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State Meat Inspection Laws:

Texas



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State Meat Inspection Laws: Texas

Fast find:

- 1) Federal Compliance: [Tex. Health & Safety Code § 433.071](#)
- 2) Controlling State Agency/Definitions: [Tex. Health & Safety Code § 430.001](#), [Tex. Health & Safety Code § 430.003](#)
- 3) Animals Covered Under the Act: [Tex. Health & Safety Code § 433.003](#)
- 4) Approved Methods of Slaughter & Religious Slaughter:
- 5) Inspection
 - a) Procedure and Examination: [Tex. Health & Safety Code § 433.21](#), [Tex. Health & Safety Code § 433.21](#)
 - b) Licensing:
- 6) Exemptions
 - a) Personal Use: [Tex. Health & Safety Code § 433.006](#)
 - b) On Farm or Custom Slaughter:
 - c) Religious:
- 7) Violations: [Tex. Health & Safety Code § 433.081](#)

[Tex. Health & Safety Code Ch. Tit. 6, Ch. 433](#)

Current through the end of the 2019 Regular Session of the 86th Legislature.

§ 433.001. Short Title

This chapter may be cited as the Texas Meat and Poultry Inspection Act.

§ 433.002. Policy

(a) Meat and meat food products are an important source of the nation's total food supply. It is essential in the public interest that the health and welfare of consumers be protected by assuring that meat and meat food products distributed to them are wholesome, unadulterated, and properly marked, labeled, and packaged. Unwholesome, adulterated, or misbranded meat or meat food products:

(1) injure the public welfare;

(2) destroy markets for wholesome, unadulterated, and properly labeled and packaged meat and meat food products;

(3) cause losses to livestock producers and processors of meat and meat food products;

(4) cause injury to consumers; and

(5) can be sold at lower prices and compete unfairly with wholesome, unadulterated, and properly labeled and packaged articles, to the detriment of consumers and the public.

(b) Regulation by the department and cooperation by this state and the United States as provided by this chapter are appropriate to protect the health and welfare of consumers and otherwise accomplish the purposes of this chapter.

§ 433.003. Definitions

In this chapter:

(1) "Animal food manufacturer" means a person in the business of manufacturing or processing animal food any part of which is derived from a carcass, or a part or product of a carcass, of livestock.

(2) "Capable of use as human food" means:

(A) not naturally inedible by humans; or

(B) not denatured or otherwise identified as required by department rule to deter its use as human food.

(3) "Color additive" has the meaning given by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq.).

(4) Repealed by Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 3.1639(77).

(5) "Exotic animal" means a member of a species of game not indigenous to this state, including an axis deer, nilgai antelope, red sheep, or other cloven-hooved ruminant animal.

(6) "Food additive" has the meaning given by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq.).

(7) "Inedible animal product" means a product, other than a meat food product, any part of which is made from a carcass, or a part or product of a carcass, of livestock.

(8) "Interstate commerce" means commerce between this state and:

(A) another state of the United States; or

(B) a foreign country.

(9) "Label" means a display of written, printed, or other graphic matter on the product or the immediate container, other than a package liner, of an article.

(10) "Labeling" means:

(A) a label; or

(B) other written, printed, or graphic material on an article or any container or wrapper of an article, or accompanying an article.

(11) "Livestock" means cattle, bison, sheep, swine, goats, horses, mules, other equines, poultry, domestic rabbits, exotic animals, or domesticated game birds.

(12) "Meat broker" means a person in the business of buying or selling, on commission, carcasses, parts of carcasses, meat, or meat food products of livestock, or otherwise negotiating purchases or sales of those articles other than for the person's own account or as an employee of another person.

(13) "Meat food product" means a product that is capable of use as human food and that is made in whole or part from meat or other portion of the carcass of livestock, except a product that:

(A) contains meat or other portions of the carcass only in a relatively small proportion or that historically has not been considered by consumers as a product of the meat food industry; and

(B) is exempted from the definition of meat food product by department rule under conditions assuring that the meat or other portions of the carcass contained in the product are unadulterated and that the product is not represented as a meat food product.

(14) "Official certificate" means a certificate prescribed by department rule for issuance by an inspector or other person performing official functions under this chapter.

(15) "Official marking device" means a device prescribed or authorized by department rule for use in applying an official mark.

(16) "Official establishment" means an establishment designated by the department at which inspection of the slaughter of livestock or the preparation of livestock products is maintained under this chapter.

(17) "Official inspection legend" means a symbol prescribed by department rule showing that an article was inspected and passed as provided by this chapter.

(18) "Official mark" means the official inspection legend or other symbol prescribed by department rule to identify the status of an article or animal under this chapter.

(19) "Pesticide chemical" has the meaning given by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq.).

(20) "Poultry" means a live or dead domesticated bird.

(21) "Poultry product" means a poultry carcass, part of a poultry carcass, or a product any part of which is made from a poultry carcass or part of a poultry carcass, except a product that:

(A) contains poultry ingredients only in a relatively small proportion or that historically has not been considered by consumers as a product of the poultry food industry; and

(B) is exempted from the definition of poultry product by department rule under conditions assuring that the poultry ingredients in the product are unadulterated and that the product is not represented as a poultry product.

(22) "Prepared" means slaughtered, canned, salted, rendered, boned, cut up, stuffed, or manufactured or processed in any other manner.

(23) "Processing establishment" means a slaughtering, packing, meat-canning, or rendering establishment or a similar establishment.

(24) "Raw agricultural commodity" has the meaning given by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq.).

(25) "Renderer" means a person in the business of rendering carcasses, or parts or products of carcasses, of livestock, other than rendering conducted under inspection under Subchapter B.1

§ 433.004. Adulteration

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

(1) it bears or contains a poisonous or deleterious substance that may render it injurious to health unless:

(A) the substance is not an added substance; and

(B) the quantity of the substance in or on the article does not ordinarily render it injurious to health;

(2) it bears or contains, because of administration of a substance to a live animal or otherwise, an added poisonous or deleterious substance that the department has reason to believe makes the article unfit for human food, other than a:

(A) pesticide chemical in or on a raw agricultural commodity;

(B) food additive; or

(C) color additive;

(3) any part of it is a raw agricultural commodity that bears or contains a pesticide chemical that is unsafe under Section 408, Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 346a);

(4) it bears or contains a food additive that is unsafe under Section 409, Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 348) or a color additive that is unsafe for purposes of Section 721 of that Act (21 U.S.C. Section 379e);

(5) it is not adulterated under Subdivision (3) or (4), but use of the pesticide chemical, food additive, or color additive that the article bears or contains is prohibited by department rule in establishments at which inspection is maintained under Subchapter B;1

(6) any part of it consists of a filthy, putrid, or decomposed substance or is for another reason unsound, unhealthy, unwholesome, or otherwise unfit for human food;

(7) it is prepared, packed, or held under unsanitary conditions that may have caused it to become contaminated with filth or rendered injurious to health;

(8) any part of it is the product of an animal, including an exotic animal, that has died in a manner other than slaughter;

(9) any part of its container is composed of a poisonous or deleterious substance that may render the contents injurious to health;

(10) it is intentionally subjected to radiation, unless the use of the radiation is in conformity with a regulation or exemption under Section 409, Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 348);

(11) any part of a valuable constituent is omitted or abstracted from it, or a substance is substituted for all or part of it;

(12) damage or inferiority is concealed;

(13) a substance has been added to or mixed or packed with it in a manner that:

(A) increases its bulk or weight;

(B) reduces its quality or strength; or

(C) makes it appear better or of greater value than it is; or

(14) it is margarine containing animal fat and any part of the raw material used in it consists of a filthy, putrid, or decomposed substance.

§ 433.005. Misbranding

(a) A livestock or poultry product is misbranded if:

(1) any part of its labeling is false or misleading;

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

(3) it is an imitation of another food, unless its label bears, in prominent type of uniform size, the word "imitation" immediately followed by the name of the food imitated;

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

(5) except as provided by Subsection (b), it does not bear a label showing:

(A) the manufacturer's, packer's, or distributor's name and place of business; and

(B) an accurate statement of the quantity of the product by weight, measure, or numerical count;

(6) a word, statement, or other information required by or under the authority of this chapter to appear on the label or labeling is not prominently placed on the label or labeling in sufficient terms and with sufficient conspicuousness, compared with other words, statements, designs, or devices in the label or

labeling, to make it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(7) it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by department rule under Section 433.043 unless:

(A) it conforms to the definition and standard; or

(B) its label bears:

(i) the name of the food specified in the definition and standard; and

(ii) to the extent required by department rule, the common names of optional ingredients present in the food, other than spices, flavoring, and coloring;

(8) it purports to be or is represented as a food for which a standard of fill of container has been prescribed by department rule under Section 433.043 and the food does not meet the standard of fill of container, unless its label bears, in the manner and form prescribed by department rule, a statement that it does not meet the standard;

(9) except as provided by Subsection (c), it does not purport to be or is not represented as a food for which a standard of identity or composition has been prescribed by department rule unless its label bears:

(A) any common or usual name of the food; and

(B) if it is fabricated from two or more ingredients, the common or usual name of each ingredient;

(10) it purports to be or is represented for special dietary uses and its label does not bear the information concerning its vitamin, mineral, and other dietary properties that the department, after the executive commissioner or department consults with the United States Secretary of Agriculture, has determined, and the executive commissioner has prescribed by rule, to be necessary to fully inform purchasers of its value for those uses;

(11) it bears or contains artificial flavoring, artificial coloring, or a chemical preservative unless it bears labeling stating that fact, except as otherwise prescribed by department rule for situations in which compliance with this subdivision is impracticable; or

(12) it does not bear on itself or its container, as prescribed by department rule:

(A) the inspection legend and establishment number of the establishment in which the product was prepared; and

(B) notwithstanding any other provision of this section, other information required by department rule to assure that the product will not have false or misleading labeling and that the public will be informed of the manner of handling required to keep the product in wholesome condition.

(b) The executive commissioner may adopt rules:

(1) exempting from Subsection (a)(5) livestock products not in containers; and

(2) providing reasonable variations from Subsection (a)(5)(B) and exempting from that subsection small packages of livestock products or poultry products.

(c) For products subject to Subsection (a)(9), the department may authorize the designation of spices, flavorings, and colorings without naming them. The executive commissioner may adopt rules establishing exemptions from Subsection (a)(9)(B) to the extent that compliance with that subsection is impracticable or would result in deception or unfair competition.

§ 433.006. Personal Use Exemption

(a) The provisions of this chapter requiring inspection of the slaughter of livestock and the preparation of carcasses, parts of carcasses, meat, and meat food products at establishments conducting those operations do not apply to the slaughtering of livestock or the preparation and transportation in intrastate commerce of those articles if:

(1) the articles are exclusively for personal use by the owner of the livestock, a member of the owner's family, or a nonpaying guest of the owner;

(2) the slaughter or preparation is conducted at the owner's premises or at a processing establishment; and

(3) the transportation is limited to moving the carcasses, parts of carcasses, meat, and meat food products to and from the owner's premises and a processing establishment.

(b) The adulteration and misbranding provisions of this chapter, other than the requirement of an inspection legend, apply to articles prepared by a processing establishment under Subsection (a).

(c) This section does not grant a personal use exemption to an owner who intends to give carcasses, parts of carcasses, meat, or meat food products to any person other than a person listed in Subsection (a)(1).

§ 433.007. Construction with Other Law

(a) This chapter prevails over any other law, including Chapter 431 (Texas Food, Drug, and Cosmetic Act), to the extent of any conflict.

(b) This chapter applies to a person, establishment, animal, or article regulated under the Federal Meat Inspection Act (21 U.S.C. Section 601 et seq.) or the Federal Poultry Products Inspection Act (21 U.S.C. Section 451 et seq.).

§ 433.008. Rules

(a) The executive commissioner shall adopt rules necessary for the efficient execution of this chapter.

(b) The executive commissioner shall adopt and use federal rules, regulations, and procedures for meat and poultry inspection, as applicable.

(c) The executive commissioner may adopt rules requiring a processing establishment that processes livestock under Section 433.006(a)(2) to obtain a grant of custom exemption for that activity.

§ 433.009. Fees

The department may collect fees for overtime and special services rendered to establishments, and may collect a fee for services required to be performed under this chapter relating to the inspection of animals, birds, or products that are not regulated under the Federal Meat Inspection Act (21 U.S.C. Section 601 et seq.) or the Federal Poultry Products Inspection Act (21 U.S.C. Section 451 et seq.). The executive commissioner by rule shall set the inspection fee in an amount sufficient to recover the department's costs of providing those services.

§ 433.021. Inspection Before Slaughter

(a) To prevent the use in intrastate commerce of adulterated meat and meat food products, the department shall examine and inspect each livestock animal before it is allowed to enter a processing establishment in this state in which slaughtering and preparation of meat and meat food products of livestock are conducted solely for intrastate commerce.

(b) Any livestock animal found on inspection to show symptoms of disease shall be set apart and slaughtered separately from other livestock. The carcass of the animal shall be carefully examined and inspected as provided by department rule.

§ 433.022. Inspection of Carcasses

(a) To prevent the use in intrastate commerce of adulterated meat and meat food products, the department shall inspect each livestock carcass or part of a carcass capable of use as human food that is to be prepared at a processing establishment in this state in which those articles are prepared solely for intrastate commerce. If a carcass or part of a carcass is brought into the processing establishment, the inspection shall be made before a carcass or part of a carcass is allowed to enter a department in which it is to be treated and prepared for meat food products. The department shall also inspect products that have left a processing establishment and are returned to a processing establishment in which inspection is maintained.

(b) The inspector shall mark, stamp, tag, or label a carcass or part of a carcass found on inspection to be unadulterated as "inspected and passed," and one found adulterated as "inspected and condemned."

(c) If an inspector considers a subsequent inspection necessary, the inspector may reinspect any carcass or part of a carcass and condemn it if it has become adulterated.

(d) The processing establishment, in the presence of an inspector, shall destroy for food purposes each condemned carcass or part of a carcass. If the establishment fails to destroy a condemned carcass or part of a carcass, the department may remove the inspectors from the establishment.

(e) The executive commissioner may adopt rules that limit the entry of carcasses, parts of carcasses, meat, or meat food products into an establishment in which inspection under this chapter is maintained to assure that entry of the article into the establishment is consistent with the purposes of this chapter.

§ 433.023. Investigation of Disease Findings; Quarantine

(a) The department may investigate a disease finding by a livestock inspector if the department determines that the investigation is in the best interest of public health.

(b) If a disease adverse to the public health is found under this chapter, the commissioner may quarantine the premises where an animal is located that is afflicted with any stage of a disease that may be transmitted to man or other animals. A quarantined animal may be removed from a quarantined area only on permission from and under supervision by the commissioner.

§ 433.024. Inspection of Processing and Slaughtering Establishments

(a) The department shall inspect each processing establishment in which livestock is slaughtered and meat and meat food products of the livestock are prepared solely for intrastate commerce as necessary to obtain information about the establishment's sanitary conditions.

(b) The department shall inspect each slaughtering establishment whose primary business is the selling of livestock to be slaughtered by the purchaser on premises owned or operated by the seller. This subsection does not nullify the provisions in Section 433.006 relating to personal use exemption.

(c) The executive commissioner shall adopt rules governing sanitation maintenance in processing and slaughtering establishments as defined by this section.

(d) If sanitary conditions of a processing establishment render meat or meat food products adulterated, the department shall prohibit the meat or meat food products from being labeled, marked, stamped, or tagged as "Texas inspected and passed."

§ 433.0245. Requirements for Certain Low-volume Livestock Processing Establishments

(a) Except as provided by this section, the inspection and regulatory provisions of this chapter do not apply to a low-volume livestock processing establishment that is exempt from federal inspection.

(a-1) For purposes of this section, a low-volume livestock processing establishment:

(1) includes an establishment that processes fewer than 10,000 domestic rabbits or more than 1,000 but fewer than 10,000 poultry in a calendar year; and

(2) does not include an establishment that processes 1,000 or fewer poultry raised by the operator of the establishment in a calendar year.

(b) Except as provided by Subsections (e) and (f), a low-volume livestock processing establishment that is exempt from federal inspection shall register with the department in accordance with rules adopted by the executive commissioner for registration.

(c) Except as provided by Subsections (e) and (f), a low-volume livestock processing establishment that is exempt from federal inspection shall develop a sanitary operation procedures plan.

(d) Except as provided by Subsection (f), if contaminated livestock can be reasonably traced to a low-volume livestock processing establishment that is exempt from federal inspection, the department may request the attorney general or the district or county attorney in the jurisdiction where the facility is located to institute a civil suit to enjoin the operation of the establishment until the department determines that the establishment has been sanitized and is operating safely.

(e) A low-volume livestock processing establishment that is exempt from federal inspection and processes fewer than 500 domestic rabbits in a calendar year is not required to comply with Subsection (b) or (c).

(f) An establishment described by Subsection (a-1)(2):

(1) is not subject to additional state regulation; and

(2) may sell poultry products directly to consumers.

§ 433.025. Inspection of Meat Food Products

(a) To prevent the use in intrastate commerce of adulterated meat food products, the department shall examine and inspect all meat food products prepared in a processing establishment solely for intrastate commerce. To make the examination and inspection, an inspector shall be given access at all times to each part of the establishment, regardless of whether the establishment is being operated.

(b) The inspector shall mark, stamp, tag, or label products found unadulterated as "Texas inspected and passed" and those found adulterated as "Texas inspected and condemned."

(c) The establishment shall, in the manner provided for condemned livestock or carcasses, destroy for food purposes each condemned meat food product. If the establishment does not destroy a condemned meat food product, the department may remove inspectors from the establishment.

§ 433.026. Night Inspection; Hours of Operation

(a) The department shall provide for inspection at night of livestock slaughtered at night and food products prepared at night for the purposes of intrastate commerce.

(b) If the department determines that a person's operating hours are capricious or unnecessarily difficult, the department may set the person's time and duration of operation.

§ 433.027. Inspectors

(a) The department shall hire inspectors of livestock that is subject to inspection under this chapter, and of carcasses, parts of carcasses, meat, meat food products, and sanitary conditions of establishments

in which meat and meat food products are prepared. An inspector is an employee of the department and is under supervision of the chief officer in charge of inspection.

(b) The department shall designate at least one state inspector for each state representative district.

(c) The chief officer in charge of inspection is responsible for animal health as it relates to public health. The chief officer in charge of inspection must be licensed to practice veterinary medicine in this state or must be eligible for such a license when employed and must obtain the license not later than two years after the date of employment.

(d) An inspector shall perform the duties provided by this chapter and department rules. An inspection or examination must be performed as provided by department rules.

(e) An inspector may not stamp, mark, tag, or label a carcass, part of a carcass, or a meat food product unless it has been inspected and found unadulterated.

§ 433.028. Refusal to Inspect

(a) The department may withdraw or refuse to provide inspection service under this subchapter from an establishment for the period the department determines necessary to carry out the purposes of this chapter if the department determines after opportunity for hearing that the applicant for or recipient of the service is unfit to engage in a business requiring inspection under this subchapter because the applicant or recipient, or a person responsibly connected with the applicant or recipient, has been convicted in a federal or state court of a felony or more than one violation of another law based on:

- (1) acquiring, handling, or distributing unwholesome, mislabeled, or deceptively packaged food; or
- (2) fraud in connection with a transaction in food.

(b) The department's determination and order under this section is final unless, not later than the 30th day after the effective date of the order, the affected applicant or recipient files an application for judicial review in the appropriate court as provided by Section 433.082. Judicial review of the order is on the record from which the determination and order was made.

(c) This section does not affect the provisions of this subchapter relating to withdrawal of inspection services from establishments failing to maintain sanitary conditions or to destroy condemned carcasses, parts of carcasses, meat, or meat food products.

(d) For the purposes of this section, a person is responsibly connected with the business if the person is a partner, officer, director, holder or owner of 10 percent or more of the business's voting stock, or managerial or executive employee.

§ 433.029. Articles Not Intended for Human Consumption

(a) Under this subchapter, the department may not inspect an establishment for the slaughter of livestock or the preparation of carcasses, parts of carcasses, or products of livestock if the articles are not intended for use as human food. Before offered for sale or transportation in intrastate commerce,

those articles, unless naturally inedible by humans, shall be denatured or identified as provided by department rule to deter their use for human food.

(b) A person may not buy, sell, transport, offer for sale or transportation, or receive for transportation in intrastate commerce a carcass, part of a carcass, meat, or a meat food product that is not intended for use as human food unless the article is naturally inedible by humans, denatured, or identified as required by department rule.

§ 433.030. Detention

(a) The department may detain a carcass, part of a carcass, meat, a meat food product of livestock, a product exempted from the definition of meat food product, or a dead, dying, disabled, or diseased livestock animal if the department finds the article on premises where it is held for purposes of intrastate commerce, or during or after distribution in intrastate commerce, and there is reason to believe that the article:

(1) is adulterated or misbranded and is capable of use as human food; or

(2) has not been inspected as required by, or has been or is intended to be distributed in violation of:

(A) this subchapter;

(B) the Federal Meat Inspection Act (21 U.S.C. Section 601 et seq.);

(C) the Federal Poultry Products Inspection Act (21 U.S.C. Section 451 et seq.); or

(D) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq.).

(b) An article may be detained for not more than 20 days and only pending action under Section 433.031 or notification of a federal authority having jurisdiction over the article.

(c) A person may not move a detained article from the place where it is detained until the article is released by the department.

(d) The department may require that each official mark be removed from the article before it is released, unless the department determines that the article is eligible to bear the official mark.

§ 433.031. Seizure

(a) A carcass, part of a carcass, meat, or a meat food product of livestock, or a dead, dying, disabled, or diseased livestock animal, that is being transported in intrastate commerce or held for sale after transportation in intrastate commerce may be proceeded against, seized, and condemned if the article:

(1) is or has been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of this chapter;

(2) is capable of use as human food and is adulterated or misbranded; or

(3) is otherwise in violation of this chapter.

(b) An action against an article under this section must be on a complaint in the proper court in the county in which the article is found. To the extent possible, the law governing admiralty cases applies to a case under this section, except that:

(1) either party may demand trial by jury of an issue of fact in the case; and

(2) the proceedings must be brought by and in the name of this state.

(c) After entry of the decree, a condemned article shall be destroyed or sold as the court directs. If the article is sold, the proceeds, minus court costs, court fees, and storage and other proper expenses, shall be deposited in the state treasury. An article may not be sold in violation of this chapter, the Federal Meat Inspection Act (21 U.S.C. Section 601 et seq.), the Federal Poultry Products Inspection Act (21 U.S.C. Section 451 et seq.), or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq.). On execution and delivery of a good and sufficient bond conditioned that the article will not be disposed of in violation of this chapter or federal law, the court may direct the article to be delivered to its owner by the department subject to supervision as necessary to ensure compliance with applicable laws.

(d) If a decree of condemnation is entered against the article and it is released under bond or destroyed, the court shall award court costs, court fees, and storage and other proper expenses against any person intervening as claimant of the article.

§ 433.032. Storage and Handling

(a) The executive commissioner may adopt rules prescribing conditions under which carcasses, parts of carcasses, meat, and meat food products of livestock must be stored and handled by a person in the business of buying, selling, freezing, storing, or transporting those articles in or for intrastate commerce if the executive commissioner considers the rules necessary to prevent adulterated or misbranded articles from being delivered to a consumer.

(b) A person may not violate a rule adopted under this section.

§ 433.033. Equine Products

A person may not sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, a carcass, part of a carcass, meat, or a meat food product of a horse, mule, or other equine unless the article is plainly and conspicuously marked or labeled or otherwise identified, as required by department rule, to show the kind of animal from which the article was derived. The department may require an establishment at which inspection is maintained under this chapter to prepare those articles in an establishment separate from one in which livestock other than equines is slaughtered or carcasses, parts of carcasses, meat, or meat food products of livestock other than equines are prepared.

§ 433.034. Records

(a) A person engaged for intrastate commerce in any of the following business activities shall keep records of each of the person's business transactions:

(1) slaughtering livestock;

(2) preparing, freezing, packaging, or labeling a livestock carcass or a part or product of a livestock carcass for use as human food or animal food;

(3) transporting, storing, buying, or selling, as a meat broker, wholesaler, or otherwise, a livestock carcass or a part or product of a livestock carcass;

(4) rendering; or

(5) buying, selling, or transporting dead, dying, disabled, or diseased livestock, or a part of a carcass of a livestock animal that died in a manner other than slaughter.

(b) On notice by the department, a person required to keep records shall at all reasonable times give the department and any representative of the United States Secretary of Agriculture accompanying the department staff:

(1) access to the person's place of business; and

(2) an opportunity to:

(A) examine the facilities, inventory, and records;

(B) copy the records required by this section; and

(C) take a reasonable sample of the inventory, on payment of the fair market value of the sample.

(c) The person shall maintain a record required by this section for the period prescribed by department rule.

§ 433.035. Inspection and Other Regulation of Exotic Animals in Interstate Commerce

(a) The department has the same rights of examination, inspection, condemnation, and detention of live exotic animals and carcasses, parts of carcasses, meat, and meat food products of exotic animals slaughtered and prepared for shipment in interstate commerce as the department has with respect to exotic animals slaughtered and prepared for shipment in intrastate commerce.

(b) The department has the same rights of inspection of establishments handling exotic animals slaughtered and prepared for shipment in interstate commerce as the department has with respect to establishments handling exotic animals slaughtered and prepared for intrastate commerce.

(c) The record-keeping requirements of Section 433.034 that apply to persons slaughtering, preparing, buying, selling, transporting, storing, or rendering in intrastate commerce apply to persons performing similar functions with exotic animals in interstate commerce.

(d) A rulemaking power of the executive commissioner relating to animals in intrastate commerce applies to exotic animals in interstate commerce.

§ 433.041. Labeling Passed Products

(a) When meat or a meat food product prepared for intrastate commerce that has been inspected as provided by this chapter and marked "Texas inspected and passed" is placed or packed in a container or covering in an establishment in which inspection is performed under this chapter, the person preparing the product shall attach a label to the container or covering stating that the contents have been "Texas inspected and passed" under this chapter. The inspector shall supervise the attachment of the label and the sealing or enclosing of the meat or meat food product in the container or covering.

(b) When an inspected carcass, part of a carcass, meat, or a meat food product is found to be unadulterated and leaves the establishment, it must bear legible information on itself or its container, as required by department rule, to prevent it from being misbranded.

§ 433.042. Sale of Misabeled Articles Prohibited

A person may not sell an article subject to this chapter or offer the article for sale, in intrastate commerce, under a false or misleading name or other marking or in a container of a misleading form or size. An established trade name, other marking and labeling, or a container that is not false or misleading and that is approved by the department is permitted.

§ 433.043. Standards of Labeling, Composition, and Fill

(a) If the executive commissioner determines that standards are necessary to protect the public, the executive commissioner may adopt rules prescribing:

(1) the style and type size that must be used for material required to be incorporated in labeling to avoid false or misleading labeling of an article subject to this subchapter or Subchapter B; and

(2) subject to Subsection (b), a definition or standard of identity or composition or a standard of fill of container for an article subject to this subchapter.

(b) A standard prescribed under Subsection (a)(2) must be consistent with standards established under the Federal Meat Inspection Act (21 U.S.C. Section 601 et seq.), the Federal Poultry Products Inspection Act (21 U.S.C. Section 451 et seq.), and the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq.). To avoid inconsistency, the department shall consult with the United States Secretary of Agriculture before the standard is prescribed.

§ 433.044. Order to Cease False or Misleading Practice

(a) If the department has reason to believe that a marking or labeling or the size or form of a container in use or proposed for use in relation to an article subject to this subchapter is false or misleading, the department may prohibit the use until the marking, labeling, or container is modified in the manner the department prescribes to prevent it from being false or misleading.

(b) The person using or proposing to use the marking, labeling, or container may request a hearing. The department may prohibit the use pending a final determination by the department.

(c) A hearing and any appeal under this section are governed by the department's rules for a contested case hearing and Chapter 2001, Government Code.

§ 433.045. Protection of Official Device, Mark, and Certificate

A person may not:

(1) cast, print, lithograph, or make in any other manner, except as authorized by the department in accordance with department rules:

(A) a device containing or label bearing an official mark or a simulation of an official mark; or

(B) a form of official certificate or simulation of an official certificate;

(2) forge an official device, mark, or certificate;

(3) without the department's authorization, use, alter, detach, deface, or destroy an official device, mark, or certificate or use a simulation of an official device, mark, or certificate;

(4) detach, deface, destroy, or fail to use an official device, mark, or certificate, in violation of a department rule;

(5) knowingly possess, without promptly notifying the department:

(A) an official device;

(B) a counterfeit, simulated, forged, or improperly altered official certificate; or

(C) a device, label, animal carcass, or part or product of an animal carcass, bearing a counterfeit, simulated, forged, or improperly altered official mark;

(6) knowingly make a false statement in a shipper's certificate or other certificate provided for by department rule; or

(7) knowingly represent that an article has been inspected and passed, when it has not, or is exempted, when it is not.

§ 433.051. Slaughter or Preparation Not in Compliance With Chapter

A person, at an establishment preparing articles only for intrastate commerce, may not slaughter a livestock animal or prepare a carcass, part of a carcass, meat, or a meat food product of a livestock animal, capable of use as human food, except in compliance with this chapter.

§ 433.052. Sale, Receipt, or Transportation of Articles Not in Compliance With Chapter

A person may not:

(1) sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, livestock or a carcass, part of a carcass, meat, or a meat food product of livestock that is:

(A) capable of use as human food and is adulterated or misbranded when sold, offered, transported, or received for transportation; or

(B) required to be inspected by this chapter but has not been inspected and passed; or

(2) perform an act with respect to livestock or a carcass, part of a carcass, meat, or a meat food product of livestock, while the article is being transported in intrastate commerce or held for sale after transportation in intrastate commerce, that causes or is intended to cause the article to be adulterated or misbranded.

§ 433.053. Sale, Receipt, or Transportation of Poultry

A person may not sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce or from an official establishment, slaughtered poultry from which blood, feathers, feet, head, or viscera have not been removed as provided by department rule, except as authorized by department rule.

§ 433.054. Dead, Dying, Disabled, and Diseased Animals; Animals Dying in Manner Other than Slaughter

(a) If registration is required by department rule, a person may not engage in any of the following businesses, in or for intrastate commerce, unless the person has registered with the department:

(1) meat brokering or rendering;

(2) manufacturing animal food;

(3) wholesaling or warehousing for the public livestock or any part of a carcass of livestock, regardless of whether it is intended for human food; or

(4) buying, selling, or transporting dead, dying, disabled, or diseased livestock or part of a carcass of livestock.

(b) A registration must include the person's name, each of the person's places of business, and each trade name under which the person does business.

(c) A person may not engage in the business of selling, buying, or transporting in intrastate commerce dead, dying, disabled, or diseased livestock or part of the carcass of livestock that died otherwise than by slaughter unless the transaction or transportation complies with department rules adopted to assure that the animals or unwholesome parts or products of the animals are not used for human food.

§ 433.055. Miscellaneous Prohibitions Applicable to Exotic Animals in Interstate Commerce

The prohibitions of Sections 433.051-433.054 that apply to intrastate commerce also apply to exotic animals in interstate commerce.

§ 433.056. Inedible Animal Products

A person in the business of buying, selling, or transporting, in intrastate commerce, may not offer an inedible animal product for sale unless:

- (1) the sale is for further sterilization processing; or
- (2) the product has been processed in a manner that prevents the survival of disease-producing organisms or deleterious substances in the processed material.

§ 433.071. Responsible Agency

(a) The department is the state agency responsible for cooperating with the United States Secretary of Agriculture under Section 301, Federal Meat Inspection Act (21 U.S.C. Section 661), and Section 5, Federal Poultry Products Inspection Act (21 U.S.C. Section 454).

(b) The department shall cooperate with the secretary of agriculture in developing and administering the meat and poultry inspection program of this state under this chapter in a manner that will achieve the purposes of this chapter and federal law and that will ensure that the requirements will be at least equal to those imposed under Titles I and IV, Federal Meat Inspection Act (21 U.S.C. Sections 601 et seq. and 671 et seq.), and Sections 1-4, 6-10, and 12-22, Federal Poultry Products Inspection Act (21 U.S.C. Sections 451-453, 455-459, and 461-467d), not later than the dates prescribed by federal law.

§ 433.072. Advisory Committees

The commissioner may recommend to the United States Secretary of Agriculture state officials or employees for appointment to advisory committees provided for by Section 301, Federal Meat Inspection Act (21 U.S.C. Section 661), and Section 5, Federal Poultry Products Inspection Act (21 U.S.C. Section 454). The commissioner shall serve as the representative of the governor for consultation with the secretary of agriculture under those Acts unless the governor selects another representative.

§ 433.073. Technical and Laboratory Assistance and Training Program

The department may accept from the United States Secretary of Agriculture:

- (1) advisory assistance in planning and otherwise developing the state program;
- (2) technical and laboratory assistance;
- (3) training, including necessary curricular and instructional materials and equipment; and

(4) financial and other aid for administration of the program.

§ 433.074. Financing

The department may spend state funds appropriated for administration of this chapter to pay 50 percent of the estimated total cost of cooperation with the federal government under this subchapter, and all of the costs of performing services in relation to the inspection of animals or products not regulated under the Federal Meat Inspection Act (21 U.S.C. Section 601 et seq.) or the Federal Poultry Products Inspection Act (21 U.S.C. Section 451 et seq.).

§ 433.081. General Criminal Penalty

(a) A person commits an offense if the person violates a provision of this chapter for which this chapter does not provide another criminal penalty.

(b) Except as provided by Subsection (c), an offense under this section is punishable by a fine of not more than \$1,000, imprisonment for not more than one year, or both.

(c) If an offense under this section involves intent to defraud or a distribution or attempted distribution of an adulterated article, except adulteration described by Section 433.004(11), (12), or (13), the offense is punishable by a fine of not more than \$10,000, imprisonment for not more than three years, or both.

(d) A person does not commit an offense under this section by receiving for transportation an article in violation of this chapter if the receipt is in good faith and if the person furnishes, on request of the department:

(1) the name and address of the person from whom the article is received; and

(2) any document pertaining to the delivery of the article.

(e) This chapter does not require the department to report for prosecution, or for institution of complaint or injunction proceedings, a minor violation of this chapter if the department believes that the public interest will be adequately served by a suitable written warning notice.

§ 433.0815. Interference with Inspection; Criminal Penalties

(a) A person commits an offense if the person with criminal negligence interrupts, disrupts, impedes, or otherwise interferes with a livestock inspector while the inspector is performing a duty under this chapter.

(b) An offense under this section is a Class B misdemeanor.

(c) It is a defense to prosecution under this section that the interruption, disruption, impediment, or interference alleged consisted of speech only.

§ 433.082. Jurisdiction for Violation

The district court has jurisdiction of:

- (1) an action to enforce and to prevent and restrain a violation of this chapter; and
- (2) any other case arising under this chapter.

§ 433.083. Investigation by Department

The department may investigate and gather and compile information concerning the organization, business, conduct, practices, and management of a person engaged in intrastate commerce and the person's relation to other persons.

§ 433.084. Evidence and Testimony

(a) For the purposes of this chapter, the department at all reasonable times shall be given access to documentary evidence of a person being investigated or proceeded against to examine or copy the evidence. The department by subpoena may require the attendance and testimony of a witness and the production of documentary evidence relating to a matter under investigation, at a designated place of hearing in a county in which the witness resides, is employed, or has a place of business.

(b) The commissioner or the commissioner's designee may sign subpoenas, administer oaths and affirmations, examine witnesses, and receive evidence. On disobedience of a subpoena, the department may request the district court to require attendance and testimony of a witness and the production of documentary evidence, and the district court having jurisdiction over the inquiry may order the compliance. Failure to obey the court's order is punishable as contempt.

§ 433.085. Report to Department

The department, by general or special order, may require a person engaged in intrastate commerce to file with the department an annual report, special report, or both, or answers in writing to specific questions furnishing the department information that the department requires concerning the person's organization, business, conduct, practices, management, and relation to other persons filing written answers and reports. The department may prescribe the form of the report or answers, require the report or answers to be given under oath, and prescribe a reasonable deadline for filing the report or answers, subject to the granting of additional time by the department.

§ 433.086. Mandamus to Compel Compliance

On application of the attorney general at the request of the department, the district court may issue a writ of mandamus ordering a person to comply with this chapter or an order under this chapter.

§ 433.087. Depositions

(a) The department may order testimony to be taken before a person designated by the department and having power to administer oaths at any stage of a proceeding or investigation under this chapter. A person may be compelled to appear and depose or produce documentary evidence at a deposition in the same manner as a witness may be compelled to appear and testify and produce documentary evidence before the department under this chapter.

(b) The person taking the deposition shall transcribe or supervise the transcription of the testimony. The transcript must be signed by the person deposed.

§ 433.088. Compensation of Witness or Reporter

A witness summoned before the department is entitled to the same fees and mileage paid a witness in a state court. A witness whose deposition is taken and the person taking the deposition are each entitled to the same fees paid for similar services in a state court.

§ 433.089. Immunity

(a) A person is not excused from attending and testifying or producing documentary evidence before the department or in obedience to the department's subpoena, whether signed by the commissioner or the commissioner's designee, or in a cause or proceeding based on or growing out of an alleged violation of this chapter, on the ground that the required testimony or evidence may tend to incriminate the person or subject the person to penalty or forfeiture.

(b) A person may not be prosecuted or subjected to a penalty or forfeiture for or because of a transaction or matter concerning which the person is compelled to testify or produce evidence after having claimed a privilege against self-incrimination.

(c) The person testifying under this section is not exempt from prosecution and punishment for perjury committed in that testimony.

§ 433.090. Contempt

(a) A person commits an offense if the person neglects or refuses to attend and testify or answer a lawful inquiry or to produce documentary evidence, if the person has the power to do so, in obedience to a subpoena or lawful requirement of the department.

(b) An offense under this section is punishable by a fine of not less than \$1,000 or more than \$5,000, imprisonment for not more than one year, or both.

§ 433.091. False Report; Failure to Report; Criminal Penalty

(a) A person commits an offense if the person intentionally:

(1) makes or causes to be made a false entry in an account, record, or memorandum kept by a person subject to this chapter;

(2) neglects or fails to make or cause to be made full entries in an account, record, or memorandum kept by a person subject to this chapter of all facts and transactions pertaining to the person's business;

(3) removes from the jurisdiction of this state or mutilates, alters, or otherwise falsifies documentary evidence of a person subject to this chapter; or

(4) refuses to submit to the department, for inspection and copying, documentary evidence in the person's possession or control of a person subject to this chapter.

(b) An offense under this section is punishable by a fine of not less than \$1,000 or more than \$5,000, imprisonment for not more than three years, or both.

§ 433.092. Failure to Report; Civil Penalty

(a) If a person required by this chapter to file an annual or special report does not file the report before the deadline for filing set by the department and the failure continues for 30 days after notice of the default, the person forfeits to the state \$100 for each day the failure continues.

(b) An amount due under this section is payable to the state treasury and is recoverable in a civil suit in the name of the state brought in the district court of the county in which the person's principal office is located or in which the person does business.

(c) Each district attorney, under the direction of the attorney general, shall prosecute for the recovery of an amount due under this section.

§ 433.093. Unlawful Disclosure; Criminal Penalty

(a) A state officer or employee commits an offense if the officer or employee, without the approval of the commissioner, makes public information obtained by the department.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than \$5,000, imprisonment for not more than one year, or both.

§ 433.094. Administrative Penalty

(a) The department may assess an administrative penalty against a person who violates this chapter, a rule adopted under the authority of this chapter, or an order or license issued under this chapter.

(b) In determining the amount of the penalty, the department shall consider:

(1) the person's previous violations;

(2) the seriousness of the violation;

(3) any hazard to the health and safety of the public;

(4) the person's demonstrated good faith; and

(5) such other matters as justice may require.

(c) The penalty may not exceed \$25,000 a day for each violation.

(d) Each day a violation continues may be considered a separate violation.

§ 433.095. Administrative Penalty Assessment Procedure

(a) An administrative penalty may be assessed only after a person charged with a violation is given an opportunity for a hearing.

(b) If a hearing is held, the administrative law judge shall make findings of fact and shall issue to the department a written proposal for decision regarding the occurrence of the violation and the amount of the penalty that may be warranted.

(c) If the person charged with the violation does not request a hearing, the department may assess a penalty after determining that a violation has occurred and the amount of the penalty that may be warranted.

(d) After making a determination under this section that a penalty is to be assessed against a person, the department shall issue an order requiring that the person pay the penalty.

(e) Repealed by Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 3.1639(77).

§ 433.096. Payment of Administrative Penalty

(a) Not later than the 30th day after the date an order finding that a violation has occurred is issued, the department shall inform the person against whom the order is issued of the amount of the penalty for the violation.

(b) Not later than the 30th day after the date on which a decision or order charging a person with a penalty is final, the person shall:

(1) pay the penalty in full; or

(2) file a petition for judicial review of the department's order contesting the amount of the penalty, the fact of the violation, or both.

(b-1) Within the period prescribed by Subsection (b), a person who files a petition for judicial review may:

(1) stay the enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) posting with the court a supersedeas bond for the amount of the penalty; or

(2) request that the department stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the department.

(b-2) If the department receives a copy of an affidavit under Subsection (b-1)(2), the department may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or to give a supersedeas bond.

(c) A bond posted under this section must be in a form approved by the court and be effective until all judicial review of the order or decision is final.

(d) A person who does not send money to, post the bond with, or file the affidavit with the court within the period prescribed by Subsection (b) waives all rights to contest the violation or the amount of the penalty.

§ 433.097. Refund of Administrative Penalty

On the date the court's judgment that an administrative penalty against a person should be reduced or not assessed becomes final, the court shall order that:

(1) the appropriate amount of any penalty payment plus accrued interest be remitted to the person not later than the 30th day after that date; or

(2) the bond be released if the person has posted a bond.

§ 433.098. Recovery of Administrative Penalty by Attorney General

The attorney general at the request of the department may bring a civil action to recover an administrative penalty under this subchapter.

§ 433.099. Injunction

(a) If it appears that a person has violated or is violating this chapter or a rule adopted under this chapter, the department may request the attorney general or the district attorney or county attorney in the jurisdiction where the violation is alleged to have occurred, is occurring, or may occur to institute a civil suit for:

(1) an order enjoining the violation; or

(2) a permanent or temporary injunction, a temporary restraining order, or other appropriate remedy, if the department shows that the person has engaged in or is engaging in a violation.

(b) Venue for a suit brought under this section is in the county in which the violation occurred or in Travis County.

(c) The department or the attorney general may recover reasonable expenses incurred in obtaining injunctive relief under this section, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses. The expenses recovered by the department under this section may be used for the administration and enforcement of this chapter. The expenses recovered by the attorney general may be used by the attorney general for any purpose.

§ 433.100. Emergency Withdrawal of Mark or Suspension of Inspection Services

(a) The department may immediately withhold the mark of inspection or suspend or withdraw inspection services if:

(1) the department determines that a violation of this chapter presents an imminent threat to public health and safety; or

(2) a person affiliated with the processing establishment impedes an inspection under this chapter.

(b) An affected person is entitled to a review of an action of the department under Subsection (a) in the same manner that a refusal or withdrawal of inspection services may be reviewed under Section 433.028.