

§ 75-35-301. Refusal or withdrawal of inspection services; grounds; judicial review of order and determination of commissioner.

## **Mississippi Statutes**

### **Title 75. REGULATION OF TRADE, COMMERCE AND INVESTMENTS**

#### **Chapter 35. MEAT INSPECTION**

##### **Article 7. AUXILIARY PROVISIONS**

*Current through 3/27/2018*

##### **§ 75-35-301. Refusal or withdrawal of inspection services; grounds; judicial review of order and determination of commissioner**

The commissioner may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this chapter) refuse to provide, or withdraw, inspection service under Article 1 of this chapter with respect to any establishment if he determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under Article 1 because the applicant or recipient, or anyone responsibly connected with the applicant or recipient, has been convicted, in any federal or state court, of (1) any felony, or (2) more than one violation of any law, other than a felony, based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food. This section shall not affect in any way other provisions of this chapter for withdrawal of inspection services under Article 1 from establishments failing to maintain sanitary conditions or to destroy condemned carcasses, parts, meat or meat food products.

For the purpose of this section, a person shall be deemed to be responsibly connected with the business if he was a partner, officer, director, holder, or owner of ten per centum (10%) or more of its voting stock or employee in a managerial or executive capacity. The determination and order of the commissioner with respect thereto under this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty (30) days after the effective date of such order in the appropriate court as provided in Section 75-35-15. Judicial review of any such order shall be upon the record made before the commissioner upon which the determination and order are based.

**Cite as Miss. Code § 75-35-301**

**Source: Codes, 1942, § 4575-172, Laws, 1968, ch. 245, § 22, eff. 7/1/1968.**

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§ 75-35-303. Detention of carcasses or meat food products by representative of commissioner pending judicial action or notification of federal authorities; duration; release.

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##### **Article 7. AUXILIARY PROVISIONS**

*Current through 3/27/2018*

##### **§ 75-35-303. Detention of carcasses or meat food products by representative of commissioner pending judicial action or notification of federal authorities; duration; release**

Whenever any carcass, part of a carcass, meat or meat food product of cattle, sheep, swine, goats, horses, mules, or other equines, or any product exempted from the definition of a meat food product, or any dead, dying, disabled, or diseased cattle, sheep, swine, goat, or equine is found by any authorized representative of the commissioner upon any premises where it is held for purposes of, or during or after distribution, and there is reason to believe that any such item or product 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 Article 1 of this chapter or of the Federal Meat Inspection Act or the Federal Food, Drug and Cosmetic Act, or that such products 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 twenty (20) days, pending action under Section 75-35-305 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 products or animal before it is released unless it appears to the satisfaction of the commissioner that the products or animal is eligible to retain such marks.

**Cite as Miss. Code § 75-35-303**

**Source: Codes, 1942, § 4575-173, Laws, 1968, ch. 245, § 23, eff. 7/1/1968.**

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§ 75-35-305. Seizure and condemnation of carcasses, meat products or animals; destruction or sale of condemned items; delivery of items to owner giving bond; chancery court proceedings; jury

trial.

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*Current through 3/27/2018*

##### **§ 75-35-305. Seizure and condemnation of carcasses, meat products or animals; destruction or sale of condemned items; delivery of items to owner giving bond; chancery court proceedings; jury trial**

- (1) Any carcass, part of a carcass, meat or meat food product of cattle, sheep, swine, goats, horses, mules or other equines, or any dead, dying, disabled, or diseased cattle, sheep, swine, goat, or equine, that is being transported in intrastate commerce, or is held for sale in this state after such transportation, and that (a) is or has been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of this chapter, or (b) is capable of use as human food and is adulterated or misbranded, or (c) in any other way is in violation of this chapter, shall be liable to be proceeded against and seized and condemned, at any time, on a bill of complaint in the chancery court as provided in Section 75-35-307 within the jurisdiction of which the products or animal is found. If the products 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 general fund of the treasury of this state, but the products or animals shall not be sold contrary to the provisions of this chapter, or the Federal Meat Inspection Act or the Federal Food, Drug, and Cosmetic Act: provided, that upon the execution and delivery of a good and sufficient bond conditioned that the products or animal shall not be sold or otherwise disposed of contrary to the provisions of this chapter, or the laws of the United States, the court may direct that such products or animal be delivered to the owner thereof subject to such supervision by authorized representatives of the commissioner as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the products 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 product or animal. The proceedings in such chancery court cases shall conform, as nearly as may be, to the usual proceedings in chancery, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be removed at the suit of and in the name of this state in the circuit court.

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

**Cite as Miss. Code § 75-35-305**

**Source: Codes, 1942, § 4575-174, Laws, 1968, ch. 245, § 24, eff. 7/1/1968.**

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§ 75-35-307. Jurisdiction of chancery courts.

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##### **§ 75-35-307. Jurisdiction of chancery courts**

Except as otherwise specifically provided for in this chapter, the chancery courts are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this chapter, and shall have jurisdiction in all other kinds of cases arising under this chapter.

**Cite as Miss. Code § 75-35-307**

**Source: Codes, 1942, § 4575-175, Laws, 1968, ch. 245, § 25; Laws, 1997, ch. 521, §2, eff. 7/1/1997.**

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§ 75-35-309. Punishment for assaulting, killing, resisting or impeding persons while in performance of their official duties.

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**§ 75-35-309. Punishment for assaulting, killing, resisting or impeding persons while in performance of their official duties**

Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this chapter shall be fined not more than five thousand dollars (\$ 5,000.00) or imprisoned not more than three (3) years, or both. Whoever, in the commission of any such acts, uses a deadly or dangerous weapon, shall be fined not more than ten thousand dollars (\$ 10,000.00) or imprisoned not more than ten (10) years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this chapter shall be punished as provided under general laws of this state.

**Cite as Miss. Code § 75-35-309**

**Source: Codes, 1942, § 4575-176, Laws, 1968, ch. 245, § 26, eff. 7/1/1968.**

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§ 75-35-311. Punishment for violations for which no other criminal penalty is provided; effect of good faith; minor violations.

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**§ 75-35-311. Punishment for violations for which no other criminal penalty is provided; effect of good faith; minor violations**

- (1) Any person, firm, or corporation who violates any provision of this chapter for which no other criminal penalty is provided by this chapter shall upon conviction be subject to imprisonment for not more than one (1) year, or a fine of not more than one thousand dollars (\$ 1,000.00), or both such imprisonment and fine; but if such violation involves intent to defraud, or any distribution or attempted distribution of an item or product that is adulterated (except as defined in Section 75-35-3(j)(8) ), such person, firm, or corporation

shall be subject to imprisonment for not more than three (3) years or a fine of not more than ten thousand dollars (\$ 10,000.00) or both: provided, that no person, firm, or corporation shall be subject to penalties under this section for receiving for transportation any product or animal in violation of this chapter if such receipt was made in good faith, unless such person, firm, or corporation refuses to furnish on request of a representative of the commissioner the name and address of the person from whom he received such products or animal, and copies of all documents, if any there be, pertaining to the delivery of the products or animal to him.

- (2) Nothing in this chapter shall be construed as requiring the commissioner to report for prosecution or for the institution of a bill of complaint or injunction proceedings, minor violations of this chapter whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

**Cite as Miss. Code § 75-35-311**

**Source: Codes, 1942, § 4575-177, Laws, 1968, ch. 245, § 27, eff. 7/1/1968.**

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§ 75-35-313. Power of commissioner to compile information, make investigations, and to require reports to be filed.

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##### **§ 75-35-313. Power of commissioner to compile information, make investigations, and to require reports to be filed**

The commissioner shall also have power:

- (a) To gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any person, firm, or corporation engaged in intrastate commerce, and the relation thereof to other persons, firms, and corporations;
- (b) To require, by general or special orders, persons, firms, and corporations engaged in

intrastate commerce, or any class of them, or any of them to file with the commissioner, in such form as the commissioner may prescribe, annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the commissioner such information as he may require as to the organization, business, conduct, practices, management, and relation to other persons, firms, and corporations, of the person, firm, or corporation filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commissioner may prescribe, and shall be filed with the commissioner within such reasonable period as the commissioner may prescribe, unless additional time be granted in any case by the commissioner.

Cite as Miss. Code § 75-35-313

Source: Codes, 1942, § 4575-178, Laws, 1968, ch. 245, § 28(a), eff. 7/1/1968.

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§ 75-35-315. Attendance of witnesses and production of documentary evidence; issuance of, and obedience to, subpoenas; mandamus to compel compliance with law; depositions; witness fees.

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#### **§ 75-35-315. Attendance of witnesses and production of documentary evidence; issuance of, and obedience to, subpoenas; mandamus to compel compliance with law; depositions; witness fees**

- (1) For the purposes of this chapter, the commissioner shall at all reasonable times have access to, for the purpose of examination, and the right to copy, any documentary evidence of any person, firm, or corporation being investigated or proceeded against, and may require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence of any person, firm, or corporation relating to any matter under investigation. The commissioner may issue and sign subpoenas and may administer oaths and affirmations, examine witnesses, and receive evidence.
- (2) Such attendance of witnesses, and the production of such documentary evidence, may be required at any designated place of hearing. In case of disobedience to a subpoena, the commissioner may invoke the aid of any court designated in Section 75-35-307 in

requiring the attendance and testimony of witnesses and the production of documentary evidence.

- (3) Any of the courts designated in Section 75-35-307 within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, firm, or corporation, issue an order requiring such person, firm, or corporation to appear before the commissioner, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.
- (4) Upon the application of the attorney general of this state at the request of the commissioner, the circuit court shall have jurisdiction to issue writs of mandamus commanding any person, firm, or corporation to comply with the provisions of this chapter or any order of the commissioner made in pursuance thereof.
- (5) The commissioner may order testimony to be taken by deposition in any proceeding or investigation pending under this chapter at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commissioner and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commissioner as hereinbefore provided.
- (6) Witnesses summoned before the commissioner shall be paid the same fees and mileage that are paid witnesses in the courts of this state, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in such courts.

**Cite as Miss. Code § 75-35-315**

**Source: Codes, 1942, § 4575-179, Laws, 1968, ch. 245, § 28(b), eff. 7/1/1968.**

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§ 75-35-317. Penalty for failure to give testimony or to furnish documentary evidence, making false reports, failure to file report or making of wrongful disclosure.

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### **§ 75-35-317. Penalty for failure to give testimony or to furnish documentary evidence, making false reports, failure to file report or making of wrongful disclosure**

- (1) Any person, firm, or corporation that shall neglect or refuse to attend and testify or to answer any lawful inquiry, or to produce documentary evidence, if in his or its power to do so, in obedience to the subpoena or lawful requirement of the commissioner, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than one hundred dollars (\$ 100.00) nor more than five thousand dollars (\$ 5,000.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.
- (2) Any person, firm, or corporation that shall willfully make, or cause to be made any false entry or statement of fact in any report required to be made under this chapter, or that shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any person, firm, or corporation subject to this chapter or that shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions appertaining to the business of such person, firm, or corporation, or that shall willfully remove out of the jurisdiction of this state, or willfully mutilate, alter, or by any other means falsify any documentary evidence of any such person, firm, or corporation or that shall willfully refuse to submit to the commissioner or to any of his authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any such person, firm, or corporation in his possession or within his control, shall be deemed guilty of an offense and shall be subject, upon conviction in any court of competent jurisdiction to a fine of not less than one thousand dollars (\$ 1,000.00) nor more than five thousand dollars (\$ 5,000.00), or to imprisonment for a term of not more than three (3) years, or to both such fine and imprisonment.
- (3) If any person, firm, or corporation required by this chapter to file any annual or special report shall fail so to do within the time fixed by the commissioner for filing the same, and such failure shall continue for thirty (30) days after notice of such default, unless for good cause shown on extension for filing same shall be granted by the commissioner, such person, firm, or corporation shall forfeit to this state the sum of one hundred dollars (\$ 100.00) for each and every day of the continuance of such failure, which forfeiture shall be payable into the general fund of the treasury of this state, and shall be recoverable in a civil suit in the name of the state brought in the county where the person, firm, or corporation has his or its principal office or in any county in which he or it shall do business. It shall be the duty of the attorney general of this state, the county attorney and

the district attorney, under the direction of the attorney general of this state, to prosecute for the recovery of such forfeitures in the name of the State of Mississippi. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of this state.

- (4) Any officer or employee of this state who shall make public any information obtained by the commissioner without his authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars (\$ 500.00), or by imprisonment, not exceeding one (1) year, or by both such fine and imprisonment, in the discretion of the court. This provision does not apply to the governor, members of the legislature, the attorney general, district attorney, county attorney or sheriff.

**Cite as Miss. Code § 75-35-317**

**Source: Codes, 1942, § 4575-180, Laws, 1968, ch. 245, § 28(c), eff. 7/1/1968.**

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§ 75-35-319. Application of law to establishments, animals and products regulated by Federal Meat Inspection Act.

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##### **§ 75-35-319. Application of law to establishments, animals and products regulated by Federal Meat Inspection Act**

The requirements of this chapter shall apply to persons, firms, corporation establishments, animals, and products regulated under the Federal Meat Inspection Act only to the extent provided for in Section 408 of said federal act.

**Cite as Miss. Code § 75-35-319**

**Source: Codes, 1942, § 4575-181, Laws, 1968, ch. 245, § 29, eff. 7/1/1968.**

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§ 75-35-321. Appropriations.

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**§ 75-35-321. Appropriations**

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

Cite as Miss. Code § 75-35-321

Source: Codes, 1942, § 4575-182, Laws, 1968, ch. 245, § 30, eff. 7/1/1968.

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§ 75-35-323. Repeal of existing statutes.

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**§ 75-35-323. Repeal of existing statutes**

Nothing in this chapter, except for the purpose of providing for cooperation with the United States Department of Agriculture for the inspection of meat and related purposes, shall repeal or supersede any existing statutes regulating the same matters and subject.

Cite as Miss. Code § 75-35-323

Source: Codes, 1942, § 4575-184, Laws, 1968, ch. 245, § 32, eff. 7/1/1968.

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§ 75-35-325. Administrative procedures concerning fines and other penalties for violations of the meat inspection law.

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#### **§ 75-35-325. Administrative procedures concerning fines and other penalties for violations of the meat inspection law**

- (1) When a written complaint is made against a person for violation of any provision of this chapter or of Section 75-33-1 et seq., or any of the rules or regulations promulgated there under, the Commissioner of Agriculture, or his designee, shall conduct a full evidentiary hearing relative to the charges. The complaint shall be in writing and shall be filed in the office of the Mississippi Department of Agriculture and Commerce. The commissioner shall cause to be delivered to the accused in the manner described herein a copy of the complaint and a summons requiring the accused to file a written answer to the complaint within thirty (30) days after service of the summons and complaint upon the accused. The accused may be notified by serving a copy of the summons and complaint on the accused or any of his officers, agents or employees by personal service or by certified mail. The accused shall file with the department a written response to the complaint within the thirty-day period. If the accused fails to file an answer within such time, the commissioner or his designee may enter an order by default against the accused. If the accused has filed an answer, the matter shall be set for hearing before the commissioner or his designee. The commissioner may issue subpoenas to require the attendance of witnesses and the production of documents. Compliance with such subpoenas may be enforced by any court of general jurisdiction in this state. The testimony of witnesses shall be upon oath or affirmation, and they shall be subject to cross-examination. The proceedings shall be recorded by a court reporter. If the commissioner or his designee determines that the complaint lacks merit, he may dismiss it. If he finds that there is substantial evidence showing that a violation of any of the statutes or regulations has been committed, he may impose any or all of the following penalties upon the accused:

- (a) Levy a civil penalty in the amount of no more than One Thousand Dollars (\$ 1,000.00) for each violation;
  - (b) Revoke or suspend any license, permit or privilege granted to the accused under the terms of this chapter or Section 75-33-1 et seq.;
  - (c) Retain product, reject equipment or facilities, slow or stop a line or refuse to allow the processing of a specifically identified product;
  - (d) Refuse to allow the marks of inspection to be applied to a product; or
  - (e) Take any other action authorized by law or regulation. The commissioner's decision shall be in writing, and it shall be delivered to the accused by any of the methods described herein for service of the summons and complaint on the accused.
- (2) Either the accused or the department may appeal the decision of the commissioner to the circuit court of the county of residence of the accused or, if the accused is a nonresident of the State of Mississippi, to the Circuit Court of the First Judicial District of Hinds County, Mississippi. The appellant shall have the obligation of having the record transcribed and filed with the circuit court. The appeal shall otherwise be governed by all applicable laws and rules affecting appeals to circuit court. If no appeal is perfected within the required time, the decision of the commissioner, or his designee, shall then become final.
- (3) The decision of the circuit court may then be appealed by either party to the Mississippi Supreme Court in accordance with the existing laws and rules affecting such appeals.

**Cite as Miss. Code § 75-35-325**

**Source: Laws, 1997, ch. 521, §1; Laws, 2003, ch. 491, §1, eff. 7/1/2003.**

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§ 75-35-327. Repealed.

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## **§ 75-35-327. Repealed**

**Cite as Miss. Code § 75-35-327**

**History.** Repealed by Laws, 2009, ch. 321, §11, eff. 3/16/2009.

**Prior History:** ( Laws, 2002, ch. 526, §1, eff. 7/1/2002.)