

FOOD SAFETY
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North Carolina

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NORTH CAROLINA

Meat Inspection Act

The North Carolina Commissioner of Agriculture, acting with the Department of Agriculture of Consumer Services, is responsible for administration of the meat inspection program of the state. The agency is to cooperate with the USDA in carrying out the meat inspection program¹⁸⁸² under rules adopted by the Board of Agriculture.¹⁸⁸³ The Act regulates meat from cattle, sheep, swine, goats, bison, fallow deer or red deer.¹⁸⁸⁴ In addition, food products of equines¹⁸⁸⁵ and ratites (“...a bird whose breastbone is smooth so that flight muscles cannot attach, such as an ostrich, an emu or a rhea.”)¹⁸⁸⁶ are included. Businesses involved in slaughtering and preparing meat for meat food products are regulated as are those that are engaged in boxing, selling, freezing, storing or transporting food articles in intrastate commerce.¹⁸⁸⁷

Inspection

Before any of the specified animals may enter any slaughtering, packing, meat-canning, rendering or similar establishment, an examination of inspection is required.¹⁸⁸⁸ A postmortem inspection of the carcasses, and parts thereof, prepared for intrastate commerce is also necessary

¹⁸⁸² N.C. GEN. STAT. § 106-549.29 (1995 & Supp. 1997).

¹⁸⁸³ § 106-549.22.

¹⁸⁸⁴ § 106-549.15 (14).

¹⁸⁸⁵ *Id.*

¹⁸⁸⁶ § 106-549.15 (21a).

¹⁸⁸⁷ § 106-549.28.

¹⁸⁸⁸ § 106-549.17.

with the marking of the carcasses and parts found to be not adulterated as “Inspected and Passed.”¹⁸⁸⁹ Any containers for meat or meat food products must bear a similar inspection legend.¹⁸⁹⁰

The establishments engaged in the slaughter and preparation of meat and meat food products are subject to inspection regarding sanitary conditions. If the conditions are such that meat or meat food products are rendered adulterated, the food products may not be labeled as “Inspected and Passed.”¹⁸⁹¹ The Commissioner is empowered to refuse to provide or withdraw inspection services at any establishment that fails to maintain sanitary conditions, and if the applicant or reasonably connected persons have been convicted of any felony or more than one violation based on acquiring handling or distributing unwholesome, mislabeled or deceptively packaged food.¹⁸⁹² It is a violation of the Act to sell, transport, offer for sale or transport or receipt for transport in intrastate commerce any articles under inspection regulation unless they have completed inspection and passed.¹⁸⁹³ Exempt from inspection is the slaughtering by any person of animals of his own raising exclusively for his use or for members of his household, nonpaying guests or employees.¹⁸⁹⁴ Custom slaughtering and preparation for these purposes is also exempt.¹⁸⁹⁵ Inspection is not required at retail stores or restaurants. When slaughter and

¹⁸⁸⁹ § 106-549.18.

¹⁸⁹⁰ § 106-549.21.

¹⁸⁹¹ § 106-549.22.

¹⁸⁹² § 106-549.30.

¹⁸⁹³ § 106-549.23 (3).

¹⁸⁹⁴ § 106-549.27(a)(1).

¹⁸⁹⁵ § 106-549.27(a)(2).

preparation of carcasses is traditionally conducted there and that meat is kept separate from other officially inspected meat.¹⁸⁹⁶

Adulteration

The sell, transport, offering for sale or transport or receipt for transport any articles that are adulterated is prohibited.¹⁸⁹⁷ Any act that intends to cause or has the effect of causing articles to be adulterated is prohibited.¹⁸⁹⁸ Adulteration is defined in a manner consistent with the federal law.¹⁸⁹⁹ A specific provision relates to margarine containing animal fat. It is adulterated if it consists in whole or in part of any filthy, putrid or decomposed substance.¹⁹⁰⁰ The adulteration prohibitions do apply to the slaughter of animals and preparation of meat otherwise exempt from the inspection provisions.¹⁹⁰¹

Misbranding

The sell, transport, offering for sale or transport or receipt of intrastate commerce of any misbranded meat or meat food product is prohibited.¹⁹⁰² Any act intended to cause or having the effect of causing articles to be misbranded is likewise prohibited.¹⁹⁰³ Misbranded is defined in a

¹⁸⁹⁶ § 106-549.27(b).

¹⁸⁹⁷ § 106-549.23 (3).

¹⁸⁹⁸ § 106-549.23 (4).

¹⁸⁹⁹ § 106-549.15 (1).

¹⁹⁰⁰ § 106-549.15(1)(i).

¹⁹⁰¹ § 106-549.27(e).

¹⁹⁰² § 106-549.23 (3).

¹⁹⁰³ § 106-549.23 (4).

manner consistent with the federal law.¹⁹⁰⁴ The misbranding provisions do apply to all meat and meat food products, even if otherwise exempt from inspection.¹⁹⁰⁵

Special labeling regulations apply to carcasses of horses and mules or other equines, or parts of such carcasses, or meat or meat food products prepared from these animals. Such articles must be plainly and conspicuously marked, labeled or identified to allow consumers to know what type of meat it is.¹⁹⁰⁶

Enforcement

The primary enforcement tool for the Commissioner is the referral to or the withdrawal of inspection services if the recipient or applicant is unfit to engage in business requiring inspection because of convictions of any felony or because of more than one violation of laws relating to acquiring, handling or distributing of unwholesome, mislabeled or deceptively packaged food or fraud in connection with food transactions.¹⁹⁰⁷ The Commissioner is authorized to detain meat or meat food product that is uninspected as required by the Act or is adulterated or misbranded, pending a court action.¹⁹⁰⁸ The Superior Court is authorized to restrain violations.¹⁹⁰⁹ Seizure and condemnation of articles in violation may be sought in court. If condemned, the article is to be destroyed at the expense of the owner or released to the owner upon posting a bond to assure

¹⁹⁰⁴ § 106-549.15 (15).

¹⁹⁰⁵ § 106-549.27(e).

¹⁹⁰⁶ § 106-549.25.

¹⁹⁰⁷ § 106-549.30.

¹⁹⁰⁸ § 106-549.31.

¹⁹⁰⁹ § 106-549.33.

it will be disposed of in accordance with the Act.¹⁹¹⁰

Violators may be prosecuted as criminal violators but minor violations may be handled by suitable written notice of warning.¹⁹¹¹

Poultry Products Inspection Act

The North Carolina Commissioner of Agriculture is responsible for administration of the Poultry Products Inspection Act¹⁹¹² and is to cooperate with the USDA in developing and administering the program.¹⁹¹³ The provisions apply only to the extent provided for in the Federal Act.¹⁹¹⁴ While the program is designed to apply only to poultry (any domesticated bird) and poultry products, it also applies to domesticated rabbits.¹⁹¹⁵

A primary regulating mechanism under the Act is to require the registration of all persons who engage in business in intrastate commerce as poultry products brokers, renderers, animal food manufacturers, wholesalers, public warehousemen, buyers, sellers or transporters of carcasses, parts or products of poultry.¹⁹¹⁶

Inspection

The Act authorizes the Commissioner to provide for antemortem inspections of poultry in establishments engaged in processing poultry or poultry products solely for intrastate

¹⁹¹⁰ § 106-549.32.

¹⁹¹¹ § 106-549.35.

¹⁹¹² § 106-549.61.

¹⁹¹³ § 106-549.52.

¹⁹¹⁴ § 106-549.68A.

¹⁹¹⁵ § 106-549.51A.

¹⁹¹⁶ § 106-549.58(c).

commerce.¹⁹¹⁷ Postmortem inspection of each bird processed is required.¹⁹¹⁸ Premises, facilities and equipment are to be operated in accordance with sanitary practices promulgated by regulation, and the Commissioner may refuse to render inspection services to any establishment that fails to meet the sanitation requirements.¹⁹¹⁹ It is a violation to sell, transport, offer for sale or transportation, or receive for transportation, poultry products required to be inspected that have not been inspected and passed.¹⁹²⁰

The Commissioner may refuse or withdraw inspection services to any applicant or recipient who has, within the previous 10 years, been convicted of any felony or more than one misdemeanor based on acquiring, handling or distributing adulterated, mislabeled or deceptively packaged food or fraud in connection with food transactions.¹⁹²¹

The inspection provisions do not apply to operations traditionally and usually conducted at retail stores and restaurants where sale is to consumers at such establishments.¹⁹²² Also exempt are poultry producers who slaughter not more than 250 turkeys or equivalent number of birds of other species (four birds equivalent to one turkey) of their own raising and on their own farms if they do not engage in buying and selling poultry other than that of their own raising.¹⁹²³ Other exemptions may be available by regulation for custom slaughterers and processors who

¹⁹¹⁷ § 106-549.53(a).

¹⁹¹⁸ § 106-549.53(b).

¹⁹¹⁹ § 106-549.54

¹⁹²⁰ § 106-549.56(2)

¹⁹²¹ § 106-549.64

¹⁹²² § 106-549.62(d).

¹⁹²³ § 106-549.62(e).

slaughter and process no more than 5,000 turkeys or an equivalent number of other birds.¹⁹²⁴

Adulteration

The sale, offering for sale or transportation or receipt for transportation of adulterated poultry products capable for use as human food is prohibited.¹⁹²⁵ Any act that intends to cause or has the effect of causing such products to be adulterated is likewise a violation.¹⁹²⁶ Adulteration is defined in a manner consistent with the federal law.¹⁹²⁷

Misbranding

Misbranding of poultry products is a violation.¹⁹²⁸ The sell, transport, offer for sale or transport, or receipt for transport of misbranded articles is likewise prohibited.¹⁹²⁹ Misbranding is defined in a manner consistent with the federal law.¹⁹³⁰

Labeling is required of all poultry products inspected and found not to be adulterated. Specific requirements are detailed in the statute which also prohibits false or misleading labeling.¹⁹³¹

Enforcement

In addition to the registration requirements and the inspection programs outlined above,

¹⁹²⁴ § 106-549.62

¹⁹²⁵ § 106-549.56(a)(2).

¹⁹²⁶ § 106-549.56(a)(3).

¹⁹²⁷ § 106-549.51(1).

¹⁹²⁸ § 106-549.56(a)(3).

¹⁹²⁹ § 106-549.56(2).

¹⁹³⁰ § 106-549.51(17).

¹⁹³¹ § 106-549.55.

the Commissioner is authorized to detain any article believed to be in violation of the Act including articles not inspected and those that are adulterated or misbranded.¹⁹³² Seizure and condemnation proceedings are authorized and, if condemned, the products are to be destroyed unless the owner provides a bond to assure proper disposal himself and pay all expenses.¹⁹³³ The Supreme Court is granted jurisdiction to enforce, prevent and restrain violations.¹⁹³⁴ Violators may be prosecuted criminally and more serious violations may be considered felonies.¹⁹³⁵ Before a violation is reported for institution of a criminal proceeding, notice and an opportunity for hearing must be given. In addition, the Commissioner may use suitable notices or warnings rather than the institution of criminal proceedings.¹⁹³⁶

Food Regulation

The Department of Agriculture and Commissioner of Agriculture are charged with the responsibility of enforcement of the North Carolina Food, Drug and Cosmetic Act and of promulgating rules and regulations that are to conform to the Federal Act insofar as is practicable.¹⁹³⁷ “Food” for this purpose includes articles used for food or drink by man or other animals or their components.¹⁹³⁸ The regulations may include standards of identity, definitions,

¹⁹³² § 106-549.65.

¹⁹³³ § 106-549.66.

¹⁹³⁴ § 106-549.67.

¹⁹³⁵ § 106-549.59.

¹⁹³⁶ § 106-549.60.

¹⁹³⁷ §§ 106-121(2); 106-139.

¹⁹³⁸ § 106-121(8).

standards of quality, and/or fill of container.¹⁹³⁹ One means of administering the Act is to require permits with attached conditions for the manufacture, processing or packaging of any class of food that may become contaminated with microorganisms that would be injurious to health when the injurious nature cannot be determined after the articles enter commerce.¹⁹⁴⁰

Inspection

The Act gives the Commissioner free access at all reasonable hours to any factory, warehouse or establishment where foods are manufactured, processed or packed, or held for introduction to commerce for purposes of inspecting and sampling.¹⁹⁴¹ It is a violation to refuse entry, inspection or taking of samples.¹⁹⁴²

Adulteration

The Act prohibits the sale, delivery, holding or offering for sale, or the receipt in commerce of adulterated food. Adulteration is, in itself, prohibited.¹⁹⁴³ ‘Adulteration’ is defined consistently with the federal law, with some detail included in regard to tolerances for food additives, pesticide chemical residues and color additives.¹⁹⁴⁴ A specific section deals with chemical additives to fresh fruits and vegetables.¹⁹⁴⁵

Misbranding

¹⁹³⁹ § 106-128.

¹⁹⁴⁰ § 106-131.

¹⁹⁴¹ § 106-140(a).

¹⁹⁴² § 106-122(6).

¹⁹⁴³ § 106-122(1)-(3).

¹⁹⁴⁴ § 106-129.

¹⁹⁴⁵ § 106-129(1)(h).

Misbranding is a violation of the Act.¹⁹⁴⁶ The definition of misbranding is consistent with the federal law. This includes violations related to definitions, standards of identity, standards of quality, and/or fill of container.¹⁹⁴⁷

The false advertisement of food is a similar violation. This includes any advertisement that is false or misleading in any particular.¹⁹⁴⁸ The Commissioner may seek injunctive relief in superior court to restrain violations.¹⁹⁴⁹ A detailed procedure is set out for detention and condemnation of articles found to be adulterated or misbranded.¹⁹⁵⁰ The procedure allows immediate destruction of any perishable articles that are unsound, contain filthy, decomposed or putrid substances, or have the possibility of being poisonous or deleterious to health or otherwise unsafe as a nuisance.¹⁹⁵¹

Violations of the Act are punishable as misdemeanors.¹⁹⁵² Minor violators may be handled with a suitable notice or warning rather than by institution of court proceedings at the discretion of the Commissioner.¹⁹⁵³

Dairy Products

The Department of Agriculture of Consumer Services is authorized to operate programs

¹⁹⁴⁶ § 106-122 (1)-(3).

¹⁹⁴⁷ § 106-130.

¹⁹⁴⁸ § 106-138(a).

¹⁹⁴⁹ § 106-123.

¹⁹⁵⁰ § 106-125.

¹⁹⁵¹ § 106-125(d).

¹⁹⁵² § 106-124.

¹⁹⁵³ § 106-127.

related to the inspection, grading and testing of dairy products¹⁹⁵⁴ and for the examination and inspection of all plants, storage rooms where cream, ice cream, butter or cheese are made, stored or kept.¹⁹⁵⁵ The Department is granted free access to all places of business and premises used in the production, testing, processing and distribution of milk, cream, butter, cheese, ice cream, frozen dessert or any dairy product for the purpose of sampling and testing. The Department may issue “stop sale” orders for such products that are adulterated or misbranded or by reason of contamination with microorganisms have become deleterious to health. These products are subject to seizure and condemnation.¹⁹⁵⁶

Specific sanitary standards are mentioned for places where frozen or semifrozen food products are made and sold and for all creameries, and butter and cheese facilities.¹⁹⁵⁷ Standards of purity and sanitation are to be set out in regulations.¹⁹⁵⁸

Plants may be closed for violations until compliance is achieved.¹⁹⁵⁹ Violations are misdemeanors.¹⁹⁶⁰

Egg Laws

The North Carolina Egg Law gives the Board of Agriculture the authority to establish and

¹⁹⁵⁴ § 106-267.

¹⁹⁵⁵ § 106-251.

¹⁹⁵⁶ § 106-268(d).

¹⁹⁵⁷ § 106-246.

¹⁹⁵⁸ § 106-248.

¹⁹⁵⁹ § 106-252.

¹⁹⁶⁰ §§ 106-253, 106-268.1.

promulgate standards of quality, grades and weight classes for eggs.¹⁹⁶¹ Eggs marketed to consumers or retailers (except by producers marketing eggs of his own production) must be designated by grades and size and weight.¹⁹⁶² Any person engaged in the marketing or processing of eggs must maintain the egg handling facilities commensurate with laws governing food establishments and eggs must be protected from being soiled or dirtied by foreign matter.¹⁹⁶³

The Commissioner is authorized to enter any establishment where eggs are bought, stored, offered for sale or processed to inspect and examine eggs, egg containers and the premises during regular business hours.¹⁹⁶⁴ Stop-sale orders may be used to prohibit the marketing of eggs in violation.¹⁹⁶⁵ Violations are misdemeanors,¹⁹⁶⁶ but the Commissioner may choose to issue notices or warnings rather than institute criminal proceedings.¹⁹⁶⁷

¹⁹⁶¹ § 106-245.16.

¹⁹⁶² § 106-245.15.

¹⁹⁶³ § 106-245.22.

¹⁹⁶⁴ § 106-245.23.

¹⁹⁶⁵ § 106-245.17.

¹⁹⁶⁶ § 106-245.24.

¹⁹⁶⁷ § 106-245.25.