

1974 WL 27787 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 27, 1974

***1 Re: House Bill No. 2909**

The Honorable Carroll A. Campbell, Jr.
First Vice-Chairman
Medical, Military, Public and Municipal Affairs Committee
House of Representatives
Columbia, South Carolina

Dear Representative Campbell:

After further consideration of House Bill No. 2909 and consultation with legal counsel for the Department of Health and Environmental Control and with members of the Clemson University Livestock-Poultry Health Department, Meat Inspection Program, who have been in contact with Dr. J. K. Payne, Assistant Deputy Administrator, Federal-State Relations, APHIS, USDA, I have concluded that my letter of May 17, 1974, to you was in error. If House Bill No. 2909 is passed as it now exists, it will have the effect of jeopardizing, if not destroying, the Meat Inspection Program for the entire State of South Carolina.

The South Carolina Meat and Meat Food Regulations and Inspection Law was established by Act No. 222 of 1967 and amended by Act No. 368 of 1973. The Meat and Meat Food Regulations and Inspection Law was enacted in conjunction with the 'Wholesome Meat Act,' P. L. 90-201 (1967), [21 U.S.C. § 601](#), *et seq.* Pursuant to the 'Wholesome Meat Act,' The Secretary [of Agriculture] is author, whenever he determines that it would effectuate the purposes of the chapter [Wholesome Meat Act] to cooperate with the appropriate State agency in developing and administering a State meat inspection program in any State which has enacted a State meat inspection law that imposes mandatory ante mortem and post mortem inspection, reinspection and sanitation requirements that are at least equal to those under subchapter I of this chapter, with respect to all or certain classes of persons engaged in the State in slaughtering cattle, sheep, swine, goats, equines, or preparing the carcasses, parts thereof, meat or meat food products, of any such animals for use as human food solely for distribution within such State. (Emphasis supplied) [21 U.S.C. § 661\(2\)\(1\) \(1972\)](#)

The 'Wholesome Meat Act' further provides for the annual review of the requirements of the several States with respect to the slaughter, preparation, etc., of the animals as well as a review of the requirements for the inspection of such operation. [21 U.S.C. § 661\(c\)\(4\) \(1972\)](#). If the State requirements are not deemed sufficient, the State stands to lose all federal cooperation and funds.

Such cooperation and payment [federal funds] shall be contingent at all times upon the administration of the State program in a manner which the Secretary, in consultation with the appropriate advisory committee appointed under paragraph (4) deems adequate to effectuate the purposes of this section. (Emphasis supplied) [21 U.S.C. § 661\(a\)\(3\) \(1972\)](#)

The provisions of subchapter I of the 'Wholesome Meat' are many. However, the specific exemption provision brought into play by House Bill No. 2909 is [21 U.S.C. § 623 \(1972\)](#), a copy of which is enclosed. Also enclosed is a copy of the U.S.D.A. Regulations promulgated pursuant to [21 U.S.C. § 601, et seq.](#), governing exemption from inspection requirements. Under [21 U.S.C. § 623 \(1972\)](#), a person who raises, slaughters and prepares his own animals and carcasses and uses them only for his own household, employees and nonpaying guests is exempt from the inspection requirements.

[Section 623](#) and the U.S.D.A. Regulations also exempt the custom preparation of meat; however, this exemption is conditioned.

*2 Custom operations at any establishment shall be exempt from inspection requirements as provided by this section only if the establishment complies with regulations which the Secretary is hereby authorized to promulgate . . . [21 U.S.C. § 623\(a\)](#) (1972)

The South Carolina Meat and Meat Food Regulations and Inspection Law, codified as § 6-611 CODE OF LAWS OF SOUTH CAROLINA (1962) (Supplement), was amended by 58 STAT. 643 (1973), to add paragraph 4 to section 10 of lot No. 222. See, § 6-619(4) CODE OF LAWS OF SOUTH CAROLINA. As it is presently written, § 6-619(4) complies with the requirements of [21 U.S.C. §§ 661](#) and [623](#) as well as with the federal regulations established pursuant thereto. Furthermore, when the Meat and Meat Food Regulations and Inspection Laws (Laws) was enacted, the Legislature included a provision within the Laws which assures that this State's Inspection Program will continuously meet the minimum requirements of subchapter I of the 'Wholesome Meat Act.' See, [21 U.S.C. § 661\(2\)\(1\)](#) (1972), supra. Pursuant to § 6-620.3, CODE OF LAWS OF SOUTH CAROLINA (Supp.), the Legislature provided:

The Director [of the South Carolina Meat Inspection program] shall promulgate such rules and regulations and appoint such veterinarians and other qualified personnel as are necessary to carry out the purposes or provisions of this article. Such rules and regulations shall be in conformity with the rules and regulations under the Federal Meat Inspection Act and the South Carolina State Board of Health as now in effect and with subsequent amendments thereof unless they are considered by the Director as not to be in accord with the objectives of this article.

Therefore, as long as the U.S.D.A. regulations are those of this State's, the South Carolina Inspection Program is not jeopardized.

The proposed amendments in House Bill No. 2909 have the effect of changing the South Carolina regulation so that they no longer conform with those of the U.S.D.A., nor do they conform with [21 U.S.C. § 623](#). By federal regulation C.F.R. § 303.1 and by [21 U.S.C. § 623](#), the establishments in which custom meat preparations are conducted must be inspected and must meet specific sanitary provisions. See, CFR §§ 308.4 through 308.11, 308.13, 308.14, and 308.3. Striking the word 'only' from line fourteen of § 6-619(4) would allow the custom preparation of meat in establishments not inspected under nor complying with federal or state regulations. Moreover, by striking beginning on line fourteen 'establishment complies with regulations which the Director is hereby authorized to promulgate to assure that any,' House Bill No. 2909 effectively abolishes all existing State regulations governing inspection and standards for establishments custom preparing meat. Requiring the establishments conducting the custom preparation in a sanitary manner 'as required by appropriate county health authorities' does not cure the defect resulting from striking compliance with the Directors regulations. First, there are no county health authorities in this State recognized by the secretary of agriculture or his delegates as having met the requirements of [21 U.S.C. § 601](#), et seq., to be established as a meat inspection agency. Second, no county health authority in this State has any requirements governing the maintenance and operation of meat preparing establishments.

*3 For the above reasons, house Bill No. 2909 would have a destructive effect upon the meat Inspection program in this State, and, if passed in its present form, will, in all probability, result in the lose of federal funding for the program and in the lose of U.S.D.A. approval of the South Carolina program.

As to an alternate suggestion as to how the intent of House Bill No. 2909 can be accomplished, § 6-619(4) already provides an exemption the custom preparation of the meat itself, provide it is properly packaged and labeled. There is no way, as I read the federal laws and regulations, for the Laws to exempt the establishment itself from compliance with sanitary regulations and inspection and still comply with the minimum requirements of the 'Wholesome Meat Act.'

I apologize for my previous error and hope it has not nor will not cause any problems. If you have any questions at all regarding this legislation, please do not hesitate to call me.

Yours very truly,

M. Elizabeth Crum
Assistant Attorney General

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