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STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 525 BY: SHURDEN of the SENATE

and

LEIST of the HOUSE

COMMITTEE SUBSTITUTEAN ACT RELATING TO AGRICULTURE; CREATING THE EXOTIC GAME AND EXOTIC GAME PRODUCTS INSPECTION ACT; PROVIDING PURPOSE; DEFINING TERMS; ADDING TO THE POWERS AND DUTIES OF THE STATE BOARD OF AGRICULTURE; SPECIFYING PERSONS SUBJECT TO THE ACT; PROVIDING EXCEPTIONS; PROHIBITING CERTAIN ACTIONS; PROVIDING FOR OPERATION OF AN OFFICIAL PLANT; PROVIDING FOR APPLICATION; PROVIDING PROCEDURES; PROVIDING FOR INSPECTION SERVICE; REQUIRING CERTAIN RECORDS; PROVIDING FOR INSPECTIONS; MAKING CERTAIN ACTIONS UNLAWFUL; PROVIDING GROUNDS FOR SUSPENSION OF CERTAIN APPROVAL; PROVIDING FOR NOTICE AND HEARING; SPECIFYING PENALTIES; PROVIDING FOR CONSTRUCTION OF ACT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-290.1 of Title 2, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Exotic Game and Exotic Game Products Inspection Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-290.2 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Exotic animals and exotic animal products are becoming an important source of the nation's supply of food. It is essential in the public interest that the health and welfare of consumers be protected by assuring that slaughtered exotic game and exotic game products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged. Unwholesome, adulterated, or misbranded exotic game are injurious to the public welfare, destroy markets for wholesome, not adulterated, and properly labeled and packaged exotic game and exotic game products, and result in sundry losses to exotic game producers and processors of exotic game and exotic game products, as well as injury to consumers. The unwholesome, adulterated, mislabeled, or deceptively packaged articles can be sold at lower prices and compete unfairly with the wholesome, not adulterated, and properly labeled and packaged articles, to the detriment of consumers and the public generally.

B. It is hereby declared to be the policy of the Legislature of this state to provide for the inspection of exotic game and exotic game products and otherwise regulate the processing and distribution of such articles to prevent the movement or sale in intrastate commerce of exotic game and exotic game products which are adulterated or misbranded.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-290.3 of Title 2, unless there is created a duplication in numbering, reads as follows:

For the purposes of the Exotic Game and Exotic Game Products Inspection Act:

1. "Adulterated" shall apply to any carcass, part thereof, exotic game or exotic game products under one or more of the following circumstances:

a. 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 paragraph if the quantity of such substance in or on such article does not ordinarily render it injurious to health,

b. if it bears or contains, by reason of administration of any substance to live exotic game or otherwise, any added poisonous or added deleterious substance, other than one which is:

(1) a pesticide chemical in or on a raw agricultural commodity,

(2) a food additive, or

(3) a color additive;

which may, in the judgment of the Board, make such article unfit for human food;

c. 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,

d. 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,

e. 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 otherwise deemed adulterated under subparagraph 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 Board in establishments at which inspection is maintained pursuant to the Exotic Game and Exotic Game Products Inspection Act,

f. 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;

g. if it has been prepared, packed, or held under unsanitary conditions whereby it may become contaminated with filth, or whereby it may have been rendered injurious to health,

h. if it is, in whole or in part, the product of any exotic game which has died otherwise than by slaughter,

i. if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health,

j. 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, or

k. 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 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;

2. "Board" means the State Board of Agriculture;

3. "Animal food manufacturer" means any person engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of exotic game;

4. "Capable of use as human food" shall apply to any carcass, or part or product of a carcass, of any exotic game, unless it is identified as required by regulations prescribed by the Board to deter its use as human food, or it is naturally inedible by humans;

5. "Department" means the Oklahoma State Department of Agriculture;

6. "Exotic animals" means commercially raised wildlife including but not limited to animals of the families bovidae, cervidae and antilocapridae or birds of the order casuariiformes;

7. "Federal Meat Inspection Act" means the act so entitled approved March 4, 1907 (34 Stat. 1260) as amended by the Wholesome Meat Act (8 Stat. 584);

8. "Federal Food, Drug, and Cosmetic Act" means the act so entitled, approved June 25, 1938 (52 Stat. 1040), and acts amendatory thereof or supplementary thereto;

9. "Inspection" or "inspection service" means any inspection by an inspector to determine:

a. the condition and wholesomeness of exotic game,

b. the condition and wholesomeness of any edible product at any state of the preparation or packaging thereof in the official plant where inspected and certified, or

c. the condition and wholesomeness of any previously inspected and certified product if such product has not lost its identity as an inspected and certified product;

10. "Inspector" means any person who is duly qualified and certified as an agent of the Oklahoma State Department of Agriculture;

11. "Intrastate commerce" means commerce within this state;

12. "Label" means a display of written, printed, or graphic matter upon any article or the immediate container, not including package liners, of any article;

13. "Labeling" means all labels and other written, printed, or graphic matter:

a. upon any article or any of its containers or wrappers, or

b. accompanying such article;

14. "Misbranded" shall apply to any carcass, part thereof, exotic game meat or exotic game product under one or more of the following circumstances:

a. if its labeling is false or misleading in any particular,

b. if it is offered for sale under the name of another food,

c. if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food imitated,

d. if its container is so made, formed, or filled as to be misleading,

e. unless it bears a label showing:

(1) the name and place of business of the manufacturer, packer, or distributor, and

(2) an accurate statement of the quantity of the product in terms of weight, measure, or numerical count. Provided, reasonable variations may be permitted, and exemptions as to small packages or articles not in packages or other containers may be established, by regulations prescribed by the Board;

f. if any word, statement, or other information required by or under authority of the Exotic Game and Exotic Game Products Inspection Act to appear on the label or other labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use,

g. if it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulations of the Board unless:

(1) it conforms to such definition and standard, and

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

h. if it purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations of the Board, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such

manner and form as such regulations specify, a statement that it falls below such standard,

i. if it is not subject to the provisions of subparagraph g unless its label bears:

(1) the common or usual name of the food, if any there be, and

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

j. if it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Board, after consultation with the Secretary of Agriculture of the United States, determines to be, and by regulations prescribes as, necessary in order fully to inform purchasers as to its value for such uses,

k. if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that, to the extent that compliance with the requirements of this subparagraph is impracticable, exemptions shall be established by regulations promulgated by the Board, or

l. if it fails to bear on its containers, as the Board may by regulations prescribe, the official inspection legend, such other information as the Board may require in such regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition;

15. "Official certificate" means any certificate prescribed by regulation of the Board for issuance by an inspector or other person performing official functions pursuant to the Exotic Game and Exotic Game Products Inspection Act;

16. "Official device" means any device prescribed or authorized by the Board for use in applying any official mark;

17. "Official inspection legend" means any symbol prescribed by regulation of the Board showing that an article was inspected for wholesomeness in accordance with the Exotic Game and Exotic Game Products Inspection Act;

18. "Official mark" means the official inspection legend or any other symbol prescribed by regulation of the Board to identify the status of any article or exotic game pursuant to the Exotic Game and Exotic Game Products Inspection Act;

19. "Official plant" or "official establishment" means one or more buildings or parts thereof, comprising a single plant in which the facilities and methods of operation therein have been approved by the Commissioner as suitable and adequate for operation under inspection service;

20. "Person" means any individual, partnership, corporation, association, or other business unit;

21. "Pesticide chemical", "food additive", "color additive", and "raw agricultural commodity" shall have the same meanings for purposes of the Exotic Game and Exotic Game Products Inspection Act as such term is defined by the Federal Food, Drug, and Cosmetic Act;

22. "Processed" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed;

23. "Product" means any carcass of exotic game, or part thereof; or any product which is made wholly or in part from any carcass of exotic game or part thereof, excepting products which contain exotic game ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the animal food industry, and which are exempted by the Board from definition as an exotic game product under such conditions as the Board may prescribe to assure that the exotic game ingredients in such products are not adulterated and that such products are not represented as exotic game products;

24. "Exotic game broker" means any person engaged in the business of buying or selling exotic game products on commission, or otherwise negotiating purchases or sales of such articles other than for his own account or an as employee of another person; and

25. "Renderer" means any person engaged in the business of rendering carcasses, or parts or products of the carcasses, of exotic game.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-290.4 of Title 2, unless there is created a duplication in numbering, reads as follows:

In addition to any powers and duties of the Board, the Board shall have the power and duty to:

1. Adopt and promulgate regulations necessary to provide for the proper inspection of exotic game and exotic game products, and prescribe conditions under which carcasses, parts of carcasses, exotic game meat and exotic game products capable of use as human food, shall be stored, labeled, marked or otherwise handled by any person engaged in the business of buying, selling, freezing, storing, or transporting, in or for intrastate commerce;

2. Cooperate with the Secretary of Agriculture of the United States in effectuating the purposes of the Exotic Game and Exotic Game Products Inspection Act;

3. Appoint inspectors to make examination and inspection of exotic game, exotic game carcasses, all exotic game meat and exotic game products, and the sanitary conditions of all plants or establishments in which exotic game meat and exotic game products are prepared;

4. Detain and seize exotic game or exotic game carcasses or exotic game products pursuant to the provisions of the Exotic Game and Exotic Game Products Inspection Act;

5. Require reports from all persons subject to the provisions of the Exotic Game and Exotic Game Products Inspection Act;

6. Suspend inspection service pursuant to the provisions of the Exotic Game and Exotic Game Products Inspection Act;

7. Establish and enforce administrative penalties pursuant to Section 11-1 of Title 2 of the Oklahoma Statutes;

8. Enter upon any public or private property for purposes of inspecting and investigating compliance with the Exotic Game and Exotic Game Products Inspection Act;

9. Refuse to render inspection services to any establishment whose premises, facilities, or equipment, or the operation thereof, fail to meet the requirements of the Exotic Game and Exotic Game Products Inspection Act;

10. Institute or cause to be instituted any necessary legal proceedings with the Office of the Attorney General or in any court of competent jurisdiction for an injunction relief to enforce the provisions of the Exotic Game and Exotic Game Products Inspection Act; and

11. Exercise all incidental powers which are necessary and proper to perform the duties of the Board pursuant to the Exotic Game and Exotic Game Products Inspection Act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-290.5 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The Exotic Game and Exotic Game Products Inspection Act shall apply to:

1. Any person that engages in the business of slaughtering any exotic game or processing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any exotic game, for intrastate commerce, for use as human food or animal food. The provisions of this paragraph shall not apply to:

a. the slaughtering of exotic game owned and raised by a person who prepares and transports the carcasses of:

(1) exotic game or parts of exotic game exclusively for his own use or for use by members of his household or his nonpaying guests or employees, or

(2) exotic game owned and raised by a person who prepares and transports the carcasses of uninspected exotic game or parts of exotic game exclusively for sale directly to household consumers. Said persons are specifically prohibited from selling or donating uninspected exotic game products to retail stores, brokers, meat markets, schools, orphanages, restaurants, nursing homes and similar establishments. Said persons are further prohibited from sales or donation of uninspected exotic game products to caterers, charitable institutions, public fund raising events and similar activities. Said persons are further prohibited from selling uninspected exotic game products through any type

of retail market or similar establishment owned or operated by the exotic game owner or raiser,

b. except as otherwise provided by this section, any person who slaughters exotic game or processes or otherwise handles exotic game products which have been or are to be processed as required by recognized religious dietary laws.

(1) Any person desiring such exemption shall make application to the Oklahoma State Department of Agriculture. The application shall be in such form and contain such information as is required by the Board.

(2) The Board may impose such conditions as to sanitary standards, practices, and procedures in granting such exemption as it deems necessary to effectuate the purposes of the Exotic Game and Exotic Game Products Inspection Act. Any person who processes exotic game or exotic game products under exemption from certain requirements as provided in this division shall be subject to all of the other applicable provisions of the Exotic Game and Exotic Game Products Inspection Act and the regulations promulgated pursuant thereto.

(3) Processing plants shall meet the sanitary requirements set forth in the Exotic Game and Exotic Game Products Inspection Act and shall be required to qualify for inspection and operate as official establishments;

2. Any person who engages in the business of buying or selling, as exotic game products brokers, wholesalers, or otherwise, or transporting, in intrastate commerce, or storing in or for

intrastate commerce, any carcasses, or parts or products of carcasses, of any exotic game; or

3. Any person who engages in business, in or for intrastate commerce, as a renderer, or engages in the business of buying, selling, or transporting, in intrastate commerce, any dead, dying, disabled, or diseased exotic game or parts of the carcasses of any exotic game that died otherwise than by slaughter.

B. 1. Any person who is engaged in business specified in this subsection shall be registered with the Board, in or for intrastate commerce:

a. as a meat broker, 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 exotic game whether intended for human food or other purposes; or

b. 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.

2. The application for registration shall contain the name of such person, address of each place of business at which and all trade names under which such person conducts such business and such other information deemed necessary by the Board.

C. Any person, firm, or corporation who is 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 receive for transportation, in such commerce, any dead, dying, disabled, or diseased exotic game or parts of the carcasses of any

such animals that died otherwise than by slaughter, shall comply with such regulations as the Board prescribes to assure that such animals, or the unwholesome parts or products thereof, will be prevented from being used for human food purposes.

D. On and after September 1, 1989, no exotic game products intended for human food shall be allowed to be sold in this state without:

1. First being inspected and approved by:

a. the United States Department of Agriculture, or

b. the Oklahoma State Department of Agriculture; or

2. Having been legally imported into this state pursuant to existing laws of the federal Food, Drug and Cosmetic Act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-290.6 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. On and after September 1, 1991.

1. Prior to slaughtering any exotic game or processing any exotic game products at any plant, a person owning or operating such plant shall have the plant approved by the Department.

2. To receive plant approval, a person shall make application to the State Board of Agriculture. As part of the application, the person shall agree to comply with the terms and conditions of the Exotic Game and Exotic Game Products Inspection Act and any applicable regulations promulgated thereto.

3. Prior to any such approval, the plant and plant equipment shall be inspected by the Department of Agriculture.

4. Upon the approval of the plant and plant equipment by the Department, the plant shall be considered an official plant.

5. No exotic game affected with any disease transmissible to man shall be slaughtered in any official establishment.

B. No establishment or plant processing exotic game or exotic game products solely for intrastate commerce shall process any

exotic game or exotic game product capable of use as human food except in compliance with the requirements of the Exotic Game and Exotic Game Products Inspection Act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-290.7 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. All inspection service shall be subject to supervision at all times by an inspector. Such service shall be rendered where the facilities and conditions are satisfactory for the conduct of the service and the requisite inspectors are available.

B. Exotic game which is processed in official plants in accordance with the Exotic Game and Exotic Game Products Inspection Act may be inspected.

C. All exotic game that is slaughtered and processed in an official plant where inspection service is maintained shall be inspected for condition and wholesomeness. No dressed or uninspected exotic game products shall be brought into such official plant.

D. Inspection shall not be provided at any establishment for the slaughter of exotic game, or the preparation of any carcasses or parts or products of such animals which are not intended for human food.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-290.9 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. All persons subject to the provisions of the Exotic Game and Exotic Game Products Inspection Act shall keep such records as willfully and correctly disclose all transactions involved in their businesses. All persons, subject to such requirements shall, at all reasonable times, upon notice by a duly authorized representative of the Board, afford such representative and any duly authorized representative of the Secretary of Agriculture of the United States

accompanied by such representative of the Board 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.

B. Any record required to be maintained by this section shall be maintained for such period of time as the Board may by regulations prescribe.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-290.10 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. On and after September 1, 1991, no person shall:

1. Slaughter any exotic game or process any exotic game products which are capable of use as human food at any establishment processing any such articles solely for intrastate commerce, except in compliance with the requirements of the Exotic Game and Exotic Game Products Inspection Act; and

2. Sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce or from an official establishment, any slaughtered exotic game from which the blood, feet, head, or viscera have not been removed in accordance with regulations promulgated by the Board, except as may be authorized by regulations of the Board.

B. No person shall:

1. Sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce:

a. any exotic game products which are capable of use as human food and are adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation, or

b. any exotic game products required to be inspected pursuant to the Exotic Game and Exotic Game Products

Inspection Act unless they have been so inspected and passed;

2. Perform any act which is intended to cause or has the effect of causing such exotic game or exotic game products to be adulterated or misbranded;

3. Use to his own advantage, or reveal other than to the authorized representatives of the state government or any other government in their official capacity, or as ordered by a court in any judicial proceedings, any information acquired under the authority of the Exotic Game and Exotic Game Products Inspection Act concerning any matter which is entitled to protection as a trade secret.

C. No brand manufacturer, printer, or other person shall cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the Board.

D. No person shall:

1. Forge any official device, mark, or certificate;

2. Without authorization from the Board use any official device, mark, or certificate, or simulation thereof, or alter, detach, deface, or destroy any official device, mark, or certificate including "Oklahoma Rejected" or "Oklahoma Retained" tags;

3. Contrary to the regulations prescribed by the Board, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

4. Knowingly possess, without promptly notifying the Board or its representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label or any carcass of any exotic game, or part or product thereof, bearing any counterfeit, simulated, forged, or improperly altered official mark;

5. Knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the Board; or

6. Knowingly represent that any article has been inspected and passed, or exempted, pursuant to the Exotic Game and Exotic Game Products Inspection Act when, in fact, it has, respectively, not been so inspected and passed, or exempted.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-290.11 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. 1. Any plant approval given pursuant to the Exotic Game and Exotic Game Products Inspection Act may be suspended by the Department for:

a. failure to maintain a plant and equipment in a satisfactory state of repair;

b. failure to maintain plant or equipment in a sanitary manner on a continuing basis;

c. the use of operating procedure which are not in accordance with the Exotic Game and Exotic Game Products Inspection Act or regulations promulgated thereto;

d. alterations of buildings, facilities, or equipment which cannot be approved in accordance with the Exotic Game and Exotic Game Products Inspection Act or regulations promulgated thereto;

e. assault on an agency of the Board; or

f. failure to properly denature condemned and inedible materials.

2. During such period of suspension, inspection service shall not be rendered. However, the other provisions of the Exotic Game and Exotic Game Products Inspection Act pertaining to providing such service on a resident basis will remain in effect unless such

service is terminated in accordance with duly authorized regulations promulgated by the Department. Upon suspension of inspection service in an official plant, the plant approval shall also become suspended, and all labels, seals, tags or packaging material bearing official identification shall be destroyed, or the official identification completely obliterated, or sealed in a manner acceptable to the Department.

B. 1. The Board may refuse to provide, or withdraw, inspection service with respect to any establishment if it 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 because the applicant or recipient, or any person responsibly connected with the applicant or recipient, has been convicted, in any federal or state court of:

a. any felony, or

b. 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.

2. This section shall not affect in any way other provisions of the Exotic Game and Exotic Game Products Inspection Act for withdrawal of inspection services from establishments failing to maintain sanitary conditions or to destroy condemned carcasses, parts, meats or meat food products.

3. For the purpose of this subsection, a person shall be deemed to be responsibly connected with the business if he was a partner, officer, director, holder, or owner of ten percent (10%) or more of its voting stock or employee in a managerial or executive capacity. The determination and order of the Board with respect thereto pursuant to 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. Judicial review of any such order shall be upon the record upon which the determination and order are based.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-290.12 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Whenever the Board determines there are reasonable grounds to believe that there has been a violation of any of the provisions of the Exotic Game and Exotic Game Products Inspection Act, any rule or regulation promulgated thereto, or any order of the Board, it shall give written notice to the alleged violator specifying the cause of complaint. Such notice shall require that the matters complained of be corrected or that the alleged violator appear before the Board at a time and place within the affected area or in a mutually agreeable location specified in the notice and answer the charges. The notice shall be delivered to the alleged violator or violators in accordance with the provisions of subsection D of this section not less than twenty (20) days before the time set for the hearing.

B. The Board shall afford the alleged violator or violators an opportunity for a fair hearing in accordance with the provisions of subsection E of this section. On the basis of the evidence produced at the hearing, the Board shall make findings of fact and conclusions of law and enter an order thereon. The Board shall give written notice of such order to the alleged violator and to such other persons as shall have appeared at the hearing and made written request for notice of the order. If the hearing is held before any person other than the Board itself, such person shall transmit the record of the hearing together with recommendations for findings of fact and conclusions of law to the Board which shall thereupon enter

its order. The Board may, in its discretion, enter its order on the basis of such record or, before issuing its order, require additional hearings or further evidence to be presented. The order of the Board shall become final and binding on all parties unless appealed to the district court as provided in Article II of the Administrative Procedures Act within thirty (30) days after notice has been sent to the parties.

C. Whenever the Board finds that an emergency exists requiring immediate action to protect the public health or welfare it may without notice or hearing issue an order reciting the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency. Notwithstanding the provisions of subsection B of this section, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately but on application to the Board shall be afforded a hearing within ten (10) days. On the basis of such hearing, the Board shall continue such order in effect, revoke it or modify it; provided, that any person aggrieved by such order continued after the hearing provided in this subsection may appeal to the district court of the area affected within thirty (30) days. Such appeal when docketed shall have priority over all cases pending on said docket, except criminal.

D. Except as otherwise expressly provided, any notice, order or other instrument issued by or under authority of the Board may be served on any person affected thereby personally or by publication. Proof of such service shall be made as in case of service of a summons or by publication in a civil action, such proof to be filed in the office of the Board; or such service may be made by mailing a copy of the notice, order or other instrument by registered mail directed to the person affected at his last-known post office address as shown by the files or records of the Board, and proof

thereof may be made by the affidavit of the person who did the mailing, filed in the office of the Board.

Every certificate or affidavit of service made and filed as herein provided shall be prima facie evidence of the facts therein stated, and a certified copy thereof shall have like force and effect.

E. The hearings herein provided may be conducted by the Board itself at a regular or special meeting of the Board, or the Board may designate hearing officers who shall have the power and authority to conduct such hearings in the name of the Board at any time and place. Such hearings shall be conducted in conformity with and records made thereof as provided in the Administrative Procedures Act.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-290.13 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Any person who willfully:

1. Makes, or causes to be made, any false entry or statement of fact in any report required to be made pursuant to the Exotic Game and Exotic Game Products Inspection Act;

2. Makes, or causes to be made, any false entry in any account, record, or memorandum kept by any person subject to the Exotic Game and Exotic Game Products Inspection Act;

3. Neglects or fails to make, or causes 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;

4. Removes out of the jurisdiction of this state, or willfully mutilates, alters, or by any other means falsifies any documentary evidence of any such person; or

5. Refuses to submit to the Board or to any of its 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 and shall be subject, upon conviction in any court of competent jurisdiction, to a fine of not more than Five Thousand Dollars ($5,000.00).

B. Any officer or employee of this state who shall make public any information obtained by the Board, without its 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 Thousand Dollars ($5,000.00).

C. Any person who violates any provision of the Exotic Game and Exotic Game Products Inspection Act for which no other criminal penalty is provided by the Exotic Game and Exotic Game Products Inspection Act shall, upon conviction, be subject to a fine of not more than One Thousand Dollars ($1,000.00).

D. If a violation involved intent to defraud, or any distribution or attempted distribution of an article that is adulterated, such person shall be subject to a fine of not more than Ten Thousand Dollars ($10,000.00).

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-290.14 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. No person shall be subject to penalties pursuant to this section for receiving for transportation any article or animal in violation of the Exotic Game and Exotic Game Products Inspection Act if such receipt was made in good faith, unless such person refuses to furnish on request of a representative of the Board the name and address of the person from whom he received such article or animal, and copies of all documents, if any there be, pertaining to the delivery of the article or animal to him.

B. Nothing in the Exotic Game and Exotic Game Products Inspection Act shall be construed as requiring the Board to report

for prosecution, or for the institution of legal action or injunction proceedings, minor violations of the Exotic Game and Exotic Game Products Inspection Act whenever it believes that the public interest will be adequately served by a suitable written notice of warning.

SECTION 14. This act shall become effective September 1, 1991.

43-1-6428 KSM