

CHAPTER 637

H.B. No. 2122

AN ACT

relating to the processing and inspection of exotic game meat.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 1, Texas Meat and Poultry Inspection Act (Article 4476-7, Vernon's Texas Civil Statutes), is amended by adding Subsection (z) to read as follows:

(z) *The term "exotic animal" means a species of game not indigenous to this state, including axis deer, nilga antelope, red sheep, or other cloven-hoofed ruminant animals.*

SECTION 2. Sections 1(c), (d), (e), (f), (g), (j), and (y), Texas Meat and Poultry Inspection Act (Article 4476-7, Vernon's Texas Civil Statutes), are amended to read as follows:

(c) The term "meat broker" means any person, firm, or corporation engaged in the business of buying or selling carcasses, parts of carcasses, meat, or meat food products of cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds on commission, or otherwise negotiating purchases or sales of such articles other than for his own account or as an employee of another person, firm, or corporation.

(d) The term "renderer" means any person, firm, or corporation engaged in the business of rendering carcasses, or parts or products of the carcasses, of cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds, except rendering conducted under inspection under Title I of this Act.

(e) The term "animal food manufacturer" means any person, firm, or corporation engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds.

(f) The term "intrastate commerce" means commerce within this state, *and the term "interstate commerce" means commerce between or among this state and the other 49 states of the United States or this state and foreign countries.*

(g) The term "meat food product" means 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, sheep, swine, goats, poultry, domestic rabbits, *exotic animals*, and domesticated game birds, 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 the commissioner under such conditions as it may prescribe to assure that the meat or other portions of such carcasses contained in such product are not adulterated and that such products are not represented as meat food products. This term as applied to food products of equines shall have a meaning comparable to that provided in this

paragraph with respect to cattle, sheep, swine, goats, poultry, domestic rabbits, *exotic animals*, and domesticated game birds.

(j) The term “adulterated” shall apply to any carcass, part thereof, meat, 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 clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(2)(A) if it bears or contains (by reason of administration of any substance to the live animal or otherwise) any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the commissioner make such article unfit for human food;

(B) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of Section 408 of the Federal Food, Drug, and Cosmetic Act;

(C) if it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act;

(D) if it bears or contains any color additive which is unsafe within the meaning of Section 706 of the Federal Food, Drug, and Cosmetic Act: provided, That an article which is not adulterated under clause (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations of the commissioner in establishments at which inspection is maintained under Title I of this Act;

(3) if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

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

(5) if it is, in whole or in part, the product of an animal, *including an exotic animal*, which has died otherwise than by slaughter;

(6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(7) if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to Section 409 of the Federal Food, Drug, and Cosmetic Act;

(8) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is; 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.

(y) The term “inedible animal product” means any product which is made wholly or in part from carcasses, or parts of products of the carcasses, of cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, or domesticated game birds, but which is not a “meat food product” as defined in Section 1(g) of this Act.

SECTION 3. Title I, Texas Meat and Poultry Inspection Act (Article 4476-7, Vernon’s Texas Civil Statutes), is amended by adding Section 2A to read as follows:

*Sec. 2A. With regard to exotic animals, the commissioner has the same rights of examination, inspection, condemnation, and detention of live animals, carcasses, parts of carcasses, meat, or meat food products, and the same rights of inspection of establishments handling live animals, animal parts, or food products of exotic*

*animals that are slaughtered and prepared for shipment in interstate commerce as this Act specifically provides for the examination, inspection, condemnation, and detention of exotic animals slaughtered and prepared for shipment in intrastate commerce and for the inspection of establishments handling exotic animals slaughtered and prepared for shipment in intrastate commerce. A rulemaking power granted the commissioner under this Act with regard to animals in intrastate commerce also authorizes the commissioner to include within the general rule, or adopt a similar rule providing, requirements relating to exotic animals slaughtered and prepared for shipment in interstate commerce.*

SECTION 4. Sections 3, 4, 5, 8, 9, 10, 12, 13, 16, 202, 203, 204, 402, 403, and 410, Texas Meat and Poultry Inspection Act (Article 4476-7, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 3. For the purpose of preventing the use in intrastate commerce, as hereinafter provided, of meat and meat food products which are adulterated, the commissioner shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds before they shall be allowed to enter into any slaughtering, packing, meat-canning, rendering, or similar establishment in this state in which slaughtering and preparation of meat and meat food products of such animals are conducted solely for intrastate commerce; and all cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds, and when so slaughtered, the carcasses of said cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds shall be subject to a careful examination and inspection, all as provided by the rules and regulations to be prescribed by the commissioner as herein provided for.

Sec. 4. For the purposes hereinbefore set forth the commissioner shall cause to be made by inspectors appointed for that purpose, as hereinafter provided, a post-mortem examination and inspection of the carcasses and parts thereof of all cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds, capable of use as human food, to be prepared at any slaughtering, meat-canning, salting, packing, rendering, or similar establishment in this state in which such articles are prepared solely for intrastate commerce; and the carcasses and parts thereof of all such animals found to be not adulterated shall be marked, stamped, tagged, or labeled, as "Inspected and Passed"; and said inspectors shall label, mark, stamp, or tag as "Inspected and Condemned" all carcasses and parts thereof of animals found to be adulterated; and all carcasses and parts thereof thus inspected and condemned shall be destroyed for food purposes by the said establishment in the presence of an inspector, and the commissioner may remove inspectors from any such establishment which fails to so destroy any such condemned carcass or part thereof, and said inspectors, after said first inspection shall, when they deem it necessary, reinspect said carcasses or parts thereof to determine whether since the first inspection the same have become adulterated and if any carcass or any part thereof shall, upon examination and inspection subsequent to the first examination and inspection, be found to be adulterated, it shall be destroyed for food purposes by the said establishment in the presence of an inspector, and the commissioner may remove inspectors from any establishment which fails to do so destroy any such condemned carcass or part thereof.

Sec. 5. The foregoing provisions shall apply to all carcasses or parts of carcasses of cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds or the meat or meat products thereof, capable of use as human food, which may be brought into any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, where inspection under this title is maintained, and such examination and inspection shall be had before the said carcasses or parts thereof shall be allowed to enter into any department wherein the same are to be treated and prepared for meat food products; and the foregoing provisions shall also apply to all such products which, after having been issued from any such slaughtering,

meat-canning, salting, packing, rendering, or similar establishment, shall be returned to the same or to any similar establishment where such inspection is maintained. The commissioner may limit the entry of carcasses, parts of carcasses, meat and meat food products, and other materials into any establishment at which inspection under this title is maintained, under such conditions as he may prescribe to assure that allowing the entry of such articles into such inspected establishments will be consistent with the purposes of this Act.

Sec. 8. The commissioner shall cause to be made, by experts in sanitation, or by other competent inspectors, such inspection of all slaughtering, meat-canning, salting, packing, rendering, or similar establishments in which cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds are slaughtered and the meat and meat food products thereof are prepared solely for intrastate commerce as may be necessary to inform himself concerning the sanitary conditions of the same, and to prescribe the rules and regulations of sanitation under which such establishments shall be maintained; and where the sanitary conditions of any such establishment are such that the meat or meat food products are rendered adulterated, he shall refuse to allow said meat or meat food products to be labeled, marked, stamped, or tagged as "Texas inspected and passed."

Sec. 9. The commissioner shall cause an examination and inspection of all cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds, and the food products thereof, slaughtered and prepared in the establishments hereinbefore described for the purposes of intrastate commerce to be made during the nighttime as well as during the daytime when the slaughtering of said cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds, or the preparation of said food products is conducted during the nighttime. Provided that the commissioner, when he determines that operating hours of any person, firm, or corporation, are set in a capricious or at unnecessarily difficult times, shall have the authority to set the time and duration of operations of the said person, firm, or corporation.

Sec. 10. *In the case of exotic animals, the prohibitions in this section that specifically apply to intrastate commerce also apply to interstate commerce.* No person, firm, or corporation shall, with respect to any cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds, or any carcasses, parts of carcasses, meat, or meat food products of any such animals:

(a) slaughter any such animals or prepare any such articles which are capable of use as human food, at any establishment preparing such articles solely for intrastate commerce, except in compliance with the requirements of this Act;

(b) sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, (1) any such articles which (A) are capable of use as human food, and (B) are adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation; or (2) any articles required to be inspected under this title unless they have been so inspected and passed;

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

(d) sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce or from an official establishment, any slaughtered poultry from which the blood, feathers, feet, head, or viscera have not been removed in accordance with regulations promulgated by the commissioner, except as may be authorized by regulations of the commissioner.

Sec. 12. No person, firm, or corporation shall sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, 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 commissioner to show the kinds of animals from which they were derived. When required by the commissioner with

respect to establishments at which inspection is maintained under this title, such animals and their carcasses, parts thereof, meat, and meat food products shall be prepared in establishments separate from those in which cattle, sheep, swine, goats, poultry, domestic rabbits, *exotic animals*, and domesticated game birds are slaughtered or their carcasses, parts thereof, meat, or meat food products are prepared.

Sec. 13. The commissioner shall appoint from time to time inspectors to make examination and inspection of all cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds, the inspection of which is hereby provided for, and of all carcasses and parts thereof, and of all meats and meat food products thereof, and of the sanitary conditions of all establishments in which such meat and meat food products hereinbefore described are prepared; and said inspectors shall refuse to cause to be stamped, marked, tagged or labeled any carcass or any part thereof, or meat food product therefrom, prepared in any establishment hereinbefore mentioned, until the same shall have actually been inspected and found to be not adulterated; and shall perform such other duties as are provided by this Act and by the rules and regulations to be prescribed by said commissioner; and said commissioner shall, from time to time, make such rules and regulations as are necessary for the efficient execution of the provisions of this Act, and all inspections and examinations made under this Act shall be such and made in such manner as described in the rules and regulations prescribed by said commissioner not inconsistent with the provisions of this Act. The commissioner shall adopt and use federal rules and regulations, as amended, and federal procedures, as amended, for meat inspection and/or poultry inspection wherever these said rules, regulations, and procedures are applicable.

Sec. 16. The commissioner may by regulations prescribe conditions under which carcasses, parts of carcasses, meat, and meat food products of cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds, capable of use as human food, shall be stored or otherwise handled by any person, firm, or corporation engaged in the business of buying, selling, freezing, storing, or transporting, in or for intrastate commerce, such articles, whenever the commissioner deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer. Violation of any such regulation is prohibited.

Sec. 202. (a) The following classes of persons, firms, and corporations shall keep such records as will fully and correctly disclose all transactions involved in their businesses; and all persons, firms, and corporations subject to such requirements shall, at all reasonable times, upon notice by a duly authorized representative of the commissioner afford such representative and any duly authorized representative of the Secretary of Agriculture of the United States accompanied by such representative of the commissioner access to their places of business and opportunity to examine the facilities, inventory, and records thereof, to copy all such records, and to take reasonable samples of their inventory upon payment of the fair market value therefor:

(1) Any persons, firms, or corporations that engage, for intrastate commerce, in the business of slaughtering any cattle, sheep, swine, goats, horses, mules, or other equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds, or preparing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any such animals, for use as human food or animal food;

(2) Any persons, firms, or corporations that engage in the business of buying or selling (as meat brokers, wholesalers or otherwise), or transporting, in intrastate commerce, or storing in or for such commerce, any carcasses, or parts or products of carcasses, of any such animals;

(3) Any persons, firms, or corporations that engage in business, in or for intrastate commerce, as renderers, or engage in the business of buying, selling, or transporting, in such commerce, any dead, dying, disabled, or diseased cattle, sheep, swine, goats, horses, mules, or other equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds, or parts of the carcasses of any such animals that died otherwise than by slaughter.

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

(c) *In the case of exotic animals, the requirements for record keeping in this section that specifically apply to persons engaged in slaughtering, preparing, buying, selling, transporting, storing, or rendering in intrastate commerce also apply to the persons performing similar functions in interstate commerce.*

Sec. 203. *In the case of exotic animals, the prohibitions in this section that specifically apply to intrastate commerce also apply to interstate commerce.* No person, firm, or corporation shall engage in business, in or for intrastate commerce, as a meat broker or renderer, or animal food manufacturer, or engage in business in such commerce as a wholesaler of any carcasses, or parts or products of the carcasses, of any cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds, whether intended for human food or other purposes, or engage in business as a public warehouseman storing any such articles in or for such commerce, or engage in the business of buying, selling, or transporting in such commerce, any dead, dying, disabled, or diseased animals of the specified kinds, or parts of the carcasses of any such animals that died otherwise than by slaughter, unless, when required by regulations of the commissioner he has registered with the commissioner his name, and the address of each place of business at which, and all trade names under which, he conducts such business.

Sec. 204. *In the case of exotic animals, the prohibitions in this section that specifically apply to intrastate commerce also apply to interstate commerce.* No person, firm, or corporation engaged in the business of buying, selling, or transporting in intrastate commerce, dead, dying, disabled, or diseased animals, or any parts of the carcasses of any animals that died otherwise than by slaughter, shall buy, sell, transport, offer for sale or transportation, or received for transportation, in such commerce, any dead, dying, disabled, or diseased cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds, or parts of the carcasses of any such animals that died otherwise than by slaughter, unless such transaction or transportation is made in accordance with such regulations as the commissioner may prescribe to assure that such animals, or the unwholesome parts or products thereof, will be prevented from being used for human food purposes.

Sec. 402. Whenever any carcass, part of a carcass, meat, or meat food product of cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds, or any product exempted from the definition of a meat food product, or any dead, dying, disabled, or diseased cattle, sheep, swine, goat, equine, poultry, domestic rabbits, *exotic animals*, and domesticated game birds is found by any authorized representative of the commissioner upon any premises where it is held for purposes of, or during or after distribution in intrastate commerce, and there is reason to believe that any such article is adulterated or misbranded and is capable of use as human food, or that it has not been inspected, in violation of the provisions of Title I of this Act or the Federal Meat Inspection Act or the Federal Food, Drug, and Cosmetic Act, or the Federal Poultry Products Inspection Act, or that such article or animal has been or is intended to be, distributed in violation of any such provisions, it may be detained by such representative for a period not to exceed 20 days, pending action under Section 403 of this Act or notification of any federal authorities having jurisdiction over such article or animal, and shall not be moved by any person, firm, or corporation 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 commissioner that the article or animal is eligible to retain such marks.

Sec. 403. (a) Any carcass, part of a carcass, meat, or meat food product of cattle, sheep, swine, goats, horses, mules, equines, poultry, domestic rabbits, *exotic animals*, and domesticated game birds, or any dead, dying, disabled, or diseased cattle, sheep, swine, goat, equine, poultry, domestic rabbits, *exotic animals*, or domesticated game birds, that is being transported in intrastate commerce, or is held for sale 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 Act, 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 Act, shall be liable to be proceeded against and seized and condemned, at any time, on a libel of information in any proper court as provided in Section 404 of this Act 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 animals shall not be sold contrary to the provisions of this Act, or the Federal Meat Inspection Act, or the Federal Poultry Products Inspection Act, or the Federal Food, Drug, and Cosmetic Act; provided, that upon the execution and delivery of a good and sufficient bond conditioned that the article or animal shall not be sold or otherwise disposed of contrary to the provisions of this Act, or the laws of the United States, the court may direct that such article or animal be delivered to the owner thereof subject to such supervision by authorized representatives of the commissioner of health as is necessary to insure compliance with the applicable laws. 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 proper expenses shall be awarded against the person, if any, intervening as claimant of the article or animal. The proceedings in such libel cases shall conform, as nearly as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of this state.

(b) The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this Act, or other laws.

Sec. 410. (a) This Act shall be administered and enforced with funds provided by the General Appropriations Act and the Department of Health is authorized to collect fees for overtime and special services rendered to establishments, and to expend same as provided by the General Appropriations Act.

(b) *The Department of Health by rule may set and collect a fee for services required to be performed under this Act in relation to the inspection of animals, birds, or products that are not regulated under either the Federal Meat Inspection Act or the Federal Poultry Products Inspection Act (21 U.S.C. Section 451 et seq.). The amount of a fee imposed under this subsection shall be designed to enable the department to recover the costs of providing those services. Fees collected under this subsection shall be deposited in the state treasury to the credit of the general revenue fund.*

SECTION 5. Section 301(b), Texas Meat and Poultry Inspection Act (Article 4476-7, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) In such cooperative efforts, the commissioner is authorized to accept from said secretary advisory assistance in planning and otherwise developing the state program, technical and laboratory assistance and training (including necessary curricular and instructional materials and equipment), and financial and other aid for administration of such a program. The commissioner is further authorized to spend public funds of this state appropriated for administration of this Act to pay 50 per centum of the estimated total cost of the cooperative program, and all of the cost of performing services in relation to the inspection of animals, birds, or products not regulated under either the Federal Meat Inspection Act or the Federal Poultry Products Inspection Act (21 U.S.C. Section 451 et seq.).

SECTION 6. Section 161.001(a), Agriculture Code, is amended by adding Subdivision (3) to read as follows:

(3) *"Exotic animal" means a species of game, not indigenous to this state, including axis deer, nilga antelope, red sheep, or other cloven-hoofed ruminant animals.*

SECTION 7. Section 167.001, Agriculture Code, is amended by adding Subdivision (7) to read as follows:

(7) *“Exotic animal” has the meaning assigned by Section 161.001(a)(3) of this code.*

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 13, 1987, by a non-record vote. Passed by the Senate on May 23, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 19, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.