

By: Representative Holland

To: Agriculture

HOUSE BILL NO. 678
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 75-35-325, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THE DEPARTMENT OF AGRICULTURE WITH ADMINISTRATIVE
3 PROCEDURES CONCERNING FINES AND OTHER PENALTIES FOR VIOLATIONS OF
4 THE MEAT INSPECTION LAW; AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** Section 75-35-325, Mississippi Code of 1972, is
7 amended as follows:

8 75-35-325. (1) When a written complaint is made against a
9 person for violation of any provision of this chapter or of
10 Section 75-33-1 et seq., or any of the rules or regulations
11 promulgated there under, the Commissioner of Agriculture, or his
12 designee, shall conduct a full evidentiary hearing relative to the
13 charges. The complaint shall be in writing and shall be filed in
14 the office of the Mississippi Department of Agriculture and
15 Commerce. The commissioner shall cause to be delivered to the
16 accused in the manner described herein a copy of the complaint and
17 a summons requiring the accused to file a written answer to the
18 complaint within thirty (30) days after service of the summons and
19 complaint upon the accused. The accused may be notified by
20 -serving a copy of the summons and complaint on the accused or any
21 of his officers, agents or employees by personal service or by
22 certified mail. The accused shall file with the department a
23 written response to the complaint within the thirty-day period.
24 If the accused fails to file an answer within such time, the
25 commissioner or his designee may enter an order by default against
26 the accused. If the accused has filed an answer, the matter shall
27 be set for hearing before the commissioner or his designee.



28 The commissioner may issue subpoenas to require the
29 attendance of witnesses and the production of documents.
30 Compliance with such subpoenas may be enforced by any court of
31 general jurisdiction in this state. The testimony of witnesses
32 shall be upon oath or affirmation, and they shall be subject to
33 cross-examination. The proceedings shall be recorded by a court
34 reporter. If the commissioner or his designee determines that the
35 complaint lacks merit, he may dismiss it. If he finds that there
36 is substantial evidence showing that a violation of any of the
37 statutes or regulations has been committed, he may impose any or
38 all of the following penalties upon the accused:

39 (a) Levy a civil penalty in the amount of no more than
40 One Thousand Dollars (\$1,000.00) for each violation;

41 (b) Revoke or suspend any license, permit or privilege
42 granted to the accused under the terms of this chapter or Section
43 75-33-1 et seq.;

44 (c) Retain product, reject equipment or facilities,
45 slow or stop a line or refuse to allow the processing of a
46 specifically identified product;

47 (d) Refuse to allow the marks of inspection to be
48 applied to a product; or

49 (e) Take any other action authorized by law or
50 regulation. The commissioner's decision shall be in writing, and
51 it shall be delivered to the accused by any of the methods
52 described herein for service of the summons and complaint on the
53 accused.

54 (2) Either the accused or the department may appeal the
55 decision of the commissioner to the circuit court of the county of
56 residence of the accused or, if the accused is a nonresident of
57 the State of Mississippi, to the Circuit Court of the First
58 Judicial District of Hinds County, Mississippi. The appellant
59 shall have the obligation of having the record transcribed and
60 filed with the circuit court. The appeal shall otherwise be



61 governed by all applicable laws and rules affecting appeals to
62 circuit court. If no appeal is perfected within the required
63 time, the decision of the commissioner, or his designee, shall
64 then become final.

65 (3) The decision of the circuit court may then be appealed
66 by either party to the Mississippi Supreme Court in accordance
67 with the existing laws and rules affecting such appeals.

68 **SECTION 2.** This act shall take effect and be in force from
69 and after July 1, 2003.

