

189A.17 Penalties.

1. Any person who violates any provisions of this chapter for which no other criminal penalty is provided shall be guilty of a simple misdemeanor; but if such violation involves intent to defraud, or any distribution or attempted distribution of an article that is adulterated, except as defined in section 189A.2, subsection 1, paragraph "h" such person shall be guilty of a fraudulent practice.

2. Nothing in this chapter shall be construed as requiring the secretary to report, for the institution of legal proceedings, minor violations of this chapter whenever the secretary believes that the public interest will be adequately served by a suitable written notice of warning.

3. The secretary shall also have power:

a. To gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any person engaged in intrastate commerce, and the relation thereof to other persons.

b. To require persons engaged in intrastate commerce to file with the secretary in such form as the secretary may prescribe, annual or special reports or answers in writing to specific questions, furnishing to the secretary such information as the secretary may require as to the organization, business, conduct, practices, management, and relation to other persons of the person filing such reports or answers. Such reports and answers shall be made under oath, or otherwise as the secretary may prescribe, and shall be filed with the secretary within such reasonable period as the secretary may prescribe, unless additional time be granted in any case by the secretary.

4. a. For the purpose of this chapter the secretary may, at all reasonable times, examine and copy any documentary evidence of any person being investigated or proceeded against, and may require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence of any person relating to any matter under investigation. The secretary may sign subpoenas and administer oaths and affirmations, examine witnesses, and receive evidence.

b. Such attendance of witnesses, and the production of such documentary evidence may be required at any designated place of hearing. In case of disobedience to a subpoena the secretary may invoke the aid of the district court having jurisdiction over the matter in requiring the attendance and testimony of witnesses and the production of documentary evidence.

c. The district court may, in case of failure or refusal to obey a subpoena issued herein to any person, enter an order requiring such person to appear before the secretary or to produce documentary evidence if so ordered, or to give evidence concerning the matter in question; and any failure to obey such order of the court may be punished by such court as contempt.

d. Upon the application of the attorney general of this state at the request of the secretary, the court shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this chapter or any order of the secretary pursuant thereto.

e. The secretary may order testimony to be taken by deposition in any proceeding or investigation pending under this chapter at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the secretary and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under the person's direction and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the secretary as herein provided.

f. Witnesses summoned before the secretary shall be paid the same fees and mileage that are paid witnesses in the district court, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in such district court.

g. No person shall be excused from attending and testifying or from producing books, papers, schedules of charges, contracts, agreements, or other documentary evidence before the secretary or in obedience to the subpoena of the secretary, whether such subpoena be signed or issued by the secretary or the secretary's delegate, or in any cause or proceeding,

criminal or otherwise, based upon or growing out of any alleged violation of this chapter for the reason that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture; but no person shall be prosecuted or subjected to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled, after having claimed the privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

5. a. Any person who neglects or refuses to attend and testify or to answer any lawful inquiry, or to produce documentary evidence, if it is in the person's power to do so, in obedience to the subpoena or lawful requirement of the secretary shall be guilty of a serious misdemeanor.

b. Any person who willfully makes, or causes to be made, any false entry or statement of fact in any report required to be made under this chapter, or who willfully makes, or causes to be made, any false entry in any account, record, or memorandum kept by any person subject to this chapter, or who willfully neglects or fails to make or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions pertaining to the business of such person, or who willfully leaves the jurisdiction of this state, or willfully mutilates, alters, or by any other means falsifies any documentary evidence of any person subject to this chapter or who willfully refuses to submit to the secretary or to any of the secretary's authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any person subject to this chapter in the person's possession or control, shall be deemed guilty of an aggravated misdemeanor.

c. If a person required by this chapter to file an annual or special report fails to do so within the time fixed by the secretary for filing it, and the failure continues for thirty days after notice of default, the person shall forfeit to this state the sum of one hundred dollars for each day of the continuance of the failure, which forfeiture is payable into the treasury of this state, and is recoverable in a civil suit in the name of the state brought in the district court of the county where the person has a principal office or in the district court of any county in which the person does business. The county attorneys shall prosecute for the recovery of such forfeitures.

d. Any officer or employee of this state who makes public any information obtained by the secretary, without the secretary's authority, unless directed by a court, or uses any such information to the officer's or employee's advantage, shall be deemed guilty of a serious misdemeanor.

6. The requirements of this chapter shall apply to persons, establishments, animals, and articles regulated under the federal Meat Inspection Act or the federal Poultry Products Inspection Act to the extent provided for in said federal Acts and also to the extent provided in this chapter and in regulations the secretary may prescribe to promulgate this chapter.

[C66, 71, 73, 75, 77, 79, 81, §189A.17]

83 Acts, ch 123, §79, 209; 2009 Acts, ch 41, §209

Referred to in §331.424, 331.756(35)