HOUSE BILL NO. 678
(As Sent to Governor)

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

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

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

75-35-325. (1) When a written complaint is made against a person for violation of any provision of this chapter or of Section 75-33-1 et seq., or any of the rules or regulations promulgated there under, the Commissioner of Agriculture, or his designee, shall conduct a full evidentiary hearing relative to the charges. The complaint shall be in writing and shall be filed in the office of the Mississippi Department of Agriculture and Commerce. The commissioner shall cause to be delivered to the accused in the manner described herein a copy of the complaint and a summons requiring the accused to file a written answer to the complaint within thirty (30) days after service of the summons and complaint upon the accused. The accused may be notified by serving a copy of the summons and complaint on the accused or any of his officers, agents or employees by personal service or by certified mail. The accused shall file with the department a written response to the complaint within the thirty-day period. If the accused fails to file an answer within such time, the commissioner or his designee may enter an order by default against the accused. If the accused has filed an answer, the matter shall be set for hearing before the commissioner or his designee.
The commissioner may issue subpoenas to require the attendance of witnesses and the production of documents. Compliance with such subpoenas may be enforced by any court of general jurisdiction in this state. The testimony of witnesses shall be upon oath or affirmation, and they shall be subject to cross-examination. The proceedings shall be recorded by a court reporter. If the commissioner or his designee determines that the complaint lacks merit, he may dismiss it. If he finds that there is substantial evidence showing that a violation of any of the statutes or regulations has been committed, he may impose any or all of the following penalties upon the accused:

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

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

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

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

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

(2) Either the accused or the department may appeal the decision of the commissioner to the circuit court of the county of residence of the accused or, if the accused is a nonresident of the State of Mississippi, to the Circuit Court of the First Judicial District of Hinds County, Mississippi. The appellant shall have the obligation of having the record transcribed and filed with the circuit court. The appeal shall otherwise be
governed by all applicable laws and rules affecting appeals to circuit court. If no appeal is perfected within the required time, the decision of the commissioner, or his designee, shall then become final.

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

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