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State Meat Inspection Laws: *South Dakota*



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A National Agricultural Law Center Research Publication
State Meat Inspection Laws: South Dakota

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S.D. Codified Laws Tit. 39, Ch. 5

Current through laws of the 2020 Regular Session effective March 31, 2020, and Supreme Court Rule 20-02.

§ 39-5-5. Sign and labeling required for sale of imported meat--Misdemeanor

Any person who knowingly sells or offers for sale any meat which is the product of any foreign country or imported from without the boundaries of the United States, or any meat product containing such imported meat, without indicating this fact by display of a conspicuous sign in his place of business and by labels or brands on each quarter, half or whole carcass of such meat, or on each can, case, or package containing any of the above-mentioned product, naming the country of its origin and the date of exportation is guilty of a Class 2 misdemeanor.

§ 39-5-6. Definition of terms

Terms used in this chapter mean:

(1) "Animal food manufacturer," 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 livestock;

- (2) "Capable for use as human food," any carcass, or part or product of a carcass of any livestock, unless it is denatured or otherwise identified as required by rules promulgated pursuant to chapter 1-26 by the secretary to deter its use as human food, or it is naturally inedible by humans;
- (3) "Carcass," any part, including viscera, of any slaughtered livestock, that is capable of being used for human food;
- (4) "Custom exempt plant," a person engaged in custom slaughtering and preparation of meat food products for household use by the owner as provided in subdivision 39-5-11(2);
- (5) "Federal Meat Inspection Act," the act of Congress approved March 4, 1907, as amended and extended to January 1, 1991 (21 U.S.C.) and the imported meat provisions of subsections 620(b), (c) as amended to January 1, 1991;
- (6) "Inedible products renderer," any person engaged in the business of rendering carcasses, or parts or products of the carcasses, of livestock, except rendering conducted under inspection or exemption under this chapter;
- (7) "Inspector," an employee or official of this state authorized by the secretary to inspect livestock or carcasses, parts thereof, or meat food products under this chapter;
- (8) "Intrastate commerce," commerce wholly within this state;
- (9) "Label," a display of written, printed, or graphic matter upon the immediate container (not including package liners) of any article;
- (10) "Labeling," any label or other written, printed, or graphic matter upon or accompanying any article or any of its containers or wrappers;
- (11) "Livestock," cattle, bison, sheep, swine, goats, equine, ratites, captive cervidae as permitted under § 40-3-14, and other species as requested by the owner and authorized by the secretary;
- (12) "Livestock producer," any natural person, partnership, or corporation if over fifty percent of his or its annual income is derived from production of agricultural products and on whose farm the number of livestock is in keeping with the size of the farm or the volume or character of the agricultural products produced thereon;
- (13) "Meat," the edible part of the muscle of cattle, bison, sheep, swine, goats, equine, ratites, captive cervidae, and other species as requested by the owner and authorized by the secretary, which is skeletal or which is found in the tongue, in the diaphragm, in the heart, or in the esophagus, with or without the accompanying and overlying fat, and the portions of bone, skin, sinew, nerve, and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing. It does not include the muscle found in the lips, snout, or ears;
- (14) "Meat broker," any person engaged in the business of buying or selling livestock carcasses, parts thereof, or meat food products on commission, or otherwise negotiating purchases or sales of such articles other than for his own account or as an employee of another person;
- (15) "Meat by-product," any edible part other than meat which has been derived from one or more cattle, bison, sheep, swine, goats, equine, ratites, captive cervidae, and other species as requested by the owner and authorized by the secretary;
- (16) "Meat food products," any product capable of use as human food which is made wholly or in part from any meat or other portion of the carcass of any cattle, bison, sheep, swine, goats, equine, ratites,

captive cervidae, and other species as requested by the owner and authorized by the secretary, excepting products which contain meat or other portions of such 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 definition as a meat food product by regulations promulgated by the secretary pursuant to chapter 1-26, under such conditions as the secretary may deem appropriate to effectuate the purposes of this chapter;

(17) "Meat processing establishment," an official establishment as defined in this section engaged in the preparation or processing of meat food products;

(18) "Official certificate," any certificate prescribed by rules promulgated pursuant to chapter 1-26 by the secretary for issuance by an inspector or other person performing official functions under this chapter;

(19) "Official establishment," any establishment in this state as determined by the secretary at which inspection of the slaughter of livestock or the preparation of livestock carcasses or parts thereof or meat products is maintained under this chapter;

(20) "Official inspection legend," any symbol prescribed by rules promulgated by the secretary pursuant to chapter 1-26 showing that an article was inspected and passed in accordance with this chapter;

(21) "Official mark," the official inspection legend or any other symbol prescribed by rules promulgated by the secretary pursuant to chapter 1-26 to identify the status of any article or animal under this chapter;

(22) "Prepared," slaughtered, canned, salted, rendered, boned, cut up, or otherwise manufactured or processed;

(23) "Retail dealer," any person engaged in selling carcasses, parts thereof, or meat food products of cattle, bison, sheep, swine, goats, equine, ratites, captive cervidae, and other species as requested by the owner and authorized by the secretary;

(24) "Retail store meat processor," a person engaged in the retail sale of food for human consumption, the retail sale of meat food products, and in the processing or preparation of meat or meat by-products for retail sale as meat food products;

(25) "Secretary," executive secretary of the South Dakota Animal Industry Board, or any person authorized to act in his stead;

(26) "Slaughtering establishment," an official establishment as defined in this section engaged in the slaughtering of livestock;

(27) "Veterinary inspector," an employee or official of this state, licensed to practice veterinary medicine in this state, and authorized by the secretary to inspect livestock or carcasses, parts thereof, or meat food products under this chapter.

§ 39-5-7. Enforcement of chapter by secretary through inspectors and employees of Animal Industry Board

The secretary of the Animal Industry Board is hereby authorized to enforce the provisions of this chapter through such meat inspectors and other employees of the Animal Industry Board of this state as he may designate or appoint consistently with the provisions of this chapter.

§ 39-5-8. Rules and regulations of secretary--Reports required--Conformity of rules to Federal Wholesome Meat Act

In addition to the regulations specifically authorized by this chapter, the secretary of the Animal Industry Board may promulgate such rules and regulations, and require such reports from persons subject to this chapter as he deems appropriate to carry out the purposes and provisions of this chapter.

Rules and regulations shall be promulgated under this chapter in conformity with the rules and regulations under the Federal Wholesome Meat Act as now in effect and with subsequent amendments thereof, unless they are considered by the secretary as inconsistent with the objectives of this chapter.

§ 39-5-9. Power of secretary to administer oaths and require attendance of witnesses--Self-incrimination privilege of witnesses

For purposes of the administration of this chapter, the secretary of the Animal Industry Board shall have power to administer oaths and affirmations and take depositions and to require by subpoena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under investigation or the subject of any hearing. Obedience to such subpoenas may be compelled by the circuit court of South Dakota. No natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any matter concerning which he may be compelled to testify or produce evidence in obedience to a subpoena of the secretary, after claiming his privilege against self-incrimination; except for perjury committed in so testifying.

§ 39-5-10. Cooperation by secretary with federal, state or local agencies--Acceptance of federal aid

The secretary of the Animal Industry Board may cooperate with the federal government in carrying out the provisions of this chapter or the Federal Wholesome Meat Act, including acceptance of federal financial, training, and other assistance, and for purposes of the more effective administration of such acts may cooperate with any other federal, state, or local agency having responsibilities with respect to matters relating to human or animal health.

§ 39-5-11. Exemptions from inspection and preparation provisions

The following meat and meat products to be used for human consumption are exempt from the inspection and preparation provisions of this chapter:

- (1) Any livestock producer with respect to slaughter on his own farm of livestock raised by him on his own farm and with respect to the preparation by him on such farm of the carcasses, parts thereof, and meat food products, of such livestock, and with respect to such articles if the livestock producer does not otherwise engage in the business of slaughtering livestock or preparing livestock carcasses, parts thereof, or meat food products and does not engage in the business of buying or selling livestock other than those raised on his own farm, or livestock carcasses, parts thereof, or meat food products, other than those produced from such livestock and does not slaughter or permit any other person to slaughter on his farm any livestock not owned by him, except under exemption as provided for in subdivision (2);
- (2) Any person engaged in custom slaughtering of livestock and preparation of the carcasses, parts thereof, and meat food products, only with respect to the slaughter of livestock delivered by the owner thereof for custom slaughter, and the preparation of the carcasses, parts thereof, and meat food products of such livestock for use by such owner in his own household or by members of his household and nonpaying guests;
- (3) Any person engaged in slaughtering livestock or preparing livestock carcasses, parts thereof, or

meat food products, solely for intrastate commerce, and the articles so prepared by such person, whenever the secretary determines that application of such specific provisions would be impracticable and an exemption to this chapter will otherwise aid in the effective administration of this chapter, or that the exemption is necessary to avoid conflict with requirements under recognized religious dietary laws;

(4) The licensing, inspection, adulteration, and misbranding provisions of this chapter do not apply to the slaughter of livestock or the preparation of livestock carcasses, parts thereof, or meat food products by any person for use in his own household or by members of his household and nonpaying guests.

§ 39-5-11.1. License required for meat processors

Any official establishment, slaughtering establishment, meat processing establishment, custom exempt plant, or retail store meat processor, as defined in § 39-5-6, that is required to be inspected pursuant to §§ 39-5-15, 39-5-16, and 39-5-17 in order to operate under this chapter, shall obtain annually from the Animal Industry Board a license in accordance with rules promulgated by the Animal Industry Board pursuant to chapter 1-26. Any person or entity applying for a license pursuant to this section shall pay a license fee to the Animal Industry Board as follows:

(1) The annual license fee for a slaughtering establishment is one hundred dollars;

(2) The annual license fee for a meat processing establishment is one hundred dollars;

(3) The annual license fee for a custom exempt plant is fifty dollars;

(4) The annual license fee for a retail store meat processor is twenty dollars;

(5) The annual license fee for any other official establishment required to be licensed under this section is fifty dollars.

§ 39-5-11.2. Continuing education for meat processor

A designated representative of an establishment or entity licensed pursuant to § 39-5-11.1, except a retail store meat processor, shall, once every three years, undergo continuing education training to improve the safety and efficiency of the establishment's or entity's operations. The Animal Industry Board shall promulgate rules pursuant to chapter 1-26 specifying the requirements, standards, and administration of continuing education required under this section.

§ 39-5-12. Withdrawal or denial of exemption by secretary

The secretary of the Animal Industry Board may withdraw or deny any exemption under § 39-5-11 with respect to any person whenever he finds that such action will aid in effectuating the purposes of this chapter.

§ 39-5-13. Acts or transactions and carcasses, parts or meat food products regulated under Federal Wholesome Meat Act exempt

The provisions of this chapter shall not apply to any act or transaction subject to exclusive regulation under the Federal Wholesome Meat Act.

The provisions shall not apply to carcasses, parts thereof or meat food products of livestock to the extent that they are subject to regulation under the Federal Wholesome Meat Act.

§ 39-5-14. Adulterated carcass, part, or meat food product defined

For purposes of this chapter, the term "adulterated" shall apply to any carcass, part thereof, or meat food product under one or more of the following circumstances:

- (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such article shall not be considered adulterated under this subdivision if the quantity of such substance in or on such article does not ordinarily render it injurious to health; or
- (2) 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 which is prohibited in the quantity present with respect to such an article under the Federal Wholesome Meat Act and which may, in the judgment of the secretary of the Animal Industry Board make the article unfit for human food; or
- (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; or
- (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; or
- (5) If it is, in whole or in part, the product of an animal which has died otherwise than by slaughter; or
- (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; or
- (7) If it has been intentionally subjected to radiation, unless such use of radiation was permissible under the Federal Wholesome Meat Act and approved by the secretary; or
- (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; or
- (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.

§ 39-5-15. Application for inspection services

Persons desiring to operate under this chapter shall apply to the secretary of the Animal Industry Board on forms approved and provided by the secretary. The application shall include the name and address of the establishment, type of establishment, type of building, number of employees, complete description of the plant facilities, equipment, the day of the week, and the hours of the day when the official plant is in operation and such other information as the secretary may require.

§ 39-5-16. Ante-mortem inspection of livestock

For the purpose of preventing the entry into or movement in intrastate commerce of any livestock carcass, part thereof, or meat food product which is adulterated and is capable of use as human food, the secretary of the Animal Industry Board shall cause ante-mortem inspection to be made of all livestock intended for slaughter in any establishment in this state where livestock are slaughtered solely for such commerce.

§ 39-5-17. Post-mortem inspection of carcasses and parts--Inspection of meat food products

For the purpose stated in § 39-5-16, whenever slaughtering or other operations are being conducted in any establishment in this state in which carcasses, parts thereof, or meat food products capable of use as human food are prepared solely for intrastate commerce, the secretary of the Animal Industry Board shall cause post-mortem inspection to be made of the carcasses and parts thereof of each animal slaughtered and shall cause an inspection to be made of all meat food products prepared in such establishment.

§ 39-5-18. Inspections made by or under supervision of veterinary inspectors

The inspections required by §§ 39-5-16, 39-5-17, and 39-5-20 to 39-5-22, inclusive, shall be made by veterinary inspectors or by other inspectors under the supervision of veterinary inspectors.

§ 39-5-19. Cost of inspection--Rates for overtime, night, and holiday work

The cost of inspection rendered under this chapter shall be borne by this state except as otherwise provided in § 39-5-10 and except that the cost of overtime, night, and holiday work performed in establishments subject to the provisions of this chapter at such rates as the secretary of the Animal Industry Board may determine shall be borne by such establishments. Sums received by the secretary in reimbursement of sums paid out by him for such premium pay work shall be available without fiscal year limitations to carry out the purposes of this chapter.

§ 39-5-20. Quarantine, segregation, and reinspection of livestock, carcasses and parts, and meat food products

The secretary of the Animal Industry Board shall also cause, at any time, such quarantine, segregation, and reinspection of livestock, livestock carcasses and parts thereof, and meat food products in any such establishments as he deems necessary to effectuate the purposes of this chapter.

§ 39-5-21. Condemnation and destruction of adulterated carcasses, parts, and meat food products--Reprocessing authorized

All livestock carcasses, parts thereof and meat food products found by an inspector to be adulterated in any official establishment shall be condemned and shall if no appeal be taken from such determination of condemnation, be destroyed for human food purposes under the supervision of an inspector and in a manner prescribed by regulations of the secretary of the Animal Industry Board: Provided, that articles which may, by reprocessing, be made not adulterated, need not be so condemned and destroyed if so reprocessed under the supervision of an inspector and thereafter found to be not adulterated.

§ 39-5-22. Appeal from condemnation determination--Inspection and costs--Destruction of articles

If any appeal be taken from a determination under § 39-5-21, the articles shall be appropriately marked and segregated pending completion of an appeal inspection, which shall be at the cost of the appellant if the secretary of the Animal Industry Board determines that the appeal is frivolous. If the determination of condemnation is sustained, the articles shall be destroyed for human food purposes in accordance with § 39-5-21.

§ 39-5-23. Refusal or withdrawal of inspection--Grounds and procedure for action by secretary

The secretary of the Animal Industry Board may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this chapter), refuse to provide, or withdraw, inspection services under this chapter with respect to any establishment if he determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such services, that:

(1) Such applicant or recipient is unfit to engage in any business requiring inspection under this chapter because:

(a) The applicant or recipient (or in case the applicant or recipient is a partnership, any general partner; or in case the applicant or recipient is a corporation, any officer, director, or holder or owner of more than ten per centum of the voting stock) has, or has been responsibly connected with any person who has, committed an offense made criminal by this chapter, or has been convicted, in any federal, state, or local court, of any felony, or any violation of law designed to protect the public from unwholesome, adulterated, or misbranded food or from fraud, in connection with transactions in food; or

(b) Such applicant or recipient, or any person conducting a business with which such applicant or recipient was responsibly connected, had inspection services refused or withdrawn under this chapter for a period which has not expired; or

(2) The application for inspection contains a materially false or misleading statement made by the applicant for or recipient of the services, or its representative on its behalf, or there has been concealment or withholding of facts called for by the application form.

The secretary may also, after notice to the operator of the establishment, refuse to provide, or withdraw, inspection services under this chapter with respect to any establishment for any failure of the operator to maintain the establishment premises and facilities in a sanitary condition or to destroy condemned carcasses, parts thereof or meat food products as required, or other failure to conduct operations at the establishment in accordance with the requirements under this chapter. Such refusal or withdrawal shall terminate and inspection service shall be provided as soon as possible after the cause for such refusal or withdrawal has been corrected.

§ 39-5-23.1. Inhumane slaughtering--Refusal or suspension of inspection

For the purpose of preventing the inhumane slaughtering of livestock, the secretary of the Animal Industry Board shall examine and inspect the method by which cattle, sheep, swine, goats, equine, ratites, captive cervidae, and other species as requested by the owner and authorized by the secretary are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this chapter. The secretary may refuse to provide inspection to a new slaughtering establishment or temporarily suspend inspection at a slaughtering establishment if the secretary finds that any cattle, sheep, swine, goats, equine, ratites, captive cervidae, and other species as requested by the owner and authorized by the secretary have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with § 39-5-23.2, until the establishment furnishes assurances satisfactory to the secretary that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.

§ 39-5-23.2. Humane methods of slaughtering

Either of the following two methods of slaughtering of livestock and handling of livestock in connection with slaughter are found to be humane:

(1) In the case of cattle, sheep, swine, goats, equine, ratites, captive cervidae, and other species as requested by the owner and authorized by the secretary, the animals are rendered insensible to pain by a single blow or gunshot or by electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast or cut; or

(2) By slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia

of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument and handling in connection with such slaughtering.

§ 39-5-24. Facilities and sanitary practices of establishments operated in accordance with regulations of secretary--Inspection of carcasses, parts, or meat food products required for admittance into establishment

Each establishment at which livestock are slaughtered or livestock carcasses or parts thereof or meat food products are prepared solely for intrastate commerce shall have such premises, facilities, and equipment, and be operated in accordance with such sanitary practices, as are required by regulations prescribed by the secretary of the Animal Industry Board for the purpose of preventing the entry into and movement in such commerce of carcasses, parts thereof, and meat food products, which are adulterated. No livestock carcasses, parts thereof, or meat food products shall be admitted into such establishment unless they have been prepared only under inspection pursuant to this chapter or the Federal Wholesome Meat Act or imported in compliance with the latter act.

§ 39-5-25. Regulation of entry and handling of equine carcasses and products or other meat food products in official establishments

If required by rules promulgated pursuant to chapter 1-26 by the secretary, equines and their carcasses, parts thereof, and meat food products shall be prepared in establishments separate from the establishments in which cattle, bison, sheep, swine, goats, ratites, captive cervidae, and other species as requested by the owner and authorized by the secretary are slaughtered or their carcasses, parts thereof, or meat food products are prepared. The secretary may by rules promulgated pursuant to chapter 1-26 otherwise limit the entry of carcasses, parts of carcasses, meat food products, and other materials into any establishment at which inspection under this chapter is maintained, under such conditions as the secretary may prescribe to assure that allowing the entry of such articles into inspected establishments will be consistent with the purposes of this chapter.

§ 39-5-26. Misbranded carcass, part, or meat food product defined

For purposes of this chapter, the term "misbranded" shall apply to any carcass, part thereof, or meat food product under one or more of the following circumstances:

- (1) If its labeling is false or misleading in any particular; or
- (2) If it is offered for sale under the name of another food; or
- (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; or
- (4) If its container is so made, formed, or filled as to be misleading; or
- (5) If in a package or other container unless it bears a label showing:
 - (a) The name and place of business of the manufacturer, packer, or distributor; and
 - (b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: Provided, that under clause (b) of this subdivision, reasonable variations may be permitted, and exemptions as to small packages may be established, by regulations prescribed by the secretary of the Animal Industry Board; or

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

(7) If it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulations of the secretary under § 39-5-28 unless:

(a) It conforms to such definition and standard; and

(b) Its label bears the name of the food specified in the definition and standard and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food; or

(8) If it purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations of the secretary under § 39-5-28, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or

(9) If it is not subject to the provisions of subdivision (7), unless its label bears:

(a) The common or usual name of the food, if any there be; and

(b) In case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the secretary, be designated as spices, flavorings, and colorings without naming each; Provided, that, to the extent that compliance with the requirements of clause (b) of this subdivision (9) is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the secretary; or

(10) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the secretary determines to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses; or

(11) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact: Provided, that, to the extent that compliance with the requirements of this subdivision (11) is impracticable, exemptions shall be established by regulations promulgated by the secretary; or

(12) If it fails to bear, directly thereon or on its containers, as the secretary may by regulations prescribe, the inspection legend and such other information as the secretary may require in such regulations to effectuate the purposes of this chapter.

§ 39-5-27. Labeling and marking of carcasses, parts, meat food products or containers required

All carcasses, parts of carcasses, and meat food products inspected at any establishment under the authority of this chapter and found to be not adulterated, shall at the time they leave the establishment bear, in distinctly legible form, directly thereon or on their containers, as the secretary of the Animal Industry Board may require, the information required under § 39-5-26.

§ 39-5-28. Labeling and marking styles and sizes of type--Definitions and standards of identity or composition and standards of fill of container prescribed by secretary

The secretary of the Animal Industry Board, whenever he determines such action is necessary for the protection of the public, may prescribe:

(1) The styles and sizes of type to be used in marking and labeling any articles or animals subject to this chapter, and

(2) Definitions and standards of identity or composition for articles subject to this chapter, and fill of container for such articles.

§ 39-5-30. Determination and modification by secretary of false or misleading marking, labeling, or container--Hearing on determination

If the secretary of the Animal Industry Board has reason to believe that any marking or labeling or the size or form of any container in use or proposed for use with respect to any article subject to this chapter is false or misleading in any particular, he may direct that such use be withheld unless the marking, labeling, or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person using or proposing to use the marking, labeling, or container does not accept the determination of the secretary, such person may request a hearing, but the use of the marking, labeling, or containers shall, if the secretary so directs, be withheld pending hearing and final determination by the secretary. Any such determination by the secretary shall be conclusive unless, within the time prescribed by § 1-26-31, the person adversely affected thereby appeals to the circuit court of South Dakota.

§ 39-5-31. Meat processors and related industries subject to regulation by secretary

The secretary of the Animal Industry Board may by regulations prescribe conditions under which carcasses, parts of carcasses, and meat food products of livestock capable of use as human food, shall be stored or otherwise handled by any person engaged in the business of buying, selling, freezing, storing, transporting, or otherwise handling such articles in this state, whenever the secretary deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer.

§ 39-5-32. Meat and meat products not to be used for human consumption--Denaturing or identification as inedible required

Inspection shall not be provided under this chapter at any establishment for the slaughter of livestock, or the preparation of any carcasses or parts or products of livestock, which are not intended for use as human food, but such articles shall, unless naturally inedible by humans, be denatured or otherwise identified as prescribed by regulations of the secretary of the Animal Industry Board to deter their use for human food. No person shall sell, donate, transport, or offer or receive for sale or transportation, in this state any such carcasses, parts thereof, or meat food products which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the secretary or are naturally inedible by humans.

§ 39-5-33. Registration of meat brokers, renderers, animal food manufacturers, wholesalers or warehousemen

No person shall engage in this state in business as a meat broker, inedible products renderer, or animal food manufacturer, or as a wholesaler of any carcasses, or parts or products of the carcasses, of any livestock, whether intended for human food or other purposes, or as a public warehouseman storing

any such articles, or in the business of buying, selling, or transporting any dead, dying, crippled, or diseased livestock, unless when required by regulations of the secretary of the Animal Industry Board, he has registered with the secretary, his name, and the address of each place of business at which, and all trade names under which, he conducts such business.

§ 39-5-34. Regulation of dealing in diseased, dying, crippled or dead livestock

No person engaged in this state in the business of buying, selling, or transporting dead, dying, crippled, or diseased livestock or any parts of the carcasses of any livestock that died otherwise than by slaughter, shall buy, sell, donate, transport, or offer or receive for sale or transportation in this state any such livestock or parts of carcasses, unless such transaction or transportation is made in accordance with such regulations as the secretary of the Animal Industry Board may prescribe to effectuate the purposes of this chapter.

§ 39-5-35. Disposal of carcasses, parts, or meat food products from noncomplying official establishments

Carcasses, parts thereof, and meat food products which, in any establishment at which inspection is maintained under this chapter, are prepared, wholly or in part, without supervision of an inspector as required by the secretary of the Animal Industry Board, or otherwise not in compliance with the regulations under this chapter, shall be handled or disposed of as the secretary may by regulations prescribe to prevent the use for human food of articles that are adulterated or misbranded.

§ 39-5-36. Records required of all types of meat businesses

Any person who engages in this state, in the business of slaughtering any livestock, or preparing, freezing, packaging, or labeling any carcasses or parts or products of carcasses, of any livestock, for use as human or animal food or rendering (as an inedible products renderer), transporting, storing, or buying or selling (as a meat broker or otherwise) any carcasses, or parts or products of carcasses, of any livestock, or transporting, buying, or selling any dying, crippled, or diseased cattle, bison, sheep, swine, goats, equine, ratites, captive cervidae, and other species as requested by the owner and authorized by the secretary shall maintain such records as the secretary may by rules promulgated pursuant to chapter 1-26 require to effectuate the purposes of this chapter, and shall, upon notice by the secretary, afford the representative, at all reasonable times, access to the person's places of business and opportunity to inspect the facilities, inventory, and all records, and to copy all such records. Any record required to be maintained by this section shall be maintained for at least such period of time as the secretary may by rules promulgated pursuant to chapter 1-26 prescribe.

§ 39-5-37. Detention of carcass, part, or meat food product, inedible product, or dying, crippled or diseased livestock--Grounds and procedure for action by secretary

Whenever any carcass, part of a carcass, or meat food product of any livestock or any product exempted from the definition of a meat food product, or any dying, crippled, or diseased livestock is found by any authorized representative of the secretary of the Animal Industry Board upon any premises where it is held for purposes of, or during or after distribution in this state, and there is reason to suspect that such article is adulterated or misbranded and is capable of use for human food, or that it has not been inspected, in violation of this chapter, any other law of this state, or any federal law, or that such article or animal has been, or is intended to be, distributed in violation of any such laws, it may be detained by such representative for a period not to exceed twenty days, pending action under § 39-5-38, or notification of any federal or other governmental authorities having jurisdiction over such article or animal, and shall not be moved by any person from the place at which it is located when so detained, until released by such representative. All official marks may be required by such representative to be removed from such article or animal before it is released unless it appears to the satisfaction of the secretary that the article or animal is eligible to retain such marks.

§ 39-5-38. Seizure and condemnation of articles or animals in violation--Procedure for disposal of articles or animals

Any carcass, part of a carcass, or meat food product of any livestock or any dying, crippled, or diseased livestock that is being transported in this state, or is held for sale or donation in this state after such transportation, and that:

- (1) Is or has been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of this chapter; or
- (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, by an action in the circuit court of South Dakota within the jurisdiction of which the article or animal is found. If the article or animal is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the treasury of this state, but the article or animal shall not be sold contrary to the provisions of this chapter or federal law: Provided, that upon the execution and delivery of a good and sufficient bond conditioned that the article or animal shall not be sold or otherwise disposed of contrary to the provisions of this chapter or federal law, the court may direct that such article or animal be delivered to the owner thereof subject to such supervision by authorized representatives of the secretary of the Animal Industry Board as is necessary to ensure compliance with this chapter. When a decree of condemnation is entered against the article or animal and it is released under bond, or destroyed, court costs and fees, and storage and other expenses shall be awarded against the person, if any, intervening as claimant of the article or animal.

§ 39-5-39. Prohibited acts

The following acts, or the causing thereof, by any person within this state, are hereby prohibited, except as otherwise provided under § 39-5-11:

- (1) The slaughter of livestock or the preparation of any carcasses, parts thereof, or meat food products of livestock at any establishment conducting such operations solely for intrastate commerce, except in compliance with the requirements of this chapter;
- (2) The sale, donation, transportation, or offering or receiving for sale or transportation in this state of:
 - (a) Any livestock carcass, part thereof, or meat food product, unless such article has been inspected to assure its freedom from adulteration and misbranding, in accordance with the requirements under this chapter or the Federal Wholesome Meat Act; or
 - (b) Any such article which is capable of use as human food and is adulterated or misbranded at the time of such sale, donation, transportation, or offer or receipt for sale or transportation;
- (3) Doing, with respect to any livestock carcass, part thereof, or meat food product which is capable of use as human food, any act while it is being transported in this state or held for sale or donation after such transportation, which is intended to cause or has the effect of causing such article to be adulterated or misbranded;
- (4) Selling, donating, transporting, or offering or receiving for sale or transportation, in this state, any carcasses of horses, mules, or other equines or parts of such carcasses, or the meat or meat food products thereof, unless they are plainly and conspicuously marked or labeled or otherwise identified as

required by regulations prescribed by the secretary of the Animal Industry Board to show the kinds of animals from which they were derived;

(5) Casting, printing, lithographing, or otherwise making 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 secretary;

(6) Forging any official device, mark, or certificate;

(7) Without authorization from the secretary using any official device, mark, or certificate, or simulation thereof, or altering, detaching, defacing, or destroying any official device, mark, or certificate;

(8) Contrary to the regulations prescribed by the secretary, failing to use, or to detach, deface, or destroy any official device, mark, or certificate;

(9) Knowingly possessing, without promptly notifying the secretary or his representative, 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 thereof, bearing any counterfeit, simulated, forged, or improperly altered official mark;

(10) Knowingly making any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the secretary;

(11) Knowingly representing that any article has been inspected and passed or exempted under this chapter when, in fact, it has, respectively, not been so inspected and passed or exempted;

(12) Neglecting or refusing to attend and testify or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena of the secretary; or willfully making any false entry or statement of fact in any report required to be made under this chapter; or willfully making any false entry in any record kept by any person subject to this chapter;

(13) Failing to file any report required by the secretary under § 39-5-8, within the time fixed by him for such filing, or failing to keep any record required by the secretary under § 39-5-36;

(14) Refusing to permit any duly authorized representative of the secretary or have access at all reasonable times, to the premises, facilities, inventory, or records of any establishment in this state at which livestock are slaughtered or the carcasses, parts thereof, or meat food products are prepared, or refusing to permit such representative to copy any such records, as authorized by § 39-5-36;

(15) Assaulting, resisting, opposing, impeding, intimidating, or interfering with any person while engaged in, or on account of, the performance of his official duties under this chapter; or giving or paying anything of value to any person employed to perform any official duties under this chapter, with intent to influence his official actions;

(16) Receiving by any person employed to perform any official duties under this chapter of anything of value given or paid by any person to influence his official actions;

(17) Violating §§ 39-5-31 to 39-5-34 or any regulations under § 39-5-8.

A violation of any provision in this section is a Class 1 misdemeanor.

§ 39-5-39.1. Sale of diseased carcass for human consumption as felony

Any person who violates the provisions of § 39-5-34 by knowingly selling or offering for sale carcasses

or parts of carcasses of diseased animals for human consumption is guilty of a Class 6 felony.

§ 39-5-41. Principal or employer liable for acts or omissions of agent or employee

When construing or enforcing the provisions of this chapter, the act, omission, or failure of any person acting for or employed by an individual, partnership, limited liability company, corporation, association, or other business unit, within the scope of employment or office, shall in every case be deemed the act, omission, or failure of such individual, partnership, limited liability company, corporation, association, or other business unit, as well as of such person.

§ 39-5-42. Notice of report of violation by secretary to state's attorney--Warning notice by secretary authorized

Before any violation of this chapter is reported by the secretary of the Animal Industry Board to the state's attorney of any county of this state for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given reasonable notice of the alleged violation and opportunity to present his views orally or in writing with regard to such contemplated proceeding. Nothing in this chapter shall be construed as requiring the secretary to report for criminal prosecution violations of this chapter, whenever he believes that the public interest will be adequately served and compliance with this chapter obtained by a suitable written notice of warning.

§ 39-5-43. Circuit court jurisdiction

The circuit court of South Dakota is hereby vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this chapter and shall have jurisdiction in all other kinds of cases arising under this chapter.

§ 39-5-44. Notice of operation of inspection and regulatory provisions

Provisions of this chapter relative to inspections, sanitation, labeling requirements, penalties, seizures, and injunctive relief shall not become operative until thirty days after the giving of notice thereof by the secretary of the Animal Industry Board by posting of such notice upon the official bulletin boards of at least twenty counties of the State of South Dakota and the publishing of three weeks' notices thereof by three publications, once each week, in at least three newspapers of the State of South Dakota which have been designated as official county newspapers in the State of South Dakota.

§ 39-5-45. Severability of chapter

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this chapter, and of the application of such provisions to other persons and circumstances shall not be affected thereby.

