

COLORADO DEPARTMENT OF REGULATORY AGENCIES
OFFICE OF POLICY AND RESEARCH

REGULATION OF PUBLIC LIVESTOCK MARKETS AND LIVESTOCK SLAUGHTERERS

2000 SUNSET REVIEW
COMBINED SUNSET REVIEWS CONCERNING THE
LICENSING FUNCTIONS OF THE STATE BOARD OF
STOCK INSPECTION COMMISSIONERS



October 15, 2000

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado Department of Regulatory Agencies has completed the evaluation of the regulation of public livestock markets and livestock slaughterers. I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2001 Legislative Committees of Reference. The report is submitted pursuant to §24-34-104(8)(a), of the Colorado Revised Statutes (C.R.S.), which states in part:

"The department of regulatory agencies shall conduct an analysis of the performance of each division, board or agency or each function scheduled for termination under this section...

The department of regulatory agencies shall submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination . . ."

The report discusses the question of whether there is a need for the regulation provided under Article 55 of Title 35 and Article 11 of Title 12, C.R.S.

Sincerely,

M. Michael Cooke
Executive Director

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Background

Overview of the Livestock Industry

Agriculture in general, and the livestock industry in particular, contribute significantly to Colorado's economy. According to the Colorado Department of Agriculture, cash receipts are over \$4.4 billion, with 69% accredited to livestock operations. Colorado's top ten farm and ranch products are: cattle and calves, corn, wheat, dairy products, hogs and pigs, hay, greenhouse-nursery, sheep and lambs, potatoes, and sugar beets.

Livestock production of cattle can be divided into four principal stages according to the growth phase of the cattle: cow-calf production; stocker feeding; cattle feeding; and fed cattle slaughter and beef packing. The vast majority of producers are cow-calf operators who breed cows for the production and sale of young steers and heifers. Stocker-feeder operators raise calves until they mature. Cattle-feeding operators then take over the fattening of cattle for several months until they are ready for slaughter. Highly specialized commercial feedlots with annual capacities of more than a thousand head of cattle handle most of the feeding. Feedlot operators may either purchase directly the cattle they fatten, or custom-feed cattle for others, such as cow-calf producers and beef-packing firms. Since the 1940s and 1950s, commercial cattle feeding has evolved rapidly as producers have sought to increase the output of their herds by increasing the weight of their cattle. At the end of the feeding stage, the cattle owners sell the fed cattle either directly to a beef-packing firm, or to an agent acting on behalf of the beef-packing firm. Most of the large firms both slaughter the fed cattle and cut the carcasses into large sections, which are then packaged into boxes for shipping, hence the name "boxed beef". Appendix A illustrates these stages.

Total U.S. consumption of beef increased nine percent, from about 24.3 billion pounds to nearly 26.6 billion pounds--between 1993 and 1998--the most recent year for which the United States Department of Agriculture has compiled such data. During this same period, the amount of beef the United States imported increased ten percent, from 2.4 billion pounds to 2.6 billion pounds. It is important to keep in mind that some of the increase in meat consumption is attributable to natural population growth.

The Meat Inspection Act of 1906 signaled the real beginning of domestic meat inspection in the United States. The Act began a system of continuous veterinary inspection in slaughterhouses. It called for mandatory inspection of all meat and meat products moving in interstate commerce. It required before slaughter and after slaughter inspection of cattle, hogs, sheep, and goats. It established sanitary standards for slaughter and processing facilities. The inspection workforce in packing plants became a team of inspectors specifically trained to separate abnormal animals before and after slaughter. Veterinarians with advanced training in inspection further examined the separated animals and carcasses and made final dispositions. Veterinarians also collected tissues for laboratory examination, prepared records and submitted reports.

Public Livestock Markets

In Colorado, oversight of public livestock markets began in 1937 with the regulation of livestock sale rings. The State Board of Stock Inspection Commissioners (Board) has possessed regulatory jurisdiction over the licensing of public livestock markets since that time. The administrative arm of the Board is the Brand Inspection Division (Division) of the Colorado Department of Agriculture.

Today, the Division administers more than 37,000 livestock brands to identify ownership of cattle, sheep, mules, burros, horses, elk, and fallow deer. Brand inspection is crucial to verify ownership in cases of strayed or stolen livestock, and animal health programs are strengthened by the ability to trace animals to their herd of origin.

In 1998-99, Division personnel traveled in excess of 1.4 million miles and inspected approximately 5.1 million head of livestock. The Division conducted 56,000 horse inspections and issued permanent horse travel permits. In recent years, the Brand Division has concentrated on educational programs, which teach brand law and theft prevention to the public and law enforcement agencies. Seventeen such classes were offered across Colorado in 1998-99.

As shown in Appendix A, public livestock markets are an important link in the marketing chain. There are 34 public livestock markets distributed throughout the state of Colorado. These are listed in Appendix B. Public livestock markets contribute to food safety, and serve to establish acceptable meat prices for consumers.

Livestock Slaughterers

For the most part, before meat products arrive at supermarket shelves, they are processed by meatpackers, also known as slaughterers. There are about 80 licensed slaughterers of varying size distributed throughout Colorado as depicted in Appendix C. Oftentimes, these are in the proximity of feedlots and public livestock markets.

Twenty-five years ago, most cattle slaughter plants were “carcass” plants, selling whole or half carcasses to other meat processors and retailers who then separated the carcasses into retail cuts of meat. Then, as now, the whole animal was used. The plants shipped hides, bonemeal, internal organs, blood, and trimmings. These byproducts, separated from carcasses during the slaughter process, were used to make clothing, sporting goods, pharmaceuticals, animal feeds, and food products. Since the 1970s, however, slaughter plants have expanded into the further processing of carcasses, cutting them up into “boxed beef” and ground beef products.

Today’s largest cattle slaughter plants operate in a limited geographical area: Nebraska, Kansas, the Texas Panhandle, and eastern Colorado. These plants typically slaughter 4,000 to 5,000 cattle a day, and also process carcasses into smaller cuts, which are then distributed directly to wholesalers and retailers. In boxed beef production, carcasses are chilled at the slaughter plant for a short while, then moved onto a “fabrication” line where they are cut into wholesale and retail cuts of meat, vacuum-wrapped, packed in boxes, and shipped. Increasing volumes of beef are exported, typically to Asia. Boxed beef bound for these markets is usually shipped by truck or rail from the plants to West Coast ports for shipment.¹

¹ *Consolidation in U.S. Meatpacking*, available on www.econ.ag.gov/epubs

Summary of State and Federal Statutes and Regulations

Colorado's Law Concerning Public Livestock Markets (Article 55 of Title 35)

Article 55 of Title 35 of the Colorado Revised Statutes is the primary statute that governs public livestock markets in Colorado. A "public livestock market" means any place, establishment, or facility, commonly known as a livestock market, conducted or operated for compensation or profit as a public livestock market, consisting of pens, or other enclosures, and their equipment, in which live horses, mules, cattle, burros, swine, sheep, goats, and poultry are received, held, or assembled for either public or private sale. The person, partnership, or corporation owning or controlling premises defined as a public livestock market is compensated for the use of the premises and the services performed in handling the livestock in connection with the sale.² Public livestock markets may also be known as public livestock auctions, livestock rings, and sales barns.

Section 35-55-102 of the Colorado Revised Statutes sets out the licensing requirements for any person, partnership, or corporation wishing to establish and operate a public livestock market in Colorado. Upon written application listing all persons having a financial interest in the business, as well as a legal description of the property and its location, applicants must meet the following primary requirements:

- Proof of financial responsibility in the form of a statement of all assets and liabilities.
- Proof of ownership or lease of not less than six thousand square feet of holding pens including ample sorting and handling alleys, not less than ten feet wide with at least three gates in each alley that will fasten across the alley; ample pens and sheds for holding and handling sheep and hogs; and at least two adequate-sized pens with connecting alley and usable chute for use by state and federal livestock sanitary inspectors.
- The use of forms approved by the state board of stock inspection commissioners for consignment cards, consignors' accounts on sale, buyers' settlement sheets, and bills of sale to the purchaser.

² § 35-55-101, C.R.S.

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- Operation of the livestock market on the day of the week designated by the board.
 - Proof of the ability of the applicant to comply with the federal "Packers and Stockyards Act", as amended.

Additionally, there is a bond requirement for those wishing to operate a public livestock market in Colorado. The purpose of the bond is to furnish compensation to any person or corporation that may suffer loss or damage from violations of the act, provided that the aggregate liability of the surety for all such losses or damages does not exceed the amount of the bond. Section 35-55-104, C.R.S. stipulates that

No license or renewal of license to establish a public livestock market within the state of Colorado may be issued until the applicant has filed evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, C.R.S., or executed and delivered to this state a surety bond approved and accepted by the state board of stock inspection commissioners upon a form prescribed by the state board. The bond shall be in a penal sum of not less than twenty-five thousand dollars, the amount to be determined by the state board based upon the dollar volume of the business, and shall be issued by a surety company approved by the state board of stock inspection commissioners. Said bond shall be conditioned upon the prompt payment to the rightful owner, upon sale of the livestock so consigned and delivered to the licensee for sale, of all moneys received, less reasonable expenses and agreed commissions chargeable by the licensee and operator of the public livestock market, and also upon full compliance with all of the terms and requirements of this article. When so approved, said bond shall be filed with the state board.

Public livestock markets that have registered and posted a bond under the Packers and Stockyards Act, 1921, as amended, are exempt from this requirement if the bond also guarantees payment of all brand and sanitary inspection fees payable to the state of Colorado.

Section 35-55-112 of the Colorado Revised Statutes sets out the state's brand inspection requirements. Upon entering a public livestock market, all cattle, horses, mules, and burros must be inspected for iron brands, earmarks, and other identifying characteristics before being offered for sale. A consignor must produce a bill of sale signed by the registered owner of the brands, or an account of sale showing the brands, including those for consigned livestock with no brands. The brand inspector in charge may, in justifiable circumstances, permit the sale of cattle, horses, mules, or burros whose ownership is questionable and then proceed to impound the proceeds of the sale of such animals. After any livestock are consigned to any public livestock market, they must be held and treated as if the ownership has not been established, until a proper bill of sale or account of sale is produced by the consignor. Such inspections must be made by authorized brand inspectors, and a fee per head in the amount prescribed by the board must be withheld from the consignor's proceeds of sale by the market operator and paid to the board for brand inspection.

The authorized brand inspector making the inspection and collecting the fees prescribed must issue an official brand inspection certificate in duplicate, one copy to be the property of the owner or operator of the auction market. This documentation establishes the authority for a public livestock market to issue a bill of sale to the purchaser of any livestock sold or disposed through the market. The original brand inspection certificate must be delivered to the office of the State Board of Stock Inspection Commissioners.

Discipline of Licensees (§ 35-55-107, C.R.S.)

Any violation of the Article 55 of Title 35 or any rule promulgated by the State Board of Brand Inspection Commissioners is deemed sufficient cause to revoke, suspend, or make probationary any license. More specifically, the more serious violations include:

- A finding by the State Board of Stock Inspection Commissioners that a licensee has been guilty of fraud or misrepresentation concerning brands, title, ownership, advertising, or in obtaining a livestock market license.

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- A finding by the board that the licensee is guilty of buying, receiving, or offering for sale any livestock known by him to be diseased or to have been exposed to infectious or contagious disease.
 - A finding by the board that the licensee has failed or refused to engage in sanitation and inspection practices of vehicles and premises used in the stabling, yarding, housing, holding, or transporting of animals.
 - A finding by the board that the licensee has neglected or refused to keep records and forms of consignment cards, consignors account of sale, and buyers account of sale and bill of sale, or fails or refuses to permit inspection of such records by any authorized agent of the board.
 - A finding by the board that the licensee has failed or refused to withhold sale proceeds of any livestock designated by the authorized brand inspector as livestock of which the title is questionable, or if the board finds that the licensee has failed or refused to transmit promptly, after the expiration of thirty days, the proceeds of all livestock to which ownership has not been established.
 - A finding by the board that the licensee has issued a company account of purchase which establishes ownership of, or transfers title to any cattle, horses, or mules which have not been inspected for brands and ownership or title verified by an authorized Colorado brand inspector immediately prior to or, on the licensee's market day.

The State Board of Brand Inspection Commissioners may issue letters of admonition, employ administrative law judges, and conduct hearings. In addition, the board is empowered to summarily determine whether new applicants are in compliance with requirements, or whether there is probable cause to deny licensure based on a violation of existing grounds for discipline.

Colorado's Law Concerning Livestock Slaughterers
(Article 11 of Title 12)

Article 11 of Title 12 of the Colorado Revised Statutes governs the licensing of livestock slaughterers. The five-member State Board of Stock Inspection Commissioners (Board) has regulatory authority over livestock slaughterers.

Colorado law requires every person engaged in the trade or business of a slaughterer of livestock to obtain a license from the Colorado Department of Agriculture and to pay an annual license fee. The fee may be based on the number of animals slaughtered during the previous calendar year based on departmental records or the records of the applicant. Applicants are required to maintain accurate records and to keep them for a period of two years. Licenses are not transferable to lessees.³ Cattle fed by packers, either in their individual feedlots or in commercial feedlots, are subject to the statute's provisions.⁴

Any cattle or horses purchased for slaughter in Colorado from any source are required to be inspected for brands and other identifying marks, and a certificate must be issued by a brand inspector at the point of origin. Alternatively, the packer purchasing cattle or horses must hold the non-inspected cattle or horses separately, and be responsible for the value of the cattle or horses and the brand inspection tax until inspected and a certificate issued by a Colorado brand inspector.⁵

Another important provision of the Act requires licensees to file with the board evidence of financial responsibility in the form of an approved financial instrument of not less than two thousand dollars. The purpose of such moneys is to provide relief in the case of loss or damage arising out of the slaughterer business, especially the failure to keep a true and faithful record of all brands and marks of livestock, or bills of sale. An exception to this requirement exists for those who are registered under the federal "Packers and Stockyards Act, 1921," as amended, if the bond required under the federal law also guarantees payment of all brand and sanitary inspection fees due to the State of Colorado.⁶

³ §12-11-101(1)(a), C.R.S.

⁴ §12-11-111(3), C.R.S.

⁵ §12-11-111(1), C.R.S.

⁶ §12-11-101(1)(d), C.R.S.

In addition, licensees are required to:

- Maintain an established place of business.
- Provide a bill of sale which gives a complete description of each animal sold or purchased, including the date and place of acquisition.
- Keep for inspection for a period of thirty days the hide and horns of each animal slaughtered, unless exempted by a regular or special brand inspector.
- Decline for storage any part of a carcass unless each hide has been inspected and all meat stamped, if required, by the brand commissioner.
- Not to mix inspected and non-inspected cattle.
- Not to slaughter animals on the open range.⁷

The State Board of Stock Inspectors can investigate possible violations on the basis of a complaint or other reasonable grounds, and may employ an administrative law judge to conduct disciplinary hearings.⁸

The discipline of licensees is accomplished by the Department of Agriculture by exercising control over license administration, including suspension or revocation of a license. Grounds for disciplinary action include violation of the article, rules, or regulations; conviction of a felony related to the slaughterer industry; and adverse disciplinary action by another state or under the "Packers and Stockyards Act, 1921," as amended, provided that the same conduct would also have been a violation of Colorado law.⁹

⁷ §12-11-101(1), C.R.S.

⁸ §12-11-101(3), (4), C.R.S.

¹⁹ §12-11-101(2), C.R.S.

Other Relevant Colorado Law

Several Colorado statutes impact the livestock slaughterer industry. The most relevant for purposes of this report are the Slaughter, Processing, and Sale of Meat Animals Act (Article 33 of Title 35, C.R.S.), and the Inedible Meat Rendering and Processing Act (Article 59 of Title 35, C.R.S.).

Slaughter, Processing, and Sale of Meat Animals Act

The General Assembly in its legislative declaration states that the purpose of the Slaughter, Processing, and Sale of Meat Animals Act is:

To regulate the slaughter, processing, and sale of certain animals intended for human consumption. The General Assembly finds that the production, processing, sale, and consumption of meat animals plays an important part in the economy of this state and that to maintain the integrity of this industry and to protect the public health and welfare it is essential that the slaughter, processing, and sale of these animals occur in a safe, sanitary, and non-deceptive manner. It is therefore necessary to provide for the regulation of the slaughter, processing, and sale of meat animals.¹⁰

The Colorado Department of Agriculture is the agency authorized to establish rules and standards for the construction, operation, and sanitation of all meat processing facilities. Regulatory authority extends to containers, packaging materials, mobile slaughter units, slaughter rooms, processing rooms, chill rooms, and storage and locker rooms necessary for the proper preservation of food. In addition, the department has the mandate to protect public health from deception, fraud, or unethical sales practices.¹¹

¹⁰ §35-33-102, C.R.S.

¹¹ §35-33-104, C.R.S.

The statute provides for the licensing of food plan operators, locker plants, and meat processing facilities. "Food plan" is the soliciting, negotiating, sale, or delivery of meat or meat products and frozen foods to consumers in package form. It includes scheduled delivery to any type of freezer unit or facility, as well as the sale, lease, or rental of any freezer unit in conjunction with the sale of food. "Food plan operator" means any person, firm, or corporation, other than a processor or a locker plant operator, engaged in the business of soliciting, negotiating, or making sales of food plans. "Locker plant" means a location or establishment in which space in individual lockers is rented for the storage of frozen food. "Meat processing facility" or "processing facility" means any establishment where meat is slaughtered, dressed, processed, cut, trimmed, wrapped, or packaged for delivery to consumers.¹²

On the other hand, certain entities are exempt from the licensing and bonding requirements of the Slaughter, Processing, and Sale of Meat Animals Act, including those licensed under Article 11 of Title 12, C.R.S. (slaughterers); retail grocery stores in which 75 percent or more of the business results from retail sales of products other than bulk meat; any person who holds an establishment number issued by the United States Department of Agriculture for purposes of inspection and does not sell meat products at the retail level, or engage in the custom processing of meat animals; and any religious practice involving the ritual slaughter, handling or preparation of meat animals.¹³

Inedible Meat Rendering and Processing Act

Article 59 of Title 35 of the Colorado Revised Statutes makes it unlawful for any person to knowingly add to, mix with, or otherwise substitute any inedible meat for food intended to be used for human consumption or to knowingly give, serve, sell, or offer for sale or to knowingly cause to be given, served, sold, or offered for sale any inedible meat intended to be used for human consumption.¹⁴ "Inedible meat" means meat and meat products derived from dead, dying, disabled, diseased, or condemned animals, or animals whose meat or meat products are otherwise unsuitable for human consumption, and includes meat or meat products, regardless of origin, which have deteriorated so far as

¹² §35-33-103, C.R.S.

¹³ §35-33-107, C.R.S.

¹⁴ §35-59-113, C.R.S.

to be unfit for human consumption.¹⁵ "Rendering" means the method by which the bodies of dead animals, their carcasses, or portions are melted down and the fat or grease extracted.¹⁶

Entities wishing to operate a meat disposal plant or transportation service must be licensed by the Colorado Department of Agriculture. Each license is good for a year and applies to a single, specific disposal plant or transportation service. Licensees are subject to monthly inspections each year. Key conditions for licensure include

- Whether the place where a disposal plant is to be conducted is a suitable and sanitary place to dispose of the bodies, carcasses, and parts of animals as evidenced by its conformity with promulgated rules and regulations.
- Whether all vehicles used in transporting dead animals are so constructed that they can be kept clean of blood and other carcass matter; and
- Whether adequate spraying and disinfecting facilities and equipment are available at all times.¹⁷

Federal Programs and Law

Federal oversight of the livestock industry rests primarily with the Department of Justice and the U.S. Department of Agriculture. The Federal Trade Commission also has some overlapping responsibilities. The Commission's jurisdiction over the meat packing industry is limited by statute, which excludes from its coverage any activities subject to the Packers and Stockyards Act. The Packers and Stockyards Act assigns responsibilities regarding the non-retail segments of the meat industry to the USDA, and assigns responsibilities to the Commission only with respect to the retail segment of the meat industry.

¹⁵ §35-59-102(6), C.R.S.

¹⁶ §35-59-102(10), C.R.S.

¹⁷ §35-59-106(b)(d)(e), C.R.S.

The FTC may exercise jurisdiction over unfair methods of competition in the non-retail segment of this industry only in two circumstances. First, the FTC may investigate or report on the non-retail segment of this industry for the USDA if expressly requested to do so by the USDA. Second, the FTC may investigate or take action against non-retail violations if (a) the Commission determines that its ability to exercise its enforcement authority regarding the retail meat industry would be impaired if it does not investigate the non-retail segment of the market, and (b) USDA is not already investigating or otherwise proceeding in the matter. The Department of Justice has no comparable limitations on its antitrust authority in the non-retail aspects of the meat industry.

The President's Food Safety Initiative of 1997 instructed key federal food safety agencies to cooperate to improve the safety of the nation's food supply. Currently, at least 12 federal agencies have significant food safety responsibilities, including USDA,¹⁸ Health and Human Services,¹⁹ Environmental Protection Agency, Commerce, and the Department of Defense. A 1997 report to the President outlined research and educational priorities and a need for further coordination. The President created the Council on Food Safety, co-chaired by the Secretary of Health and Human Services, the Secretary of Agriculture, and the Director of the White House Office of Science and Technology Policy. The Council is developing a food safety strategic plan with coordinated budget requests.²⁰

Federal Law Concerning Public Livestock Markets

The term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted, operated, or managed for profit or nonprofit as a public market for livestock producers feeders, market agencies, and buyers, consisting of pens, or other enclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce.²¹

¹⁸ More specifically: FSIS; Cooperative State Research, Education and Extension Service; Agricultural Research Service; Economic Research Service; and the Office of Risk Assessment and Cost Benefit Analysis.

¹⁹ More specifically: Food and Drug Administration; National Institutes of Health; and the Centers for Disease Control & Prevention.

²⁰ www.fsis.usda.gov/oa/pubs/futurevet.htm, p.16.

²¹ Sec. 302.(a).

The U.S. Secretary of Agriculture ascertains from time to time, the stockyards which come within the definition of "stockyard." The Secretary furnishes a notice of compliance to the stockyard owners concerned and makes public the notice by posting copies in the stockyard, or by other means. After the giving of such notice to the stockyard owner and to the public, the stockyard remains subject to the provisions of the Act until the Secretary determines that the definition of "stockyard" is no longer being met (7 U.S.C. 202).

The key provisions of the Act that apply to public livestock markets are:

- No person shall carry on the business of a market agency or dealer at such stockyard unless he has registered with the Secretary, including his name and address, the character of business in which he is engaged, and the kinds of stockyards services, if any, which he furnishes at such stockyard.
- Every stockyard owner and market agency must file with the Secretary, and print and keep open for public inspection, schedules showing all rates and charges for stockyard services. Furthermore, all rates or charges levied for any stockyard services must be *just, reasonable, and nondiscriminatory*.
- Each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession, deliver to the seller the full amount of the purchase price.

Any person complaining of anything committed or omitted to be done may, at any time within ninety days of the alleged violation, petition the Secretary for remedy. State livestock commissioners or other agencies may also lodge such complaints.

Federal Law Concerning Slaughterers

The USDA administers the Packers and Stockyards Act, 1921, as amended. The purpose of this federal statute is to provide oversight of stockyards, market agencies, dealers, and meatpackers. The term "packer" means any person engaged in the business of buying livestock in commerce for purposes of slaughter; manufacturing or preparing meats or meat food products for sale or shipment; marketing meats, meat food products, or livestock products in an unprepared form acting as a wholesale broker, dealer, or distributor in commerce.²² The Act notes that

A burden on and obstruction to commerce in livestock is caused by financing arrangements under which packers encumber, give lenders security interest in, or place liens on, livestock purchased by packers in cash sales, or on inventories of or receivables or proceeds from meat, meat food products, or livestock products therefrom, when payment is not made for the livestock and that such arrangements are contrary to the public interest.²³

The key provisions of the Act that apply to packers are:

- A prohibition against unfair, discriminatory, or deceptive practices and devices.
- A prohibition against unreasonable preferences to any particular person or locality.
- A prohibition against selling or otherwise transferring any article if such apportionment has the tendency of restraining commerce, creating a monopoly, or controlling prices.
- Conspiring, combining, agreeing, or arranging with any other person unlawful conduct under the Act.²⁴

²² 7 U.S.C. 191.

²³ Sec. 206 (a).

²⁴ Sec. 202.

Whenever the U.S. Secretary of Agriculture has reason to believe that any packer has violated or is violating the Act, the Secretary may file and serve a written complaint on the packer, stating the charges and requiring the packer to attend and testify at a hearing subject to usual due process requirements. The Secretary may also assess a civil penalty of not more than \$10,000 for each such violation.

Federal, state, and local agencies cooperate with enforcement activities. Because partnering encourages the sharing of technical and budgetary resources, the development of common interests and goals and the opportunity to share information and work together, partnerships will be significantly expanded in the future. The broader functions will include a more seamless, coordinated food safety system beginning at animal production, extending through transport, holding facilities, slaughter and processing, distribution and wholesaling, to final food preparation and consumption. One of the most important outcomes of successful partnerships is improved educational outreach efforts to small business producers and processors as well as consumers.²⁵

Summary of Rules and Regulations

The Colorado Department of Agriculture has promulgated a comprehensive set of rules and regulations dealing with slaughterers and public livestock markets, including regulations for brand inspection, transportation of livestock, and veterinary inspection.²⁶

One rule exempts licensees from having to obtain a brand inspection when cattle are purchased at a licensed public livestock market and taken directly to a packinghouse for slaughter. Similarly, when cattle are purchased directly from a feeder and are inspected at the point of origin and the inspection fee has been paid, brand inspection is not required.

²⁵ www.fsis.usda.gov/oa/pubs/futurevet.htm, p.16.

²⁶ Contained in 8 CCR 1205 and available on http://www.ag.state.co.us/ag_crr/ag_crr.html

At least two rules address financial matters. All public livestock districts that have full-time brand inspectors must have available bank accounts for the board to deposit inspection fees and estray proceeds. Another rule addresses in some detail the information that must be included in a bill of sale (this document establishes title to an animal). For example, the cost, weight, description, and brand (or no brand) of an animal must be included in the bill of sale.

Program Description and Administration

In Colorado, the State Board of Stock Inspection Commissioners through the Brand Inspection Division of the Colorado Department of Agriculture has regulatory authority over public livestock markets and slaughterer facilities. The board is comprised of five members appointed by the Governor. Persons who represent the production or feeding of cattle and sheep are eligible, provided that at least one member of the board is an operator of a cattle feedlot and no two members are from the same section of the state.

The division is assigned five principal regulatory responsibilities: to record and administer livestock brands; inspect livestock and verify ownership before sale, transportation beyond 75 miles, or slaughter; inspect and license packing plants, livestock sale rings, and inspect all consignments before sale to verify ownership; license and inspect alternative livestock (elk and fallow deer) facilities; and prevent and return strayed or stolen livestock and investigate reports of lost or stolen livestock. In addition, brand inspectors collect beef promotion and research funds, as well as Colorado Horse Development Authority horse promotion funds. The division is also the trustee for all surety bonds issued to licensed markets and packinghouses doing business in Colorado.

The division employs 65 brand inspectors located throughout the state, eight brand foremen, and nine administrative personnel, including the Brand Commissioner. The annual budget for the division exceeds \$3 million and is completely funded by fees levied to livestock owners and brand registration fees levied every five years.

The board views its primary mission as the verification of ownership of the animals that go to slaughter and those offered for sale at public livestock markets. Brand inspectors assess a 40-cent inspection fee per animal, which is absorbed by the seller. One of the ancillary benefits of brand inspection is the ability to trace animals to their herd of origin to prevent the spread of infectious diseases.

Table 1 depicts the main elements of brand inspection across ten years. The top set of numbers per row lists the number of cattle per category, while the bottom set of numbers lists the dollar amount for each category and fiscal year.

TABLE 1: Brand Inspection Outcomes by Fiscal Year

Number of Cattle	FY 89-90	FY 90-91	FY 91-92	FY 92-93	FY 93-94	FY 94-95	FY 95-96	FY 96-97	FY 97-98	FY 98-99
Estray animals held at licensed markets for proof of ownership	1740 \$783,000	1658 \$746,100	31901 \$14,355,450	1452 \$653,400	1695 \$762,750	1629 \$733,050	1308 \$588,600	1916 \$862,000	2050 \$922,500	2000 900,000
Estray animals held at licensed markets and proceeds returned to owner	347 \$156,150	4519 \$2,033,550	198 \$89,100	144 \$64,800	133 \$59,850	156 \$70,200	138 \$62,100	248 \$111,600	236 \$106,200	405 \$182,250
Estray animals held at licensed markets and proceeds returned to board	66 \$29,700	819 \$368,550	57 \$25,650	47 \$21,150	60 \$27,000	89 \$40,050	74 \$33,300	73 \$32,850	74 \$33,300	89 \$40,050
Total animals inspected	1,221,231	1,065,850	1,009,025	1,093,655	1,062,498	1,069,410	1,019,570	1,140,811	1,006,439	\$983,476

In terms of mission outcomes, perhaps the most important category is “estrays animals held at licensed markets and proceeds returned to owner.” The average number of animals held in trusteeship for the period under consideration was 652 at an estimated value of \$293,580. The proportion of total estrays in relation to the total number of animals inspected was 1% for the same period.

A review of bond claims against Colorado public livestock markets for the period 1990 to 2000 revealed a total of four claims. Of these, two were not paid and one was still pending at the time of writing. The claim that was paid involved a market that went out of business. Similarly, the 1990 Sunset Review of Public Livestock Markets reported that there had been only two claims against the bonds of market owners in the five years preceding the review. Of the latter two claims, the amount of loss was small in one case, and in the other case, the claim was larger than the bond and only approximately 20 percent of the total moneys were paid. In other words, over a period of 15 years there have been a total of six claims against bonds with mixed results in terms of the remedy bonds are designed to provide.

By way of comparison, the slaughterer licensing function is smaller in scope. The Brand Division conducted 784 inspections of slaughterer facilities over a ten year period. A total of three disciplinary actions were taken from FY 89-90 to FY 98-99: two licenses were revoked and one letter of admonition was issued.

Appendix B depicts the number and location of licensed public livestock markets in Colorado, while Appendix C depicts licensed slaughterer facilities.

Issues Raised by Stakeholders

Based on our discussions with the State Board of Brand Inspection Commissioners and its staff, in their opinion no programmatic or statutory changes are necessary for purposes of this sunset review of public livestock markets. This view was echoed by a senior departmental official. We also met with members and representatives of the Colorado Cattlemen’s Association. In short, no specific proposals or requests were advanced to the Office of Policy and Research.

Analysis and Recommendations

Recommendation 1 - Continue the Public Livestock Market Licensing Functions of the State Board of Stock Inspection Commissioners.

The public livestock market licensing functions of the State Board of Stock Inspection Commissioners are subject to termination on July 1, 2001.²⁷ Continuation of these licensing functions is contingent upon a sunset review as provided for in §24-34-104, C.R.S.

Given the historical reliance of Colorado's livestock industry on the State Board of Stock Inspection Commissioners, the board's contribution to public health and safety, as well as the complementary nature of state regulation in relation to the corresponding federal regulatory scheme, the public livestock market licensing functions of the board should be continued to July 1, 2010. More specifically, the board operates in the public interest by enhancing public health, especially food safety, as a direct result of veterinary inspections conducted at public livestock markets. The board also contributes to the effectiveness of public livestock markets because state oversight raises the level of trust between buyers and sellers who come together to do business.

Consequently, the public livestock market licensing functions of the State Board of Stock Inspection Commissioners should be continued given that these are the most cost-effective means of gaining public protection benefits, as well as oversight over the livestock industry, which as noted earlier in this report, is critical to Colorado's economy.

Recommendation 2: Continue the Slaughterer Licensing Functions of the State Board of Stock Inspection Commissioners.

The slaughterer facility licensing functions of the State Board of Stock Inspection Commissioners are subject to termination on July 1, 2001.²⁸ Continuation of these licensing functions is contingent upon a sunset review as provided for in §24-34-104, C.R.S.

²⁷ §35-55-119, C.R.S. and §12-11-114, C.R.S. respectively.

²⁸ §35-55-119, C.R.S. and §12-11-114, C.R.S. respectively.

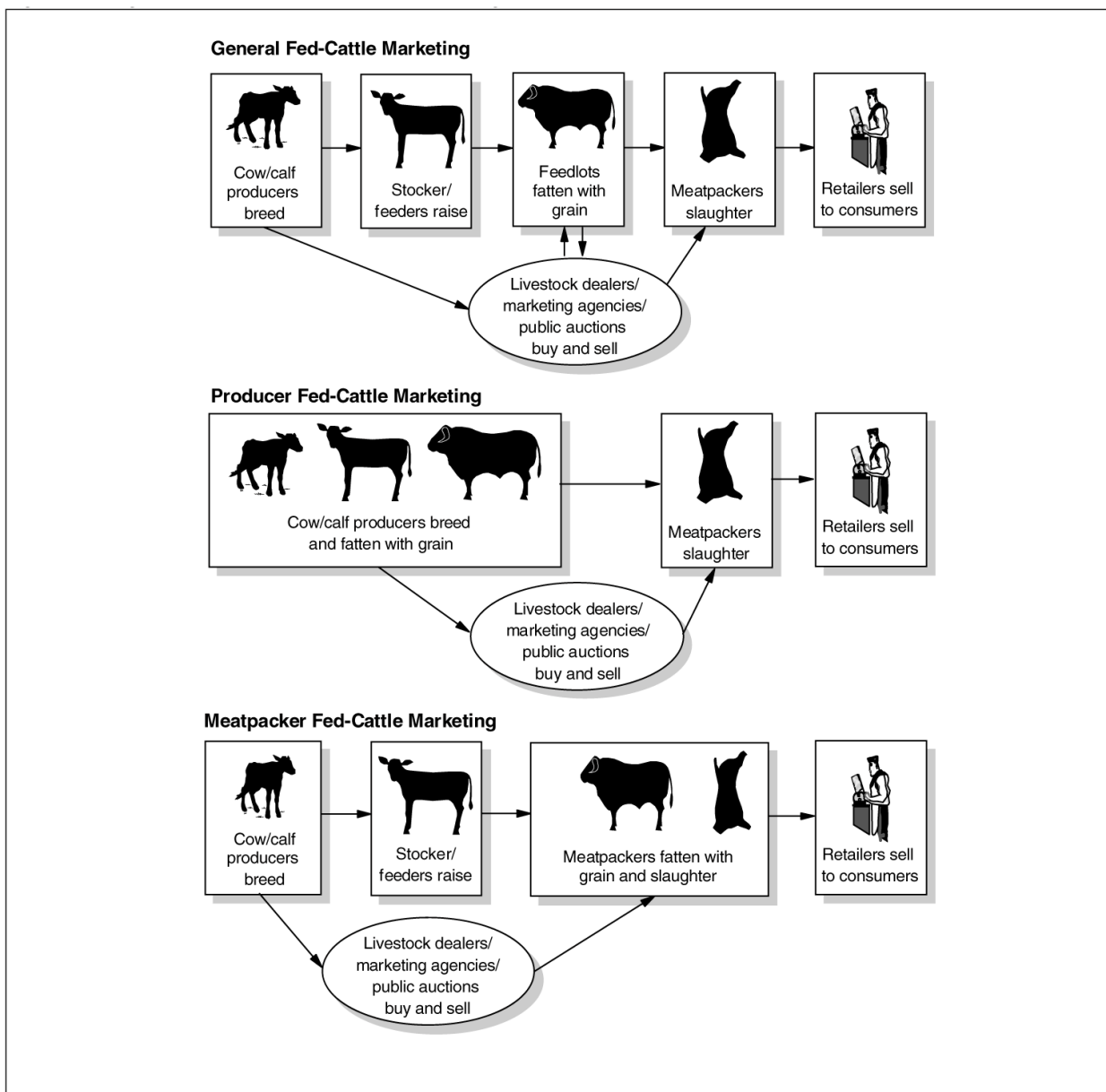
Given the historical reliance of Colorado's livestock industry on the State Board of Stock Inspection Commissioners, the board's contribution to public health and safety, as well as the complementary nature of state regulation in relation to the corresponding federal regulatory scheme, the slaughterer facility licensing functions of the board should be continued through 2010. The board governs the licensing of slaughterer facilities in Colorado and may revoke licenses or take other disciplinary action against licensees who are in violation of applicable Colorado law.

Consequently, the slaughterer facility licensing functions of the State Board of Stock Inspection Commissioners should be continued given that these are the most cost-effective means of gaining public protection benefits, as well as oversight over the livestock industry, which is very important to Colorado's economy.

Conclusion

The State Board of Stock Inspection Commissioners operates in the public interest, especially with regard to its role in food safety and stabilizing influence on public livestock markets. We conclude therefore that the slaughterer and public livestock market licensing functions of the State Board of Stock Inspection Commissioners should be continued.

Appendix A - Stages of Livestock Production and Marketing



**Appendix B -
Public
Livestock
Markets of
Colorado
May, 2000**

Name	Location	Type of Sales
1. Brush Livestock of Colorado	Brush, CO	Cattle, horses, dairy
2. Burlington Livestock	Burlington, CO	Cattle, special sales
3. Calhan Auction Market	Calhan, CO	Cattle, horses
4. Cattles Auction Services	Grand Junction, CO	Special sales
5. Centennial Livestock Auction	Fort Collins, CO	Cattle, special sales
6. Colorado Draft Horse & Equipment Auction	Fort Lupton, CO	Horses
7. Canover Auction Service	Baxter, IA	2001 Stock Show
8. Cortez Livestock Auction	Cortez, CO	Cattle, special sales
9. Delta Sales Yard	Delta, CO	Cattle, horses, special sales
10. DigitalCattle.Com		Internet sales
11. Elk and Bison Co.	Paonia, CO	Special sales
12. Elk Echo Ranch	Stoneham, CO	Special sales
13. Fowler Livestock Exchange	Fowler, CO	Cattle sales
14. Hi-Country Cattle Co.	Durango, CO	Cattle, special sales
15. Rocky Mountain Roundup	Penrose, CO	Special sales
16. Horse Creek Sale Co.	Larkspur, CO	Horses, special sales
17. Ken Beck and Associates	Bayfield, CO	Special sales
18. Korrey Auctions	Iliff, CO	Special sales
19. LaJunta Livestock	LaJunta, CO	Cattle, special sales
20. Livestock Exchange, Inc.	Brush, CO	Cattle, special sales
21. Mile Hi Livestock Auction	Broomfield, CO	Horse, special sales
22. Monte Vista Livestock	Monte Vista, CO	Cattle sales
23. Mountain States Livestock	Silt, CO	Cattle, horses, special sales
24. Northwest Livestock Auction	Craig, CO	Horses
25. Producers Livestock Market Association	Greeley, CO	Cattle, special sales
26. Ranchland Livestock Auction, Inc.	Wray, CO	Cattle, special sales
27. Rocky Mountain Livestock	Salida, CO.	Cattle sales
28. Sterling Livestock Commission	Sterling, CO	Cattle sales
29. Superior Livestock Auction	Brush, CO	Cattle sales
30. Valley Livestock Auction Co.	Fruita, CO	Cattle, special sales
31. Western Slope Livestock	Montrose, CO	Cattle, special sales
32. Western Stock Show Association	Denver, CO	January 6 to 21, 2001
33. Wild Horse Auction	Ft. Collins, CO	Horse, special sales
34. Winter Livestock	LaJunta, CO	Cattle, horses, special sales

Note: Most "special sales" refer to special or custom scheduling of events.

Appendix C - Licensed Butcher & Slaughter Companies of Colorado

May, 2000

1. Arapahoe Packing, Inc.
Lafayette, CO.
2. Baker & Baker Custom
Slaughter
Fountain, CO.
3. Banes Custom Pack
Cortez, CO.
4. Barney's Custom Meat
Processing
Fruita, CO. (mobile).
5. Bob's Processing
Trinidad, CO.
6. Bonny Locker
Burlington, CO
7. Brush Locker & Brush
Packing Plant
Brush, CO.
8. Burlington Locker
Burlington, CO.
9. C & M Processing
Salida, CO.
10. Cannibal Canyon Custom
Meat
Marvel, CO.
11. Cedaredge Meats, Inc.
Cedaredge, CO.
12. Coleman Natural Products,
Inc.
Limon, CO.
13. Collbran Lockers
Collbran, CO. (stationary
and mobile).
14. Custom Quality Meat, Inc.
Craig, CO.
15. D & L Meat Co.
Ovid, CO.
16. D & R Locker Service
Eads, CO.
17. Dave's Processing & Wild
Games Meats
Montrose, CO. (mobile).
18. Deer Trail Locker
Deer Trail, CO.
19. Edwards Custom Meat
Dolores, CO. (mobile)
20. Elizabeth Locker Plant
Elizabeth, CO.
21. Engel Meat Packing
Wray, CO.
22. Excel Corporation
Fort Morgan, CO.
23. Fentiman's Freezer Meats
Loveland, CO. (mobile).
24. Fondis Packing Plant
Calhan, CO.
25. G & C Packing Co., Inc.
Colorado Springs, CO
26. Glynn's Processing
Alamosa, CO.
27. Grand Valley Slaughtering
(mobile)
Grand Junction, CO.
28. H & H Processing
Meeker, CO.
30. Hammer Packing & Meat
Processing
Yampa, CO.
31. Haxtun Locker Plant
Haxtun, CO.
32. Hi-Country Packing Co.
Durango, CO.
33. Hi-Country Processing
La Porte, CO.
34. Hotchkiss Meats
Hotchkiss, CO.
35. Hudson Lockers
Hudson, CO. (mobile).
36. Ignacio Food Store
Ignacio, CO.
37. Independent Slaughtering
Grand Junction, CO.
(mobile).
38. Jensen's Blue Ribbon
Processing
Fowler, CO.
39. John's Meats
Brighton, CO.
40. K & K Kustom Cutting
Lamar, CO.
41. Keunes Processing
Delta, CO.
42. Kirk Locker Plant
Kirk, CO.
43. Knudsen's Meat Processing
Otis, CO.
44. L & M Processing
Haswell, CO.
45. Little Rivers Meat
Processing
Crawford, CO.
46. Mann's Slaughterhouse
Kirk, CO.
47. Mark's Custom Slaughtering
Whitewater, CO. (mobile).
48. Meat Shop
Canon City, CO. (mobile).

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| <p>49. Mel's Custom Meat Processing
Romeo, CO.</p> <p>50. Middle Park Meat Co.
Kremmling, CO.</p> <p>51. Mobile Livestock Slaughter
Dove Creek, CO.</p> <p>52. Monfort Inc.
Greeley, CO.</p> <p>53. Monument Meats
Fruita, CO.</p> <p>54. Mountain Meat Packing, Inc.
Craig, CO.</p> <p>55. North Fork Processing, Inc.
Paonia, CO. (stationary and mobile).</p> <p>56. Northern Beef Products/Hoffman Meats
Greeley, CO.</p> <p>57. OK'S Meat Market
Steamboat Springs, CO.</p> <p>58. Orchard Mesa Market
Grand Junction, CO.
(stationary and mobile).</p> <p>59. Otteman's Inc.
Flagler, CO.</p> <p>60. Petrie Meat Processing, Inc.
Pierce, CO.</p> <p>61. Purkey Packing Plant
Meeker, CO.</p> <p>62. Quality Custom Processing
Pueblo, CO. (mobile).</p> <p>63. R & C Wild Game & Custom Processing
Pueblo, CO. (mobile).</p> <p>64. Rifle Packing & Sausage Co.
Rifle, CO.</p> <p>65. Royal Gorge Packing Co., Inc.
Canon City, CO.</p> <p>66. Sacks Custom Cutting
Brighton, CO.</p> <p>67. Sanford Processing
Sanford, CO.</p> <p>68. Scanga Meat Co.
Salida, CO.</p> <p>69. Simla Frozen Food Locker, LLC
Simla, CO.</p> <p>70. Sterling Pack Inc.
Sterling, CO.</p> | <p>71. Steving Meat Co.
Kersey, CO.</p> <p>72. Tom's Game Processing
Mancos, CO. (mobile).</p> <p>73. Ullom Processing
Calhan, CO.</p> <p>74. Valley Packing Co., LLC
La Salle, CO.</p> <p>75. Valley Processing Inc.
Montrose, CO. (mobile).</p> <p>76. Wiggins Frozen Food Locker
Wiggins, CO.</p> <p>77. Wray Meat Packing, Inc.
Wray, CO.</p> <p>78. Yoder Processing
Yoder, CO.</p> <p>79. Your Choice Meat Processors
Wiggins, CO.</p> <p>80. Zettlemoyers Custom Meat Processing Colorado
Springs, CO.</p> |
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- Note:** *The listed licensed slaughterers are stationary, unless otherwise noted.*
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Appendix D - Seven HACCP Principles

1. **Conduct a Hazard Analysis:** Plants determine the food safety hazards that are reasonably likely to occur and identify the preventive measures they will apply to control these hazards. Hazards can be biological, chemical, or physical.
2. **Identify Critical Control Points:** Plants identify a point, step, or procedure in a food production process where controls can be applied to prevent, eliminate, or reduce a food safety hazard to an acceptable level.
3. **Establish Critical Limits for Each Critical Control Point:** Plants set the maximum or minimum value at which a biological, chemical, or physical hazard must be controlled at each critical control point to prevent, eliminate, or reduce the food safety hazard to an acceptable level.
4. **Establish Monitoring Requirements:** Plants establish monitoring activities that will ensure the process is under control at each critical control point.
5. **Establish Corrective Actions:** Plants define actions to be taken when monitoring discloses a deviation from an established critical limit
6. **Establish Record-Keeping Procedures:** Plants are required to maintain documentation of their hazard analysis and HACCP plan, as well as records documenting the monitoring of critical control points, critical limits, verification activities, and the handling of processing deviations.
7. **Establish Verification Procedures:** Plants establish verification procedures to ensure that HACCP plans accomplish their intended goal—ensuring the production of safe products.

Appendix E - Statutory Evaluation Criteria

- (I) Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- (II) If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- (III) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- (IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- (V) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- (VI) The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- (VII) Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- (VIII) Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action; and
- (IX) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

**Appendix F -
Public
Livestock
Market Statute**

35-55-101 - Definitions.

As used in this article, unless the context otherwise requires:

(1) "Livestock" means horses, mules, cattle, burros, swine, sheep, goats, poultry, and alternative livestock as defined in section 35-41.5-102 (1).

(2) "Public livestock market" means any place, establishment, or facility, commonly known as a livestock market, conducted or operated for compensation or profit as a public livestock market, consisting of pens, or other enclosures, and their appurtenances, in which live horses, mules, cattle, burros, swine, sheep, goats, and poultry are received, held, or assembled for either public or private sale. The person, partnership, or corporation owning or controlling premises defined as a public livestock market shall be compensated for the use of the premises and the services performed in handling the livestock in connection with the sale.

35-55-102 - License requirements.

(1) Any person, partnership, or corporation may procure a license to establish and operate, for a term of one year, a public livestock market within the state of Colorado by making written application to the state board of stock inspection commissioners, which application shall provide the following:

(a) The name and address of the applicant, and the names and addresses of all persons having any financial interest in the business;

(b) Financial responsibility of the applicant in the form of a statement of all assets and liabilities;

(c) A legal description of the property and its exact location, with a complete description of the facilities proposed to be used in connection with such public livestock market;

(d) Repealed.

(e) Proof of the ability of the applicant to comply with the federal "Packers and Stockyards Act", as amended (7 U.S.C. sec. 181 et seq.);

(f) Proof of the financial stability, business integrity, and fiduciary responsibility of the applicant.

(2) Each such application shall be accompanied by the annual fee as prescribed in section 35-55-103.

(3) Before an application for license is approved, the applicant shall prove ownership or control by lease of not less than six thousand square feet of holding pens including ample sorting and handling alleys, not less than ten feet wide with at least three gates in each alley that will fasten across the alley; ample pens and sheds for holding and handling sheep and hogs; and at least two adequate-sized pens with connecting alley and usable chute for use by state and federal livestock sanitary inspectors.

(4) Repealed.

(5) Every licensed public livestock market shall use forms approved by the state board of stock inspection commissioners for consignment cards, consignors accounts on sale, buyers settlement sheets, and bills of sale to the purchaser.

(6) A public livestock market shall operate on the day of the week designated by the state board of stock inspection commissioners. The operation of a public livestock market in this state without a license is a misdemeanor punishable as provided in section 35-55-117.

35-55-103 - License fee.

No person, partnership, or corporation shall engage in the operation of a public livestock market within the state of Colorado without first procuring a license from the state board of stock inspection commissioners and paying therefor a fee prescribed by the board in an amount sufficient to cover the administrative costs of the licensing provisions of this article. Said license shall be renewed by eligible applicants prior to May 1 in each calendar year thereafter, upon like application and payment of a like fee. An application for a license to establish and operate public livestock markets shall be in writing upon a blank form to be furnished by the state board of stock inspection commissioners and shall be accompanied by the fee prescribed by the board pursuant to this section. If the board does not issue a license or renewal, the fee must be returned to the applicant.

35-55-104 - Bonds.

(1) No license or renewal of license to establish a public livestock market within the state of Colorado may be issued until the applicant has filed evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, C.R.S., or executed and delivered to this state a surety bond approved and accepted by the state board of stock inspection commissioners upon a form prescribed by the state board. The bond shall be in a penal sum of not less than twenty-five thousand dollars, the amount to be determined by the state board based upon the dollar volume of the business, and shall be issued by a surety company approved by the state board of stock inspection commissioners. Said bond shall be conditioned upon the prompt payment to the rightful owner, upon sale of the livestock so consigned and delivered to the licensee for sale, of all moneys received, less reasonable expenses and agreed commissions chargeable by the licensee and operator of the public livestock market, and also upon full compliance with all of the terms and requirements of this article. When so approved, said bond shall be filed with the state board.

(2) Actions at law may be brought in the name of the state board of stock inspection commissioners upon any such bond, for the use and benefit of any person, firm, or corporation who may suffer loss or damage from violations thereof, but the aggregate liability of the surety for all such losses or damages shall, in no event, exceed the sum of said bond.

(3) Any such public livestock market which is registered under the provisions of the federal "Packers and Stockyards Act, 1921", as amended, and has executed a bond as provided for therein and as is required by the rules and regulations prescribed by the secretary of agriculture, is not required to execute the bond provided for in this article if such bond also guarantees payment of all brand and sanitary inspection fees due this state. Copies of any such license and bond certified by the executive officer of such board may be procured upon payment of a fee of one dollar each, and shall be received as competent evidence in any court in this state.

35-55-105 - Posting licenses.

A certified copy of an issued license may be procured by the holder of the original upon payment of a fee of one dollar therefor, and the original or certified copy of said license shall be posted during sale periods in a conspicuous place on the premises where the public livestock market is conducted.

35-55-106 - Board rules.

The state board of stock inspection commissioners may adopt, publish, and enforce rules and regulations necessary for the administration of this article.

35-55-107 - Discipline of licensees.

(1) Any violation of the provisions of this article or of any rule or regulation adopted and published by the state board of stock inspection commissioners shall be deemed sufficient cause for the state board of stock inspection commissioners to revoke or suspend the license of the offending operator of such public livestock market or to place on probation such licensee, and the following shall also be specific grounds for the imposition of any of the disciplinary actions specified in this introductory portion:

(a) If the state board of stock inspection commissioners finds the licensee has violated any law of the state of Colorado or official rule or regulation made pursuant thereto governing the intrastate or interstate movement, shipment, or transportation of livestock, or the requirements for brand or health inspection thereof;

(b) If the state board of stock inspection commissioners finds that said licensee has been guilty of fraud or misrepresentation as to the title, brands, or ownership;

(c) If the state board of stock inspection commissioners finds the licensee guilty of buying, receiving, or offering for sale any livestock known by him to be diseased or to have been exposed to infectious or contagious disease;

(d) If the state board of stock inspection commissioners finds that the licensee has failed or refused to practice measures of sanitation and inspection as are required by this article or by rule or regulation of the state board of stock inspection commissioners made pursuant thereto concerning premises or vehicles used for the stabling, yarding, housing, holding, or transporting of animals in the operation of his public livestock market;

(e) If the state board of stock inspection commissioners finds that the licensee has neglected or refused to keep records and forms of consignment cards, consignors account of sale, and buyers account of sale and bill of sale approved by the state board of stock inspection commissioners required by this article, or rules or regulations made pursuant thereto, or fails or refuses to permit inspection of such records by any authorized agent of said board;

(f) If the state board of stock inspection commissioners finds that the licensee has failed or refused to withhold sale proceeds of any livestock designated by the authorized brand inspector as livestock of which the title is questionable in accordance with section 35-55-114, or if the board finds that the licensee has failed or refused to transmit promptly to said board, after the expiration of thirty days, the proceeds of all livestock to which ownership has not been established in accordance with section 35-55-114;

(g) If the state board of stock inspection commissioners finds that the licensee has issued a company account of purchase which establishes ownership of or transfers title to any cattle, horses, or mules which have not been inspected for brands and ownership or title verified by an authorized Colorado brand inspector immediately prior to or on the licensee's market day designated by the board;

(h) If the state board of stock inspection commissioners finds that the licensee attempted to obtain or obtained a livestock market license by fraud or misrepresentation;

(i) If the state board of stock inspection commissioners finds that the licensee is engaging in or has engaged in advertising which is misleading, deceptive, or false;

(j) If the state board of stock inspection commissioners finds that the licensee has violated or has aided or abetted in the violation of any order of the state board of stock inspection commissioners;

(k) If the state board of stock inspection commissioners finds that the licensee has aided or abetted in the violation of any provision of this article or of any rule or regulation adopted by the state board of stock inspection commissioners pursuant to this article;

(l) If the state board of stock inspection commissioners finds that the licensee has violated or has aided or abetted in the violation of the federal "Packers and Stockyards Act", as amended (7 U.S.C. sec. 181 et seq.);

(m) If the state board of stock inspection commissioners finds that the licensee has been convicted of or has entered a plea of nolo contendere to a felony for an offense related to the conduct regulated by this article.

(2) When a complaint or an investigation discloses an instance of misconduct which, in the opinion of the state board of stock inspection commissioners, does not warrant formal action but which should not be dismissed as being without merit, the board may send a letter of admonition to any licensed public livestock market operator. Such letter shall be sent to the licensee by certified mail, and a copy thereof sent to the complainant, advising the operator that the operator may, within twenty days after receipt of the letter, make a written request to the board to institute a formal hearing pursuant to section 35-55-108 to determine the propriety of the alleged misconduct. If such request is timely made, the letter of admonition shall be deemed vacated, and the matter shall be processed by means of formal proceedings.

35-55-108 - Investigation - hearing - administrative law judge.

(1) The state board of stock inspection commissioners, upon its own motion on the basis of reasonable cause or upon the complaint in writing of any person, shall investigate the activities of any licensed livestock market operator or any person who assumes to act in such capacity within the state. Based on the findings of such investigation, the board may initiate proceedings under this article for the discipline of a licensee.

(2) The board shall, through the department of agriculture, employ administrative law judges appointed pursuant to part 10 of article 30 of title 24, C.R.S., to conduct hearings for placing a licensee on probation or for revoking or suspending a license on behalf of the board. The administrative law judges shall conduct such hearings pursuant to the provisions of sections 24-4-104 and 24-4-105, C.R.S.

35-55-109 - Sanitary conditions.

Every public livestock market shall be maintained in a sanitary condition and cleaned and disinfected under the supervision of a veterinarian authorized by the state board of stock inspection commissioners when necessary.

35-55-110 - Scales.

All scales used in the operation of public livestock markets shall come under and be controlled by Colorado's weights and measures laws.

35-55-111 - Records.

Operators of all public livestock markets shall keep on file an accurate record of the date on which a consignment of animals was received and sold, together with the name and address of the buyer and seller, the number and species of the animals received and sold, and the marks and brands on each animal. Said records together with the gross selling prices, commission, and other proper care, handling, and sale charges on each consignment shall be available for inspection by the executive officer of the state board of stock inspection commissioners, his deputy, or authorized inspector. All records of sales during preceding months shall be kept readily accessible for immediate examination.

35-55-112 - Brand inspection.

(1) All cattle, horses, mules, and burros, upon entering a public livestock market, shall be inspected for iron brands, earmarks, and other identifying characteristics before being offered for sale. A bill of sale signed by the recorded owner of the brands or no brands or an account of sale showing the brands or no brands on the livestock consigned shall be produced by the consignor. The brand inspector in charge may, in justifiable circumstances, permit the sale of cattle, horses, mules, or burros whose

ownership is questionable and then proceed to impound the proceeds of the sale of such animals. After any livestock are consigned to any public livestock market, they shall be held and treated as if the ownership thereof has not been established, until a proper bill of sale or account of sale is produced by the consignor. Such inspections shall be made by authorized brand inspectors who have been approved by the state board of stock inspection commissioners, and a fee per head in the amount prescribed by the state board of stock inspection commissioners pursuant to section 35-41-104, shall be withheld from the consignor's proceeds of sale by the market operator, to be paid to the state board of stock inspection commissioners, for brand inspection on all cattle, horses, mules, and burros.

(2) The authorized brand inspector making the inspection and collecting the fees prescribed shall issue an official brand inspection certificate in duplicate, one copy to be the property of the owner or operator of the auction market, and will be authority for the public livestock market to issue a bill of sale to the purchaser of any livestock sold or disposed of through a licensed livestock auction market, the original to be delivered to the office of the state board of stock inspection commissioners.

35-55-113 - Veterinary inspection - rules.

(1) All livestock consigned and delivered on the premises of any licensed public livestock market, before being offered for sale, shall be inspected by an authorized veterinarian of the department of agriculture. The veterinarian shall examine or test, as indicated or required, animals consigned to the public livestock market for the purpose of determining their condition of health and freedom from infectious or contagious animal diseases. If, in the opinion of the examining veterinarian, said animals are free of symptoms of infectious or contagious disease and have not, to the best of his knowledge, been exposed to any infectious or contagious diseases, he shall issue a health certificate, signed by him, to any purchaser who so requests. Said health certificate shall be delivered to the purchaser at the time of rendering the account of sale or bill of sale. In addition to the requirements of this subsection (1) for all interstate movements, livestock must meet federal interstate and state of destination requirements. All animals found to be affected with any recognized infectious or contagious diseases shall be immediately isolated, quarantined, and held in conformity with the health requirements of Colorado law and the rules and regulations of the department of agriculture. All fees or taxes for

veterinary services, prior to the sale of the livestock, shall be paid by the operator of the public livestock market. All livestock intended for interstate shipment, on which the United States department of agriculture requires specific inspections or tests that can only be made by an approved and licensed veterinarian, shall be made at the expense of the buyer or the party who intends to move them interstate.

(2) (a) Swine may be moved from a public livestock market if, upon inspection, the swine are found free from symptoms of cholera or other contagious, infectious, or communicable diseases and in a thriving condition.

(b) Repealed.

(3) Feeding swine and breeding swine going from a market to a farm shall be identified by an approved ear tag, individual tattoo, or ear notch. Sows and boars going to slaughter shall be identified in accordance with the market swine identification program as prescribed in the uniform methods and rules for brucellosis eradication published by the U.S.D.A. animal plant health inspection service agency, in effect July 1, 1981, and as amended from time to time thereafter.

(4) No animal may be sold or offered for sale at a public livestock market if the animal is injured, disabled, or diseased beyond recovery, or if such injury or disease permanently renders the animal unfit for human consumption. This subsection (4) includes, but is not limited to, any animal with severe neoplasia, any animal that is unable to rise to its feet by itself, and any animal with obviously fractured long bones.

(5) If, in the judgment of an authorized veterinarian of the department, an animal presented at a public livestock market is injured, disabled, or diseased beyond recovery, the veterinarian shall humanely euthanize the animal or direct the consignor to immediately remove the animal from the premises of the public livestock market. All expenses incurred for euthanasia and disposal of an animal under the provisions of this subsection (5) are the responsibility of the consignor. Collection of expenses shall not be the responsibility of the consignee.

(6) The commissioner of agriculture shall adopt reasonable rules for the administration and enforcement of this section, including, but not limited to, rules designating any disease as a disease that renders livestock permanently disabled or the carcasses thereof permanently unfit for human consumption. The commissioner shall promulgate all such rules in accordance with existing antemortem inspection guidelines of the United States department of agriculture food safety inspection service.

35-55-114 - Title.

The operator of each public livestock market in this state shall warrant to the purchaser thereof the title of all livestock sold through his public livestock market and shall be liable to the rightful owner thereof for the net proceeds in cash received for such livestock so sold. It is the further duty of such operator, when notified by the authorized brand inspector that there is a question as to whether any designated livestock sold through said market is lawfully owned by the consignor thereof, to hold the proceeds received from the sale of said livestock for a reasonable time, not to exceed thirty days, to permit the consignor to establish ownership and if at expiration of that time, the consignor fails to establish his lawful ownership of such livestock, said proceeds shall be released by such operator to the state board of stock inspection commissioners, which board has authority to dispose of said proceeds in accordance with Colorado's estray laws relating to the distribution of estray money, and the board's receipt therefor shall relieve said operator from further responsibility for said proceeds. Proof of ownership and an account of all sales of livestock shall be transmitted by the authorized brand inspector to the state board of stock inspection commissioners.

35-55-115 - Disposition of fees.

All license fees collected from public livestock markets shall be deposited with the state treasurer and shall be placed in the brand inspection fund by the state treasurer for use of the board in paying ordinary expenses of the state board of stock inspection commissioners.

35-55-116 - Dispersal sales.

All dispersal sales made at public livestock markets shall meet the requirements prescribed for other livestock passing through such markets.

35-55-117 - Penalty.

Any person, partnership, or corporation who violates any provision or requirement of this article or any rule or regulation adopted by the state board of stock inspection commissioners is guilty of a class 3 misdemeanor, and any person, partnership, or corporation who commits a second or subsequent violation of any provision or requirement of this article or any rule or regulation adopted by the state board of stock inspection commissioners commits a class 1 misdemeanor and any such offender shall be punished as provided in section 18-1-106, C.R.S. It is the duty of the district attorney of the district in which such offense is committed, upon complaint of any private person, or of a sanitary or brand inspector, or of the state board of stock inspection commissioners, to prosecute the same if, after investigation, he believes a violation has occurred. The state board of stock inspection commissioners, upon its own initiative, or upon complaint of any person, through the attorney general may bring an action in the district court of the district where such offense is committed in the name of the people of this state for an injunction against any person violating any of the provisions of this article or of any rule or regulation adopted by the state board of stock inspection commissioners.

35-55-118 - Denial of license - hearing.

(1) The state board of stock inspection commissioners is empowered to determine summarily whether an applicant for a license to establish and operate a public livestock market meets the requirements set forth in this article or whether there is probable cause to believe that an applicant has committed any of the acts set forth in section 35-55-107 as grounds for discipline. As set forth in this section, "applicant" does not include a renewal applicant.

(2) If the board determines that an applicant does not meet the requirements for licensure set forth in this article or that probable cause exists to believe that an applicant has committed any of the acts set forth in section 35-55-107, the board may withhold or deny the applicant a license. In such instance, the board shall provide such applicant with a statement in writing setting forth the basis of the board's determination.

(3) Should reasonable grounds for controversy over the board's action in issuing or refusing to issue a license develop, a hearing may be conducted by four members of the board. Following such hearing, the board shall affirm, modify, or reverse its prior action in accordance with its findings at such hearing.

35-55-119 - Termination of functions - repeal of article.

The licensing functions of the state board of stock inspection commissioners as set forth in this article are terminated on July 1, 2001. Prior to such termination, the licensing functions shall be reviewed as provided for in section 24-34-104, C.R.S. This article is repealed effective July 1, 2001.

**Appendix G -
Livestock
Slaughterers
Statute**

12-11-101 - Requirements for slaughterer business.

(1) Every person carrying on the trade or business of a slaughterer of livestock in this state:

(a) Shall obtain a license from the department of agriculture and shall pay therefor an annual license fee which shall be established by the state board of stock inspection commissioners in a manner consistent with the provisions of section 24-34-105, C.R.S., and which, in the board's discretion, may be based upon the number of animals slaughtered during the previous calendar year, as determined from records of the department or the records of the applicant. The applicant shall maintain accurate records regarding the number of animals slaughtered during a calendar year, and such records shall be made available to employees of the department during normal business hours. Records shall be kept for a period of two years. On and after July 1, 1990, every application for a slaughterer's license and accompanying materials shall comply with the provisions of section 24-4-104 (13), C.R.S. A license issued under this article shall not be transferable to a lessee.

(b) Shall maintain an established place of business;

(c) Shall not slaughter animals on the open range;

(d) Shall file evidence of financial responsibility in the form of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, C.R.S., or an irrevocable letter of credit meeting the requirements of section 11-35-101.5, C.R.S., or an approved surety bond in the sum of not less than two thousand dollars with the state board of stock inspection commissioners for the use and benefit of any person or the state of Colorado suffering loss or damage from violations by the person carrying on the trade or business of slaughterer of livestock or from failure on his part to perform such duties or to comply with any requirement of law or of the regulations of the state board of stock inspection commissioners that he shall keep in a special book a true and faithful record of all brands and marks on livestock and a record of carcasses or any part of a carcass purchased or otherwise acquired by him and a record of the bills of sale, but any such person carrying on the trade or business of slaughterer of livestock in this state who is registered under the provisions of the federal "Packers and Stockyards Act, 1921", as amended, and has executed a bond as provided in said act and as required by the rules and regulations prescribed

by the United States secretary of agriculture shall not be required to file the evidence of financial responsibility provided for in this article if such bond executed pursuant to said act also guarantees payment of all brand and sanitary inspection fees due this state;

(e) Shall require from all sellers of livestock a bill of sale which shall give a complete description of each animal so sold and purchased including marks, brands, age, weight, name of person from whom it was purchased or otherwise acquired, date, and place of purchase or acquisition;

(f) Shall keep the hide and horns of each animal slaughtered by him for inspection for a period of thirty days after it is slaughtered except when written permission for sale or destruction of the same is given by a regular or special brand inspector prior to expiration of said period. A certified copy of the bill of sale shall accompany the hide when it is offered for sale.

(g) Shall require any person from whom he purchases the carcass or any part thereof, not inspected by a state brand inspector immediately prior to slaughter, to exhibit the hide as provided in section 12-11-104;

(h) Shall not receive any carcass or part of a carcass for storage unless each hide has been inspected and all meat stamped, if required, by the brand commissioner. This section does not apply to any person who slaughters cattle that are officially inspected by the state brand inspector immediately prior to slaughter.

(i) Shall not mix any cattle that are uninspected for brands by an authorized Colorado brand inspector with any cattle that have been inspected by a Colorado brand inspector just prior to slaughter.

(2) The department of agriculture may deny any application for a license, or may refuse to renew a license, or may revoke or suspend a license, or may place a licensee on probation, as the case may require, if a licensee:

(a) Has violated or attempted to violate any of the provisions of this article or any of the rules and regulations or lawful orders promulgated pursuant to this article, or assisted in or abetted any such violation, or conspired to commit such a violation;

(b) Has been convicted of, or pled guilty or nolo contendere to a felony under the laws of this state, or of any other state, or of the United States which is related to the ability to carry on the business of a slaughterer;

(c) Has had a license to operate as a slaughterer suspended, revoked, or denied in another state, or has been subjected to other disciplinary action in another state, if the basis for such suspension, revocation, denial, or other action is also a violation of Colorado law. For purposes of this paragraph (c), evidence of any adverse or disciplinary action taken by another state against a person for an action conducted while carrying on the trade or business of a slaughterer for an action which is a violation of Colorado law shall be prima facie evidence of violation of Colorado law; or

(d) Has had a license to operate as a slaughterer suspended, revoked, or denied, or who has been subjected to other disciplinary action pursuant to the federal "Packers and Stockyards Act, 1921", as amended, if the basis for such suspension, revocation, denial, or other action is also a violation of Colorado law.

(3) All proceedings concerning the denial, revocation, nonrenewal, or suspension of a license or the placing of a licensee on probation shall be conducted pursuant to the provisions of article 4 of title 24, C.R.S. An administrative law judge may be employed to conduct any such hearings. Such an administrative law judge shall be appointed pursuant to part 10 of article 30 of title 24, C.R.S.

(4) The state board of stock inspectors shall have the authority to investigate possible violations of any provision of this article on the basis of a complaint or when the board has other reasonable grounds to believe that any person has violated any such provision.

(5) Every person carrying on the trade or business of a slaughterer of livestock in this state who is exempt from this law as provided in paragraph (h) of subsection (1) of this section shall not slaughter any cattle or horses purchased in Colorado that have not been inspected for brands by an authorized Colorado brand inspector immediately prior to slaughter.

12-11-102 - Operating without evidence of financial responsibility.

It is unlawful for any person to carry on the business of slaughterer in this state without having filed the evidence of financial responsibility provided in section 12-11-101.

12-11-103 - No records.

The record provided for in section 12-11-101 and also the hide shall be open to the inspection of all persons for a period of thirty days, and it is unlawful for any slaughterer to refuse to permit such inspection or examination.

12-11-104 - Sales by persons other than slaughterers - requirements.

It is unlawful for any person, company, or corporation to sell or offer for sale or to have in his possession, except as a slaughterer who has filed evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, C.R.S., or an irrevocable letter of credit meeting the requirements of section 11-35-101.5, C.R.S., or a bond and is licensed as provided by law and who has a permanent place of business, a carcass of beef or veal or any portion of such carcass without first exhibiting the hide intact and exposing the brand upon the hide, if any, to the purchaser. It is the duty of any such person, company, or corporation selling or offering for sale any such carcass of beef or veal to preserve the hide of the same for a period of thirty days, unless the hide from such a carcass of beef or veal has been previously inspected and released by a duly authorized Colorado brand inspector, and to exhibit the same for inspection upon demand of any person.

12-11-105 - Person killing for own use.

Unless the hide has been previously inspected and released by a duly authorized Colorado brand inspector, it is unlawful for any person to possess or to kill an animal to obtain any beef or veal for his own use without preserving the hide of such animal intact with a complete unskinned tail attached thereto. Said preservation shall be for a period of not less than thirty days, during which period said hide shall be presented upon the demand of any person.

12-11-106 - Inspection of hide.

The sheriff or deputy sheriff of any county in this state and any regular or special brand inspector appointed by the state board of stock inspection commissioners of the state of Colorado are hereby authorized and empowered to require any person, corporation, or company, other than a slaughterer having a permanent place of business who has filed evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, C.R.S., or an irrevocable letter of credit meeting the requirements of section 11-35-101.5, C.R.S., or a bond as required by law, who kills for his own use and consumption any cattle to produce for inspection the hide of any such animal which has been killed within thirty days unless the same has been inspected and tagged prior to such demand for inspection. In the absence of the owner or proper corporate officer, the person in charge of the premises where the meat then is shall produce the hide for inspection upon demand as aforesaid.

12-11-107 - Grounds for search warrant.

If such person, corporation, or company who, within thirty days, has killed any such animal or, in his absence, the person in charge of the premises fails or refuses to produce the hide of such animal, such sheriff, deputy, or regular brand inspector may seize and take possession of said meat and hold the same until such hide is produced and, before or after the seizure of such meat, may make complaint for search warrant for the theft of cattle or horses and the meat thereof as the property of an unknown owner. The failure to produce such hide upon demand shall be sufficient grounds upon which to base the affidavit for such search warrant, and the procedure on complaint for a search warrant shall be as provided in part 3 of article 3 of title 16, C.R.S.

12-11-108 - When hides admitted as evidence.

If any such hide is subsequently produced by or on behalf of the person who has butchered said animal and is claimed to be the hide of the animal killed, the same shall be exhibited as soon as possible for inspection to the sheriff of the county in which the animal was butchered. No such hide shall be admitted in evidence nor shall evidence to identify such hide with the animal alleged to be stolen be received until the prosecution is given such reasonable opportunity as may be fixed by court to examine said hide and compare it with the meat.

12-11-109 - Violation of sections - penalty.

(1) Except as otherwise provided in this article, any person, company, or corporation violating any provisions of this article commits a class 3 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

(2) Except as otherwise provided in this article, any person, company, or corporation which violates any provision of this article within three years after a previous violation of any provision of this article by that same person, company, or corporation commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

(3) Any person informing the proper authorities in regard to the violation of the provisions of sections 12-11-104 and 12-11-105 is entitled to one-half of the fine imposed when collected.

12-11-110 - Records required - unlawfully slaughtering of another's animals - penalty.

(1) Every person, firm, or corporation which carries on the business of a slaughterer of cattle or horses shall keep a true record of all cattle or horses purchased or slaughtered and of any carcass or part of a carcass purchased in one or more special books kept for such purposes. Such records shall include a complete description of each such animal or carcass, including the approximate age and weight, breed and color, fire brands, earmarks, and any other identifying characteristics and the date of purchase and from whom such animal, carcass, or part of carcass was purchased.

(2) (Deleted by amendment, L. 91, p. 164, § 7, effective July 1, 1991.)

(3) In cases where the animals of another have been butchered unlawfully, such person commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

12-11-111 - Brand inspection - certificate - evidence - violation - penalties.

(1) Any cattle or horses purchased for slaughter in Colorado from any source shall be inspected for brands and other identifying marks and a certificate issued by a brand inspector at the point of origin. Otherwise, the packer purchasing cattle or horses shall hold the uninspected cattle or horses separately and shall be responsible for the value of the cattle or horses and the brand inspection tax until inspected and a certificate issued by a Colorado brand inspector.

(2) The only evidence of inspection at point of origin acceptable under this section shall be either the brand certificate issued and signed by the brand inspector who made the inspection or a current account of sale, showing the brands or other identifying characteristics carried by the cattle or horses and issued by a federal packers and stockyards department registered or Colorado licensed market. Cattle or horses purchased by private treaty in states where brand inspection is not maintained shall be accompanied by a bill of sale showing brands and other identifying characteristics signed by the seller or the seller's agent and witnessed by the buyer or the buyer's agent.

(3) Cattle fed by packers, either in their individual feed lots or in commercial feed lots, are subject to the provisions of this article.

(4) Repealed.

12-11-112 - Appeals.

Appeal shall be allowed in cases arising under sections 12-11-101 to 12-11-103, 12-11-110, and 12-11-113, as in other cases.

12-11-113 - Fines paid into county.

All fines and penalties recovered for violation of any provision of sections 12-11-101 to 12-11-103 and 12-11-110 shall be paid into the county treasury of the proper county. If the licensee has filed a bond, the offender and his sureties shall be liable on the bond provided for in section 12-11-101 for all fines, penalties, and costs adjudged against him. Said bond may be sued on, in the name of the people of the state of Colorado, in any court of competent jurisdiction. If the licensee has filed other evidence of financial responsibility as set forth in section 12-11-101 (1) (d), such form of financial responsibility may be recovered, in the name of the people of the state of Colorado, in any court of competent jurisdiction.

12-11-114 - Termination of functions.

The licensing functions of the department of agriculture as set forth in this article are terminated on July 1, 2001. Prior to such termination, the licensing functions shall be reviewed as provided for in section 24-34-104, C.R.S.