, but proof of any acts or omissions that may constitute a violation of this part or of any rule promulgated under this part does not constitute prima facie proof of negligence in any such action against the party from whom damages are sought.

53-7-227.

(a) It is a Class E felony offense for any person to intentionally, knowingly, or recklessly forcibly assault, resist, oppose, impede, intimidate, or interfere with any person while engaged in or on account of the performance of such person's official duties under this part. Notwithstanding § 40-35-111, the maximum term of imprisonment

for an offense under this subsection (a) is three (3) years and the maximum fine is five thousand dollars (\$5,000).

(b) It is a Class D felony offense for any person to commit an offense under subsection (a) with use of a deadly weapon, as defined in § 39-11-106. Notwithstanding § 40-35-111, the maximum term of imprisonment for an offense under this subsection (b) is ten (10) years and the maximum fine is ten thousand dollars (\$10,000).

53-7-228.

It is a Class E felony offense for any person to neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in such person's power to do so, pursuant to a subpoena or lawful requirement of the commissioner. Notwithstanding § 40-35-111, the maximum term of imprisonment for an offense under this section is one (1) year and the maximum fine is five thousand dollars (\$5,000).

53-7-229.

(a) It is a Class E felony for any person to knowingly:

(1) Make or cause to be made any false entry or statement of fact in any report required to be made under this part;

(2) Make or cause to be made any false entry in any account, record, or memorandum kept by any person subject to this part;

(3) Neglect or fail to make or to cause to be made full, true, and correct entries in any account, record, or memorandum kept by any person subject to this part of all facts and transactions appertaining to the person's business;

(4) Remove out of the jurisdiction of this state or willfully mutilate, alter, or by any other means falsify any documentary evidence of any person subject to this part; or

(5) Refuse to submit to the commissioner, or to the commissioner's authorized agent, for the purpose of inspection and making copies any documentary evidence of any person subject to this part that is in such person's possession or control.

(b) Notwithstanding § 40-35-111, the maximum term of imprisonment for an offense under subsection (a) is one (1) year and the maximum fine is five thousand dollars (\$5,000).

53-7-230.

If any person fails to file an annual or special report as required by this part within the time fixed by the commissioner by rule and such failure continues for thirty (30) days after notice of such failure to file, the commissioner shall assess a civil penalty against the person in the amount of twenty-five dollars (\$25.00) for each day of the continuance of such failure to file.

53-7-231.

It is a Class A misdemeanor for any officer or employee of this state to make public any information obtained by the commissioner without proper authority, unless directed by a court. Notwithstanding § 40-35-111, the maximum fine for an offense under this section is five thousand dollars (\$5,000).

53-7-232.

(a) Any violation of this part for which no other criminal penalty is specified is a Class A misdemeanor offense. Notwithstanding § 40-35-111, the maximum fine for an offense under this subsection (a) is one thousand dollars (\$1,000).

(b) A person is not subject to prosecution under this section for receiving for transportation or transporting any article or animal in violation of this part if such receipt or transportation was made in good faith, unless the person refuses to furnish, upon request of the commissioner, the name and address of the person from whom the

person received the article or animal and copies of any documents to the delivery of the article or animal to such person.

(c) Nothing in this part requires the commissioner to report for prosecution or for the institution of a proceeding for condemnation or injunctive relief minor violations of this part whenever the commissioner determines that the public interest will be adequately served by other remedies and procedures.

53-7-233.

A carcass, part of any carcass, meat, meat food product, or poultry product is adulterated if:

(1) It bears or contains any poisonous or deleterious substance that may render it injurious to health. In cases where the substance is not an added substance, the article is not adulterated under this section if the quantity of the substance in or on the article would not ordinarily render it injurious to health;

(2) It bears or contains any added poisonous or added deleterious substance, other than a pesticide chemical in or on a raw agricultural commodity, a food additive, or a color additive, which may, in the commissioner's judgment, make the article unfit for human food;

(3) It is, in whole or in part, a raw agricultural commodity that bears or contains a pesticide chemical that is unsafe under Section 408 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 346a);

(4) It bears or contains any food additive that is unsafe under Section 409 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 348);

(5) It bears or contains any color additive that is unsafe under Section 706 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 379e);

(6) It bears or contains a pesticide chemical, food additive, or color additive, the use of which in or on the article is prohibited by rule of the

commissioner in establishments at which inspection is maintained under this part;

(7) 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;

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

(9) It is, in whole or in part, the product of an animal or poultry that died otherwise than by slaughter;

(10) Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health;

(11) It has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect under Section 409 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 348);

(12) Any valuable constituent has been in whole or in part omitted or abstracted from the article;

(13) Any substance has been substituted in whole or in part for the article;

(14) Damage to or inferiority of the article has been concealed in any manner;

(15) Any substance has been added to, or mixed or packed with, the article to increase the article's bulk or weight, or reduce the article's quality or strength, or make the article appear of greater value than it is; or

(16) It is margarine containing animal fat and any of the raw materials used in the article consisted in whole or in part of any filthy, putrid, or decomposed substance.

53-7-234.

This part is cumulative with and does not repeal or supersede §§ 53-1-102 – 53-1-105, and 53-1-207. In the event of any conflict between this part and title 68, chapter 1 or title 68, chapter 2, this part controls.

SECTION 16. For the purposes of promulgating rules and taking all other administrative actions necessary to implement this act, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2021, the public welfare requiring it.