CHAPTER 4

State Livestock‑Poultry Health Commission

**SECTION 47‑4‑10.** Purpose; membership.

 The State Livestock‑Poultry Health Commission is established to execute this chapter, Chapter 6, Article 1 of Chapter 11, Chapter 13, except Sections 47‑13‑70 and 47‑13‑80, Chapter 15, Article 1 of Chapter 17, and Chapter 19 of Title 47 and other duties and responsibilities assigned by law. The commission consists of no less than three members of the Agricultural, Natural Resources and Environmental Affairs Committee, or its successor, of the Clemson University Board of Trustees, as designated by the board.

HISTORY: 1994 Act No. 362, Section 1, eff May 3, 1994; 1995 Act No. 22, Section 1, eff April 4, 1995.

**SECTION 47‑4‑20.** Definitions.

 As used in this chapter and all matters assigned to the jurisdiction of the State Livestock‑Poultry Health Commission:

 (1) "Accredited veterinarian" means a licensed veterinarian approved by the United States Department of Agriculture in accordance with 9CFR Part 160 and 161.

 (2) "Commission" means the State Livestock‑Poultry Health Commission or an officer or employee of the commission to whom authority to act in its stead is delegated.

 (3) "Director" means the Director of the Division of Livestock‑Poultry Health Programs, Clemson University.

 (4) "Division" means the Division of Livestock‑Poultry Health and its agents, employees, and officials.

 (5) "Equine sales facility" means a premise where equine including, but not limited to, horses, mules, donkeys, and asses, are assembled to be sold, bartered, or exchanged. It includes a premise where a change of ownership occurs or is part of the procedure.

 (6) "Inspector" means an employee or official of the division authorized by the director to carry out inspections or investigations required by law.

 (7) "Livestock" means all classes and breeds of animals, domesticated or feral, raised for use, sale, or display.

 (8) "Permit" means official authorization to engage in a specific activity.

 (9) "Person" means an individual, a trust, a firm, a joint stock company, a corporation including a government corporation, a partnership, an association, a municipality, a commission, or a political subdivision of this or another state.

 (10) "Poultry" means all avian species including wildfowl raised for use, sale, or display and domestic fowl.

 (11) "Public livestock market" means livestock auction markets, public livestock assembly pens, stockyards, dealers in livestock, cooperative or buying stations, fairs, expositions, livestock shows, or other public places where livestock is assembled for purposes of sale, show, exchange, breeding, or barter and where the assembled livestock has more than one owner. The market may handle one or more species of livestock according to the terms of the permit. It does not include equine sales facilities or retail pet stores.

 (12) "Quarantine" means limitations placed upon the free movement of certain things which include, but are not limited to, animals, poultry, plants, fodder, feed, equipment, products, by‑products, machinery, goods, and means of transportation considered reasonably necessary to prevent the spread by whatever means of contagious, infectious, or communicable diseases of animals or poultry.

 (13) "Service" means the Veterinary Service, Animal and Plant Health Inspection Service of the United States Department of Agriculture.

 (14) "Slaughter assembly point" means a facility where livestock is assembled solely for holding or delivery for immediate slaughter.

 (15) "State Veterinarian" means the Director of Livestock‑Poultry Health Division, Clemson University, and his agents, assistants, and livestock inspectors.

HISTORY: 1994 Act No. 362, Section 1, eff May 3, 1994; 1995 Act No. 22, Section 2, eff April 4, 1995.

**SECTION 47‑4‑30.** Promulgation and enforcement of rules and regulations; permitted operations.

 (A) The commission, in accordance with the Administrative Procedures Act, may promulgate and enforce reasonable regulations necessary to ensure the continued health and safety of the livestock and poultry industries in the State and to carry out the responsibilities assigned by law to the commission. The commission may regulate or prohibit the shipment within, or the importation into, this State of livestock, poultry, or associated products of any nature or character from a state, territory, or foreign country when, in the opinion of the commission, the regulation or prohibition is necessary to prevent the introduction or distribution of diseased, infirm, or unhealthy livestock or poultry, or both.

 (B) The commission may carry out operations including quarantines, destruction of livestock or poultry, or other measures to locate, suppress, control, or eradicate or to retard the spread of diseases of livestock or poultry, or both, independently or in cooperation with counties or their political subdivisions, municipalities, farmers, associations or similar organizations, individuals, federal agencies, or agencies of other states, by regulation, compliance agreement, judicial action, or other appropriate means.

HISTORY: 1994 Act No. 362, Section 1, eff May 3, 1994.

**SECTION 47‑4‑40.** Delegation of duties to director.

 The commission shall delegate the duties provided in this chapter and other applicable sections and chapters of this title to the director who may administer and enforce the provisions and promulgate related regulations.

HISTORY: 1994 Act No. 362, Section 1, eff May 3, 1994.

**SECTION 47‑4‑50.** Promulgation of regulations listing diseases; reporting suspected existence of disease.

 The commission may promulgate regulations listing those communicable, contagious, or infectious diseases which, if not properly controlled, may have a serious adverse impact upon the livestock‑poultry industry of the State. Persons shall report the suspected existence of these diseases and the diseases listed by Section 71, Title 9, Code of Federal Regulations, to the State Veterinarian within forty‑eight hours after discovery.

HISTORY: 1994 Act No. 362, Section 1, eff May 3, 1994; 1995 Act No. 22, Section 3, eff April 4, 1995.

**SECTION 47‑4‑60.** Certificate of veterinary inspection; requirement for out‑of‑state livestock or poultry; quarantine of uncertified animals; exceptions.

 (A) Livestock or poultry entering this State must be accompanied by a certificate of veterinary inspection, unless otherwise indicated in this section.

 (B) The certificate of veterinary inspection must include:

 (1) complete names, addresses, and telephone numbers of the consignee and consignor;

 (2) complete description including age, sex, breed, and premise of origin;

 (3) permanent identification including, but not limited to, tag, tattoo, brand, leg band, registration name, or number;

 (4) statement that the livestock or poultry has been examined and is free from the symptoms of an infectious, contagious, or communicable disease or exposure to it;

 (5) results of specific tests or requirements indicated in law or regulation;

 (6) signature of the certifying accredited veterinarian;

 (7) approval by the livestock‑poultry health authority of the state of origin.

 (C) A certificate is valid for thirty days after the date of the inspection. A copy of the approved certificate, before departure of the consignment, must be forwarded to the commission.

 (D) The commission may prescribe additional tests and requirements necessary to ensure the continued health and well‑being of the livestock‑poultry industry of the State.

 (E) Livestock and poultry entering the State without a prior certificate or not otherwise authorized must be held in quarantine at the nearest suitable location while necessary tests or inspections, or both, are conducted. Alternatively, livestock and poultry loaded aboard their transporting vehicle may be allowed to return to its point of origin, with notification to the appropriate state veterinarian. Persons providing goods, services, premises, or tests for the quarantined livestock or poultry have a first lien upon the livestock or poultry for the reasonable value of the goods, services, premises, or tests.

 (F) The commission may promulgate regulations for the issuance of health permits.

 (G) Certificates are not required for animals consigned directly to slaughter establishments under appropriate provisions of federal law if an accredited veterinary inspector makes ante‑ and post‑mortem examinations in accordance with the regulations of the service.

 (H) The Director of the Division of Livestock‑Poultry Health may authorize equine interstate event permits that must include a certificate of veterinary inspection, animal identification, and a current negative Coggins test.

HISTORY: 1994 Act No. 362, Section 1, eff May 3, 1994; 1995 Act No. 22, Section 4, eff April 4, 1995; 2004 Act No. 302, Section 1, eff September 8, 2004.

**SECTION 47‑4‑70.** Quarantine of livestock or poultry; violation; penalty; segregation of animals; liens; abandoned animals.

 (A) When in the judgment of the commission a serious threat, or the potential for it, to the health of the state livestock‑poultry industry exists, it may impose an immediate quarantine upon the affected livestock or poultry, or both, or other means whereby the disease may be transmitted or take other appropriate measures. The owner, or his agent, of the livestock or poultry or alternatively the owner or operator of the facility where the livestock or poultry is located or the transport operator must be notified of the exact geographic limit of the quarantine, the means or facilities involved, the anticipated length of the quarantine, and tests or remedial measures known and required. The quarantine is effective as of the date and time of actual notice to the parties provided in this subsection and must be confirmed in writing. The quarantine may be released in writing only by the commission.

 (B) A person who moves or causes to be moved quarantined livestock or poultry from its quarantine location without prior written approval of the commission is guilty of a misdemeanor and, upon conviction, must be punished in accordance with Section 47‑4‑130.

 (C) An authorized representative of the commission may cause suspected diseased livestock or poultry to be segregated from healthy livestock or poultry and withheld from sale pending a final decision by an accredited veterinarian. Segregated animals must not be removed from the premise until the decision is made or other arrangements are made satisfactory to the commission.

 (D) The authority to quarantine extends to livestock and poultry contaminated by radioactivity or another cause or source which presents significant health hazard to humans or other livestock and poultry.

 (E) A person providing goods, services, tests, or premises for use by quarantined livestock or poultry has a lien upon the livestock or poultry for the reasonable value of the goods, services, tests, or use of premises.

 (F) Livestock or poultry quarantined for lack of proper health certification and not claimed by the consignor, consignee, or owner within ten days after notification of clearance is deemed to be abandoned and must be disposed of by sale at the next sale at the nearest market in accordance with standard market procedures. After satisfaction of all charges, liens, fees, or other costs, the balance of the proceeds must be held in escrow pending written agreement between the consignor, consignee, or owner or court order.

HISTORY: 1994 Act No. 362, Section 1, eff May 3, 1994.

**SECTION 47‑4‑80.** Condemned and destroyed livestock or poultry; indemnification of owner.

 (A) Livestock or poultry condemned and destroyed by order of the commission to preclude or prevent spread of disease, exotic or otherwise, are presumed to have been a public nuisance. However, this section does not apply to animals required or allowed to be sent to slaughter.

 (B) The owner of destroyed livestock or poultry, in an action against this State in an appropriate court for the county in which the livestock or poultry was destroyed, may recover just compensation for the value of the livestock or poultry destroyed if he establishes that the livestock or poultry destroyed was not infected with an infectious, communicable, or contagious disease and that destruction was not the only reasonable course of action.

 (C) Other indemnification must be paid in accordance with Article 3, Chapter 13 of this title if federal or state funds, or both, specifically appropriated for indemnification payments for a specific disease or condition are available. If in the judgment of the commission sufficient funds are not available, it shall effect pro rata indemnification.

HISTORY: 1994 Act No. 362, Section 1, eff May 3, 1994.

**SECTION 47‑4‑90.** Stop of livestock transport to check for proper documentation.

 A municipal, county, or state law enforcement officer or highway patrolman may stop and ascertain whether a conveyance transporting livestock or poultry by whatever means of transportation within the State has the proper certificate of veterinary inspection, permit, receipt, or other documents required by this title.

HISTORY: 1994 Act No. 362, Section 1, eff May 3, 1994.

**SECTION 47‑4‑100.** Penalty for illegal transportation of livestock or poultry; civil liability.

 (A) A person transporting livestock or poultry, or both, in violation of this title is guilty of a misdemeanor and, upon conviction, must be punished in accordance with Section 47‑4‑130.

 (B) A person transporting livestock or poultry, or both, in violation of this title is liable in a civil action to a person injured for the full amount of damages that may result for a violation of this chapter. The action may be brought in the county in which the animals are sold, offered for sale, or delivered to a purchaser or where they may be detained in transit for violation of this chapter.

HISTORY: 1994 Act No. 362, Section 1, eff May 3, 1994.

**SECTION 47‑4‑110.** Police power of commission members and agents; livestock law enforcement officers; employment, removal, duties; bond.

 (A) The members of the commission and their assistants, deputies, and agents have police power in executing this chapter and other sections and chapters assigned by law.

 (B) In addition to the other inspectors employed by the commission, it may employ a maximum of six livestock law enforcement officers who must be commissioned by the Governor upon the recommendation of the commission. The commission may remove an officer if it finds he is unfit for that position. The officer shall possess and exercise all of the powers and authority held by constables at common law, and while acting in their official capacity, they have statewide authority for the enforcement of all laws entrusted to the commission.

 (C) Before entering upon the duties of his office, each officer shall take and subscribe before an officer authorized to administer an oath to perform faithfully the duties of his office and to execute properly the laws of this State.

 (D) Each officer shall execute a bond with a licensed surety company in the amount of not less than ten thousand dollars. The bond must be filed with the commission and must be conditioned for the faithful performance of his duties, for the prompt and proper accounting of funds which may come into his hands, and for the payment of a judgment rendered against him in a court of competent jurisdiction upon a cause of action arising out of breech or abuse of official duty or power and damages sustained by a member of the public from an unlawful act of the officer. Coverage under the bond does not include damage to persons or property arising out of the negligent operation of a motor vehicle. The bond may be individual, schedule, or blanket and must be approved by the Attorney General. The premiums on the bond must be paid by the commission from appropriated funds.

 (E) Violations of those provisions of Title 47 assigned to the enforcement authority of the State Livestock‑Poultry Health Commission, the maximum punishment for which are within the jurisdictional maximum of the summary court, may be charged by use of the Uniform Traffic Ticket, pursuant to the provisions of Section 56‑7‑10. A violation of this section shall not subject the defendant's driving record to assessment of any points, nor shall the violation be considered by any insurance company for automobile insurance or merit rating system and recoupment purposes.

HISTORY: 1994 Act No. 362, Section 1, eff May 3, 1994; 1995 Act No. 22, Section 5, eff April 4, 1995; 2003 Act No. 54, Section 1, eff June 6, 2003.

**SECTION 47‑4‑120.** Inhibition of livestock inspection; penalty.

 A person who seeks to prevent an inspection under the direction of the commission or the director or his deputies, assistants, or agents or who otherwise interferes with the director or his assistants, deputies, or agents while in the performance of their duties under this chapter and other chapters or sections of this title assigned to the jurisdiction of the commission is guilty of a misdemeanor and, upon conviction, must be punished in accordance with Section 47‑4‑130.

HISTORY: 1994 Act No. 362, Section 1, eff May 3, 1994.

**SECTION 47‑4‑130.** Violation of provision of Title 47 is a misdemeanor; penalties; enforcement of commission regulations in court.

 (A) A person violating this chapter or another chapter or section of Title 47 assigned to the jurisdiction of the commission or related regulations is guilty of a misdemeanor and, upon conviction, must be fined not more than that amount authorized as the jurisdictional maximum for a summary court or imprisoned not more than that period of time authorized as the jurisdictional maximum for a summary court, or both, for a first offense and in the discretion of the court for a second offense.

 (B) The director, after opportunity for a hearing, may deny, suspend, modify, or revoke a permit for a violation of state or federal law or regulation or duly published requirements of the commission. In addition to denial, suspension, revocation, or modification of a permit or other penalties set forth in this chapter, the permittee who violates the provisions in subsection (A) may be assessed a civil penalty by the director of not more than one thousand dollars for each violation. Each day a violation continues constitutes a separate violation. The director may suspend a permit against which a civil penalty has been imposed if the permittee has not satisfied the penalty within thirty days after the permittee receives notification of the final decision of the director to impose the penalty. The permittee is entitled to a hearing on the suspension, but the suspension remains in effect pending the hearing and the decision of the director. Matters considered by the hearing officer are limited to whether a duly issued final order of the director existed, whether the permittee had notice of the final order, and whether the assessed penalty was paid within thirty days of the notice. A determination by the director is final unless within thirty days after the receipt of the notice of final determination the person adversely affected appeals to the Administrative Law Court as provided in Sections 1‑23‑380(B) and 1‑23‑600(D). The filing of a judicial appeal does not act as an automatic stay of enforcement of the suspension.

 (C) The commission may enforce its ordinances and regulations in a court of competent jurisdiction by civil as well as criminal proceedings. If it is necessary to issue a writ of injunction, no court in this State has the right previous to a trial upon the merits to set aside the writ on bond. The commission may utilize its own counsel or call upon the Attorney General or the appropriate solicitor, or all of the foregoing. The commission and its agents in the discharge of the duties and in the enforcement of the powers delegated in this chapter may administer oaths and hear witnesses, and to that end the sheriffs of the State shall serve all summons and other papers upon the request of the commission.

HISTORY: 1994 Act No. 362, Section 1, eff May 3, 1994; 1995 Act No. 22, Section 6, eff April 4, 1995; 2000 Act No. 290, Section 1, eff May 19, 2000; 2006 Act No. 387, Section 25, eff July 1, 2006.

Editor's Note

2006 Act No. 387, Section 53, provides as follows:

"This act is intended to provide a uniform procedure for contested cases and appeals from administrative agencies and to the extent that a provision of this act conflicts with an existing statute or regulation, the provisions of this act are controlling."

2006 Act No. 387, Section 57, provides as follows:

"This act takes effect on July 1, 2006, and applies to any actions pending on or after the effective date of the act. No pending or vested right, civil action, special proceeding, or appeal of a final administrative decision exists under the former law as of the effective date of this act, except for appeals of Department of Health and Environmental Control Ocean and Coastal Resource Management and Environmental Quality Control permits that are before the Administrative Law Court on the effective date of this act and petitions for judicial review that are pending before the circuit court. For those actions only, the department shall hear appeals from the administrative law judges and the circuit court shall hear pending petitions for judicial review in accordance with the former law. Thereafter, any appeal of those actions shall proceed as provided in this act for review. For all other actions pending on the effective date of this act, the action proceeds as provided in this act for review."

**SECTION 47‑4‑140.** Disposition of fines and fees.

 (A) Fines resulted from prosecutions under this chapter and other chapters or sections of this title assigned to the commission must be paid to the State Treasurer and deposited to the credit of the State Treasury.

 (B) The commission may establish a fee schedule for the various services provided by the commission. These fees must be retained by the commission and utilized in carrying out the mandates of this chapter and other requirements imposed by law.

HISTORY: 1994 Act No. 362, Section 1, eff May 3, 1994.

**SECTION 47‑4‑150.** Advisory committees.

 The commission by regulation may establish advisory committees which fairly reflect the particular portion of the industry being regulated as well as other concerned groups or agencies. The members of these committees serve at the pleasure of the commission. In nominating the members of the advisory committees the director shall consult with officials of representative trade associations, the Administrator of the South Carolina Department of Consumer Affairs, the Commissioner of Agriculture, and the Commissioner of the South Carolina Department of Health and Environmental Control. The committee members serve at no cost to the State.

HISTORY: 1994 Act No. 362, Section 1, eff May 3, 1994.

**SECTION 47‑4‑160.** Livestock and poultry regulation; local laws and ordinances preempted; exceptions.

 (A) For the purposes of this section, "care and handling" means accepted animal husbandry practices.

 (B) Units of local government in this State may not enact ordinances, orders, or other regulations concerning the care and handling of livestock and poultry.

 (C) It is the intent of the General Assembly to occupy the field of regulation of care and handling of livestock and poultry. All local laws and ordinances related to the regulation of and the enforcement of the care and handling of livestock and poultry in this State are preempted and superseded by laws enacted by the General Assembly and regulations promulgated by state agencies pursuant to those laws.

 (D) The provisions of this section do not apply to Chapter 45, Title 46 concerning nuisance suits related to agricultural operations, commonly referred to as the Right to Farm Act, and do not affect a local unit of government's authority to enact ordinances concerning new swine operations and new slaughterhouse operations.

 (E) The provisions of this section do not preclude or limit a unit of local government's right to exercise its land use and zoning authority.

HISTORY: 2009 Act No. 75, Section 1, eff June 16, 2009.

**SECTION 47‑4‑170.** Confidential information; exemptions.

 Information prepared, owned, used, submitted to, in the possession of, or retained by the commission or the State Veterinarian related to the exercise of its official duties pursuant to this chapter, including, but not limited to, certificates of veterinary inspection, animal medical records, laboratory reports, or other records that may be used to identify a person or private business activities subject to regulation by the commission is confidential and exempt from disclosure pursuant to Chapter 4, Title 30 unless the State Veterinarian determines that disclosure is necessary to implement the programs contained in this chapter or the State Veterinarian determines that disclosure is necessary to prevent the spread of animal disease or to protect the public health. Information prepared, owned, used, submitted to, in the possession of, or retained by the commission or the State Veterinarian related to the exercise of its official duties pursuant to this chapter concerning the receipt and expenditure of public funds and summaries of agency activities are not subject to the exemption from Chapter 4, Title 30 provided in this section.

HISTORY: 2012 Act No. 220, Section 2, eff June 7, 2012.