Agriculture and Markets

ARTICLE 5-D
SALE OF POULTRY AND POULTRY PRODUCTS

Section 96-z-21. Definitions.
96-z-28. Inspection legend required.
96-z-29-a. Mishandling and improper transportation of poultry products.
96-z-32. Uninspected poultry and poultry products.
96-z-33. Unlawful possession of official devices.
96-z-34. Rules and regulations.
96-z-35. Enforcement.
96-z-36. Severability.

§ 96-z-21. Definitions. As used in this article, unless otherwise expressly stated, or unless the content or subject matter otherwise requires:
1. "Person" means any person, firm, corporation, or association.
2. "Adulterated" means the same as set forth in section two hundred of this chapter.
3. "Poultry" means any domesticated bird, whether live or dead.
4. "Poultry product" means any poultry carcass, or part thereof; or any product which is made wholly or in part from any poultry carcass or part thereof, excepting products which contain poultry ingredients only in a relative small portion or historically have not been considered by consumers as products of the poultry food industry, and which are exempted by the commissioner from definition as a poultry product under such conditions as the commissioner may prescribe to assure that the poultry ingredients in such products are not adulterated and that such products are not represented as poultry products.
5. "Federal inspection" means the poultry and poultry products inspection maintained by the United States department of agriculture.

§ 96-z-28. Inspection legend required. Except as exempted by the provisions of the Federal Poultry Products Inspection Act, no poultry or poultry product for human consumption, shall be sold, exposed for sale, exchanged or transported within the state unless the same shall bear an official inspection mark affixed pursuant to a federal inspection.

§ 96-z-29-a. Mishandling and improper transportation of poultry products. (1) No person, firm, association, partnership, or corporation engaged in carrying or transporting poultry products shall transport such poultry products except in an enclosed vehicle in such a manner as to assure delivery of the aforesaid products so that frozen products remain frozen and such other products do not rise above forty degrees Fahrenheit, provided, however, that this section shall not apply to (a) household consumers; (b) retail dealers with respect to poultry products sold directly to consumers in retail stores; (c) poultry products derived from either the slaughter by any person of poultry of his own raising, or the custom slaughter by another person of poultry delivered by the owner thereof for such slaughter, when such poultry products are used exclusively by such owner and members of his household and his non-paying guests and employees. This section shall not apply to poultry
products which because of their method of manufacture, processing, and packaging, require no special handling temperatures to prevent adulteration or unwholesomeness including, but not limited to, commercially sterile poultry products in hermetically sealed containers.

(2) The commissioner may promulgate rules and regulations to further define standards for the transportation of poultry products to further ensure that they are delivered in an unadulterated and wholesome condition.

(3) A violation of the provisions of this section shall be a violation as defined in subdivision three of section 10.00 of the penal law.

§ 96-z-32. Uninspected poultry and poultry products. The commissioner shall seize and destroy for food purposes any poultry or poultry product subject to federal inspection that does not bear the official inspection legend affixed pursuant to federal inspection.

§ 96-z-33. Unlawful possession of official devices. It shall be unlawful for any person:
1. To forge any official federal device or mark.
2. Knowingly to possess, without authority granted by the United States department of agriculture, any official federal device or any counterfeit, simulated, forged or improperly altered official federal device, mark or label, or any carcass of any poultry, or part or product thereof, bearing any counterfeit, simulated, forged or improperly altered official federal mark.
3. Knowingly to represent that any article has been federally inspected and passed, or exempted, when it has not been so inspected and passed, or exempted.

§ 96-z-34. Rules and regulations. The commissioner is hereby authorized to enact, amend and repeal rules and regulations necessary to carry out and give full force and effect to the provisions of this article. This chapter and the regulations promulgated thereunder shall be so interpreted and construed as to effectuate a general purpose to enact state legislation uniform with and at least equal to the federal wholesome poultry products act and all acts amendatory thereof and supplementary thereto.

The commissioner is hereby authorized to adopt, insofar as appropriate, the regulations from time to time promulgated under such federal act or acts, and to change or amend the regulations promulgated under this chapter so as to conform, insofar as appropriate, to those promulgated under the federal act or acts.

The commissioner shall hold a public hearing upon a proposal to promulgate any new or amended regulations under this article, except in the case of a proposal to adopt applicable regulations promulgated under such federal act or acts.

§ 96-z-35. Enforcement. The commissioner may institute such action at law or in equity as may appear necessary to enforce compliance with any provision of this article and the rules and regulations adopted and promulgated hereunder and, in addition to any other remedy under article three of this chapter or otherwise, may apply for relief by injunction.
if necessary to protect the public interest without being compelled to allege or prove that an adequate remedy at law does not exist. Such application may be made to the supreme court in any county pursuant to the civil practice law and rules or to the supreme court in any county of the third judicial district.

§ 96-z-36. Severability. If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.