

STATE OF TENNESSEE

Office of the Attorney General



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February 17, 2017

The Honorable Frank Niceley
State Senator
9 Legislative Plaza
Nashville, Tennessee 37243

Dear Senator Niceley:

Enclosed is the attached opinion per your request. Please let us know if you have any further questions. As always, we appreciate your assistance and cooperation.

Sincerely,

A handwritten signature in blue ink that reads "Herbert H. Slattery III".

HERBERT H. SLATERY III
Attorney General and Reporter

Enclosure

**STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL**

February 17, 2017

Opinion No. 17-11

Custom Slaughter of Animals Under Tennessee Meat and Poultry Inspection Act

Question 1

Is there any limit on the number of owners for whom a custom slaughterer, as defined in Tennessee Code Annotated § 53-7-202(6), can legally slaughter and process an animal or animals?

Opinion 1

No. For purposes of Tenn. Code Ann. § 53-7-202(6), as long as the owners for whom a custom slaughterer slaughters or processes an animal or animals do not constitute a commercial outlet and do not sell or offer for sale the slaughtered animal through a commercial outlet, there is no limit on the number of owners for whom a custom slaughterer may legally slaughter and process an animal or animals.

Question 2

Can a custom slaughterer, as defined in Tennessee Code Annotated § 53-7-202(6), legally slaughter and process an animal or animals when one or more owners of the animal(s) are a group, such as a cooperative or association, all of the members of which obtained membership before the slaughter of the animal(s)?

Opinion 2

Yes. For purposes of Tenn. Code Ann. § 53-7-202(6), as long as the owners for whom a custom slaughterer slaughters or processes an animal do not constitute a commercial outlet and do not sell or offer for sale the slaughtered animal through a commercial outlet, the owner of the animal may be a group.

Question 3

Under Tennessee Code Annotated § 53-7-209(a)(1), can livestock farmers slaughter and process animals of their own raising on their own farms when they have only a partial ownership interest in the slaughtered and processed animal(s)? Can there be one or more owners for the remaining interest in the animal(s)? If so, is there any limit on the number of owners for the remaining interest in the animal(s)?

Opinion 3

Tennessee Code Annotated § 53-7-209(a)(1) does not require an ownership interest in an animal, merely that it be livestock or poultry of their own raising on their own farms, for their own consumption. The statute likewise does not restrict the number or type of owners.

Question 4

Under Tennessee Code Annotated § 53-7-209(a)(1), if the farmer who raised, slaughtered, and processed the animal(s) on his own farm is a partial owner of the animal(s), can a group, such as a cooperative or association, all of the members of which obtained membership before the slaughter of the animal(s), be a partial owner of the same animal(s)?

Opinion 4

Tennessee Code Annotated § 53-7-209(a)(1) does not restrict the type or number of partial owners of an animal.

ANALYSIS

The Tennessee Meat and Poultry Inspection Act, Tennessee Code Annotated § 53-7-201, *et seq.*, generally provides standards for the slaughtering, labeling, and sale of meat and poultry products in Tennessee.

In construing a statute, courts must carry out the legislative intent and purpose of the General Assembly without unduly restricting or expanding a statute's coverage beyond its intended scope. *Arden v. Kozawa*, 466 S.W.3d 758, 764 (Tenn. 2015); *Shore v. Maple Lane Farms, LLC*, 411 S.W.3d 405, 420 (Tenn. 2013); *Waldschmidt v. Reassure Am. Life Ins. Co.*, 271 S.W.3d 173, 176 (Tenn. 2008). The best indicator of the General Assembly's intent and purpose is the plain and ordinary meaning of the statutory language. *Shore*, 411 S.W.3d at 420. The court must presume that every word has "meaning and purpose." *Id.* Only when the statutory language is ambiguous may the court consider the broader statutory scheme, public policy, the history of the legislation, or other means of statutory interpretation that go beyond the plain language. *Id.*

1-2. Limit on the number and type of owners for whom a custom slaughterer can slaughter and process an animal.

Tennessee Code Annotated § 53-7-202(6) defines "custom slaughterer" to mean:

[a] person engaged for profit in this state in the business of slaughtering or dressing animals for human consumption that are not to be sold or offered for sale through a commercial outlet, and may include the boning or cutting up of carcasses of such animals and the grinding, chopping and mixing of the carcasses of animals.

By its plain terms, the statute requires only that a custom slaughterer not sell the slaughtered or dressed animal or offer it for sale through a commercial outlet. The statute does not otherwise

limit who may engage the services of a custom slaughterer. Thus, Tenn. Code Ann. § 53-7-202(6) imposes no limit to the number of owners for whom a custom slaughterer may slaughter and process an animal or animals, so long as the animal or animals are not thereafter sold or offered for sale through a commercial outlet.

Likewise, the plain terms of the statute do not limit who may engage the services of a custom slaughterer. The statute does not bar a custom slaughterer from slaughtering and processing an animal that is owned by a group, so long as the animal is not thereafter sold or offered for sale through a commercial outlet.

3-4. Limit on the ownership of animals slaughtered by producers.

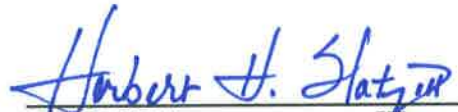
Tennessee Code Annotated § 53-7-209(a) provides, as pertinent to whether livestock producers can slaughter and process animals of their own raising on their own farms when they have only a partial ownership interest in the slaughtered and processed animal, as follows:

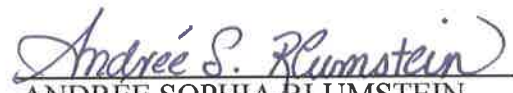
(a) The commissioner shall, by regulation and under conditions as to labeling, and sanitary standards, practices, and procedures that the commissioner may prescribe, exempt from specific provisions of this part:

(1) Livestock producers and poultry producers with respect to livestock and poultry carcasses and parts of livestock and poultry carcasses, meat food products, and poultry products, processed by them from livestock or poultry of their own raising on their own farms, for their own consumption, the excess of which may be sold directly to consumers

No such regulations have been implemented by the Commissioner of Agriculture. *See* Tenn. Comp. R. and Regs. 0080-04-14.01 *et seq.* While the Commissioner has discretion to prescribe conditions for exemption—the statute refers to conditions the Commissioner “may” prescribe—Tenn. Code Ann. § 53-7-209(a) does not afford the Commissioner discretion in exempting from the requirements of the Act those producers identified in (a)(1). *See Bellamy v. Cracker Barrel Old Country Store, Inc.*, 302 S.W.3d 278, 281 (Tenn. 2009) (quoting *Stubbs v. State*, 393 S.W.2d 150, 154 (Tenn. 1965) (“When ‘shall’ is used . . . it is ordinarily construed as being mandatory and not discretionary.”)). Thus, livestock and poultry producers are exempt from the Act, and although that exemption may be conditioned on certain regulations, at present no such regulations concerning labeling and sanitary standards exist to limit the exemption.

Thus, there is no requirement in Tenn. Code Ann. § 53-7-209(a) that the livestock or poultry producer have any ownership interest in the animal processed. They may slaughter livestock or poultry they have raised on their own farm for their own consumption, even if they merely have a partial ownership interest in the animal. Tennessee Code Ann. § 53-7-209(a) likewise places no limitations on the number or type of owners.


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Requested by:

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