

Legal Fact Sheet

Mississippi Food Donation: Food Scraps for Animals

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Societies have incorporated food scraps into animal feed for centuries.¹ However, in response to several disease outbreaks linked to animal products in livestock feed during the 1980s, state and federal laws tried to limit this practice. Recently, there has been renewed interest in the practice of feeding safe, properly treated food scraps to animals.

Using food scraps as animal feed in a safe, resource-efficient way can be an environmentally friendly and energy-efficient alternative to exclusively feeding livestock crops grown for commercial feed. Repurposing otherwise wasted food has multiple benefits for regional farmers and establishments that generate food scraps, like retailers, restaurants, and educational institutions. These entities can partner to enhance the sustainability of their operations and reduce feed and disposal costs. Feeding food scraps to animals can also reduce the demand for commercial feeds and the land, water, and other resources needed to produce them.

Federal and Mississippi state laws regulate the use of food scraps in animal feed. This guide will examine both types of law.

Federal Law on Feeding Food Scraps to Animals

The federal government regulates the use of food scraps in animal feed by setting requirements which largely concern the type of animals that may be fed food scraps and the kind of food scraps that may be fed to them. The federal regulations function as a floor that allows state regulations to go beyond them. Relevant federal laws include:

- **The Federal Swine Health Protection Act (SHPA)**² mandates that, before being fed to swine, food scraps containing meat and animal byproducts must be heat-treated (212 degrees Fahrenheit/100 degrees Celsius at sea level) for at least 30 minutes by a licensed facility.³ Food scraps containing certain processed items—including industrially processed and rendered animal products, bakery waste, candy, eggs, domestic dairy products, and certain types of fish—do not need to be heat-treated.⁴ SHPA requires feeders to keep swine away from untreated food scraps, and to keep treated food separate

¹ See TRISTAM STUART, WASTE: UNCOVERING THE GLOBAL FOOD SCANDAL 243–44 (First American ed., 2009).

² 9 C.F.R. § 166 (2020); See 7 U.S.C. § 3801, et seq.

³ 7 U.S.C. § 3803(b); 9 C.F.R. §§ 166.2, 166.7 (2020).

⁴ 9 C.F.R. §§ 166.1, 166.2 (2020).

from untreated food.⁵ But SHPA does not prevent a household from feeding kitchen scraps to its own pigs, including those scraps containing untreated meat.⁶

- **The Transmissible Spongiform Encephalopathy (TSE)/Ruminant Feed Ban Rule⁷** prohibits the feeding of any protein-containing portion of mammalian animals to ruminants in order to prevent TSE (“Mad Cow Disease”).⁸ Ruminants are animals that have a stomach with four chambers, such as cattle, sheep, and goats.⁹
- **The Preventive Controls Rule for Animal Food in the Food Safety Modernization Act (FSMA)¹⁰** regulates animal feed that consists of human food byproducts.¹¹ Human food byproducts are foods that are not fit for human consumption but are suitable for animals, such as culls, peels, trimmings, and vegetable pulp.¹² In general, facilities processing food that will be fed to animals must, (1) establish current good manufacturing practices (CGMPs), (2) develop and implement Hazard Analysis and Risk-based Preventive Controls (HARPC), and, if the facility receives food from a supply chain, (3) coordinate with other entities in the chain to control identified hazards.¹³ However, not all facilities must comply with all three requirements. Some facilities are completely exempt from the rule, including certain farms and other facilities that are not required to register with the Food and Drug Administration (FDA).¹⁴ Other facilities, such as those in compliance with the Rule for Preventive Controls for Human Food, are subject to modified requirements.¹⁵
- **The Food, Drug, & Cosmetic Act (FDCA)¹⁶** asserts that animal feed,¹⁷ like human food, cannot be filthy or decomposed, packaged or held under unsanitary conditions, or contain any poisonous or deleterious substance.¹⁸ Moreover, food labels cannot be false or misleading in any way and they must comply with certain, sometimes product specific, requirements.¹⁹ In general, an animal feed label must include the common or usual name(s) of the animal feed²⁰ and the name and place of the feed manufacturer, packer, or distributor.²¹

⁵ See, e.g., 9 C.F.R. §§ 166.3(a), 166.4(a) (2020).

⁶ 9 C.F.R. § 166.1 (2020).

⁷ 21 C.F.R. §§ 589.1, 589.2000 (2019).

⁸ 21 C.F.R. § 589.2000 (2019).

⁹ 21 C.F.R. § 589.2000 (2019).

¹⁰ 21 C.F.R. § 507 (2019).

¹¹ 21 C.F.R. § 507.12(a) (2019).

¹² 21 C.F.R. § 507, et seq (2019).

¹³ 21 C.F.R. § 507 (2019).

¹⁴ See 21 C.F.R. §§ 117.3, 117.5, 507.3, 507.5(d) (2019).

¹⁵ 21 C.F.R. §§ 507.12(a), 507.12(b) (2019).

¹⁶ 21 U.S.C. § 301 et seq.

¹⁷ 21 U.S.C. § 321(f).

¹⁸ 21 U.S.C. § 342(a)(1).

¹⁹ 21 U.S.C. § 343.

²⁰ 21 C.F.R. § 501.3(a)(2) (2019).

²¹ 21 C.F.R. § 501.5 (2019).

Example Scenario: *I own a small microbrewery. What practices should I follow when distributing byproducts from my business as animal feed? A: Breweries produce spent grain, brewery mash, fruit or vegetable peels, and liquid whey as byproducts. They commonly distribute these scraps as animal feed. Because these byproducts are not derived from meat or animal products, they do not fall under the other SHPA or the Ruminant Feed Ban Rule. Under the Preventive Controls rule, brewers must (1) comply with the human food processing CGMPs, (2) refrain from processing the brewing byproducts, and (3) follow those specified CGMPs for preventing physical and chemical contamination when holding and distributing brewing byproducts.*²²

Mississippi State Law on Food Scraps

Mississippi law more strictly regulates feeding food scraps to swine compared to those imposed by federal law. With the exception of the Mississippi Department of Corrections²³ and a person who feeds household garbage to swine for household consumption only,²⁴ feeding garbage to swine is prohibited.²⁵ Garbage is defined as perishable animal and vegetable waste. The Mississippi Department of Corrections is authorized to feed cooked garbage and vegetable refuse to swine and may market and use swine for consumption that has been fed garbage.²⁶

The Commissioner of Agriculture and Commerce and the State Veterinarian are tasked with the execution and enforcement of these regulations.²⁷ The Commissioner, State Veterinarian, or any authorized employee of the Department of Agriculture and Commerce has the power to enter any private or public property to inspect and investigate compliance with the abovementioned regulations.²⁸ The Commissioner, the State Veterinarian, or any authorized employee of the State Board of Animal Health has the authority to quarantine any premises, area, or enclosure on which swine are fed with garbage.²⁹ Anyone found to violate these regulations is charged with a misdemeanor and upon conviction will be subject to both a fine between \$50–\$250 and possible imprisonment of up to ninety days.³⁰

Additionally, the Board of Animal Health permits poultry producers to feed dead poultry to alligators on their own premise.³¹ This is an experimental method and approval must be given by the State Veterinarian on a case-by-case basis.³² If at any time the State Veterinarian finds that the practice presents a risk of spreading avian diseases, they may revoke approval for the individual grower or for the method entirely.³³ A producer may feed alligators only poultry from

²² 21 C.F.R. §§ 507.12(a), 507.12(b) (2019).

²³ MISS. CODE ANN. § 69-11-5(3) (2020).

²⁴ MISS. CODE ANN. § 69-11-5(2) (2020).

²⁵ Swine includes hogs, pigs, or shoats. MISS. CODE ANN. § 69-11-5(1) (2020).

²⁶ MISS. CODE ANN. § 69-11-5(3) (2020).

²⁷ MISS. CODE ANN. § 69-11-7 (2020).

²⁸ MISS. CODE ANN. § 69-11-11(2020).

²⁹ MISS. CODE ANN. § 69-11-13 (2020).

³⁰ MISS. CODE ANN. § 69-11-15 (2020).

³¹ 2-101.2-13 MISS. CODE R. § 105.10 (LexisNexis 2020).

³² 2-101.2-13 MISS. CODE R. § 105.10(1) (LexisNexis 2020).

³³ 2-101.2-13 MISS. CODE R. § 105.10(1) (LexisNexis 2020)

his or her own premise.³⁴ Poultry may not be brought onto a poultry grower's premise for the purpose of feeding to alligators and may not be transported on public roads.³⁵ The Department of Environmental Quality and Department of Wildlife and Fisheries must approve of each poultry grower's site and issue a permit allowing the site to have alligators.³⁶ This method may be used in an effort to reduce the costs associated with incinerating or otherwise disposing of dead poultry.

Preventing Liability

Donating food to feed animals is not covered under the federal Bill Emerson Good Samaritan Food Donation Act.³⁷ Thus, businesses that donate food to feed animals are not protected from liability under federal law. Similarly, Mississippi currently has no laws that provide liability protection for donating food scraps to feed animals.

Conclusion

Feeding food scraps to animals has many economic and environmental benefits when done responsibly and in conformity with state and federal law. In Mississippi, feeding garbage to swine is prohibited, unless done by the Mississippi Department of Corrections or by a person who feeds household garbage to swine for household consumption only. The state also permits poultry producers to feed their own poultry to alligators if they obtain a permit, which is granted on a case-by-case basis. Those interested in feeding food scraps to other animals should ensure not to feed any mammalian protein-containing portion of mammals to any ruminants. Individuals or businesses interested in the practice can learn more by consulting the Mississippi Department of Agriculture and Commerce or the Mississippi Board of Animal Health.

³⁴ 2-101.2-13 MISS. CODE R. § 105.10(5) (LexisNexis 2020).

³⁵ 2-101.2-13 MISS. CODE R. § 105.10(5) (LexisNexis 2020).

³⁶ 2-101.2-13 MISS. CODE R. § 105.10(4) (LexisNexis 2020)

³⁷ Bill Emerson Good Samaritan Food Donation Act 42 U.S.C. § 1791.