

S. Smith 1st Degree 3

AMENDMENT NO. _____ Calendar No. _____

Purpose: To authorize Tribal meat inspection under the Federal Meat Inspection Act by Tribal personnel.

IN THE SENATE OF THE UNITED STATES—119th Cong., 2d Sess.

S. _____

To provide for the reform and continuation of agricultural and other programs of the Department of Agriculture through fiscal year 2031, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Ms. SMITH

Viz:

1 At the end of subtitle A of title XII, add the fol-
2 lowing:

3 **SEC. 121____. TRIBAL MEAT INSPECTIONS.**

4 (a) IN GENERAL.—Title IV of the Federal Meat In-
5 spection Act (21 U.S.C. 671 et seq.) is amended—

6 (1) by redesignating section 411 (21 U.S.C.
7 680) as section 412; and

8 (2) by inserting after section 410 (21 U.S.C.
9 679a) the following:

10 **“SEC. 411. TRIBAL MEAT INSPECTIONS.**

11 **“(a) DEFINITIONS.—In this section:**

1 “(1) COVERED ACTIVITIES.—The term ‘covered
2 activities’, with respect to the inspection of meat
3 food products under this Act, means—

4 “(A) the hiring and training, in accordance
5 with relevant training standards of the Food
6 Safety and Inspection Service of the Depart-
7 ment of Agriculture, of Tribal personnel to con-
8 duct, at covered facilities, any inspections re-
9 quired under this Act that would otherwise be
10 carried out by inspectors appointed by the Sec-
11 retary; and

12 “(B) the conduct of those inspections by
13 those Tribal personnel at covered facilities.

14 “(2) COVERED FACILITY.—The term ‘covered
15 facility’ means a mobile or stationary meat proc-
16 essing facility not less than 51 percent of the owner-
17 ship interest in which is held by an Indian Tribe, a
18 Tribal organization, or a tribally owned entity.

19 “(3) INDIAN TRIBE.—The term ‘Indian Tribe’
20 has the meaning given the term in section 4 of the
21 Indian Self-Determination and Education Assistance
22 Act (25 U.S.C. 5304).

23 “(4) MEAT FOOD PRODUCT.—The term ‘meat
24 food product’ includes a carcass of, a part of, or a
25 product derived from a portion of meat, including

1 bison and reindeer, that is capable of use as human
2 food.

3 “(5) SELF-DETERMINATION CONTRACT.—The
4 term ‘self-determination contract’ has the meaning
5 given the term in section 4 of the Indian Self-Deter-
6 mination and Education Assistance Act (25 U.S.C.
7 5304).

8 “(6) TRIBAL ORGANIZATION.—The term ‘Tribal
9 organization’ has the meaning given the term in sec-
10 tion 4 of the Indian Self-Determination and Edu-
11 cation Assistance Act (25 U.S.C. 5304).

12 “(b) SELF-DETERMINATION CONTRACTS.—

13 “(1) AUTHORIZATION.—Subject to the avail-
14 ability of appropriations, beginning not later than 2
15 years after the date of enactment of this subsection,
16 on receipt of a request from an Indian Tribe or
17 Tribal organization, the Secretary shall enter into a
18 self-determination contract with the Indian Tribe or
19 Tribal organization, respectively, to carry out cov-
20 ered activities.

21 “(2) STANDARDS.—

22 “(A) IN GENERAL.—The covered activities
23 carried out pursuant to a self-determination
24 contract entered into under paragraph (1) shall
25 meet standards and requirements that are not

1 less stringent than, as applicable, the standards
2 and requirements for inspections of amenable
3 species under title I (including regulations), or
4 the standards and requirements for inspections
5 of species that are not amenable species under
6 section 203(h) of the Agricultural Marketing
7 Act of 1946 (7 U.S.C. 1622(h)), with respect
8 to—

9 “(i) antemortem and postmortem in-
10 spection;

11 “(ii) reinspection;

12 “(iii) sanitation;

13 “(iv) humane handling;

14 “(v) recordkeeping; and

15 “(vi) enforcement.

16 “(B) LABORATORIES.—The applicable
17 standards of the Department of Agriculture re-
18 lating to the establishment, maintenance, and
19 operation of laboratories or other similar facili-
20 ties shall apply with respect to covered activities
21 carried out pursuant to a self-determination
22 contract entered into under paragraph (1).

23 “(3) INSURANCE.—

24 “(A) IN GENERAL.—A self-determination
25 contract entered into under paragraph (1) shall

require the Indian Tribe, Tribal organization, or tribally owned entity that owns a covered facility at which covered activities are carried out pursuant to the self-determination contract to maintain insurance coverage (including with respect to outbreaks of food-borne illnesses) that is appropriate for the size of the covered facility, as determined by the Secretary.

“(B) FACTOR FOR CONSIDERATION.—In obtaining or providing insurance coverage for purposes of this paragraph, an Indian Tribe or Tribal organization may take into consideration the extent to which liability under a self-determination contract is covered under chapter 171 of title 28, United States Code (commonly known as the ‘Federal Tort Claims Act’), subject to paragraph (6).

“(C) SOVEREIGN IMMUNITY.—

“(i) IN GENERAL.—A policy of insurance under subparagraph (A)—

“(I) shall include a provision that the insurance carrier shall waive any right to use as a defense the sovereign immunity of an Indian Tribe from suit with respect to any claim the

1 amount and nature of which are with-
2 in the coverage and limits of the pol-
3 icy, subject to clause (ii); and

4 “(II) shall not authorize the in-
5 surance carrier to waive or otherwise
6 limit the sovereign immunity of the
7 applicable Indian Tribe beyond the
8 coverage and limitations of the policy.

9 “(ii) LIMITATIONS.—No waiver of the
10 sovereign immunity of an Indian Tribe
11 pursuant to this subparagraph may in-
12 clude—

13 “(I) a waiver to the extent of any
14 potential liability for interest prior to
15 judgment or punitive damages; or

16 “(II) any other limitation on li-
17 ability imposed by the law of the
18 State in which the alleged injury oc-
19 curs.

20 “(D) TREATMENT AS FEDERALLY IN-
21 SPECTED.—For purposes of insurance and li-
22 ability, a covered facility at which covered ac-
23 tivities are carried out pursuant to this section
24 shall be considered to be federally inspected.

1 “(4) OVERSIGHT.—A self-determination con-
2 tract entered into under paragraph (1) shall require
3 that the Secretary shall maintain oversight authority
4 (including recall, review, and audit authorities) with
5 respect to covered activities carried out pursuant to
6 the self-determination contract.

7 “(5) ENFORCEMENT AUTHORITY.—Tribal per-
8 sonnel carrying out covered activities pursuant to a
9 self-determination contract entered into under para-
10 graph (1) shall have enforcement authority in ac-
11 cordance with this Act, including the authority—

12 “(A) to provide notice of a violation of this
13 Act;

14 “(B) to provide to a covered facility time
15 to remedy such a violation; and

16 “(C) if such a violation is not remedied, to
17 halt processing at the covered facility until the
18 violation is remedied.

19 “(6) TREATMENT AS FEDERAL EMPLOYEES.—
20 Notwithstanding any other provision of law, while
21 carrying out covered activities pursuant to a self-de-
22 termination contract entered into under paragraph
23 (1), Tribal personnel shall be deemed to be Federal
24 employees for purposes of chapter 171 of title 28,

1 United States Code (commonly known as the 'Fed-
2 eral Tort Claims Act').

3 "(c) CERTIFICATION REQUIRED.—As a condition of
4 entering into a self-determination contract under sub-
5 section (b), an Indian Tribe or Tribal organization shall
6 submit to the Secretary not less frequently than annually
7 a certification that each inspection carried out pursuant
8 to the self-determination contract during the year covered
9 by the certification—

10 "(1) met the applicable inspection require-
11 ments, and established and maintained the required
12 standards for inspection, under title I (including reg-
13 ulations); and

14 "(2) was conducted by an inspector employed
15 by the Indian Tribe or Tribal organization who—

16 "(A) was not employed by an animal food
17 manufacturer serving the covered facility being
18 inspected; and

19 "(B) did not hold any ownership interest
20 in such an animal food manufacturer or the
21 covered facility.

22 "(d) COMMERCIAL PROVISIONS.—

23 "(1) LABELING.—Tribal personnel carrying out
24 inspections pursuant to a self-determination contract
25 under subsection (b) shall place on each meat food

1 product that meets the applicable criteria under this
2 Act a label of Federal inspection, in such manner
3 and containing such information as the Secretary
4 may require.

5 “(2) SHIPMENT IN INTERSTATE COMMERCE.—
6 The Secretary shall authorize any Indian Tribes or
7 Tribal organizations that have entered into self-de-
8 termination contracts under subsection (b) to ship in
9 interstate commerce meat food products bearing the
10 label described in paragraph (1).

11 “(3) NO SALE IN FOREIGN COMMERCE.—A
12 meat food product inspected pursuant to a self-de-
13 termination contract under subsection (b) may not
14 be sold in foreign commerce.

15 “(e) TECHNICAL ASSISTANCE.—On request of an In-
16 dian Tribe or Tribal organization that has entered into
17 a self-determination contract under subsection (b), the
18 Secretary shall provide technical assistance with respect
19 to carrying out that self-determination contract.

20 “(f) RITUAL SLAUGHTER.—Nothing in this section
21 prohibits the handling or preparation of livestock used for
22 ritual slaughter in accordance with section 2(b) of Public
23 Law 85-765 (7 U.S.C. 1902(b)) (commonly known as the
24 ‘Humane Methods of Slaughter Act of 1958’).

1 “(g) REPORTS.—Not later than 1 year after the date
2 on which funds are appropriated pursuant to subsection
3 (h), and annually thereafter, the Secretary shall submit
4 to the Committee on Agriculture, Nutrition, and Forestry
5 of the Senate and the Committee on Agriculture of the
6 House of Representatives a report describing the activities
7 carried out under self-determination contracts entered into
8 pursuant to this section.

9 “(h) AUTHORIZATION OF APPROPRIATIONS.—

10 “(1) IN GENERAL.—There are authorized to be
11 appropriated to the Secretary such sums as are nec-
12 essary to carry out this section, to remain available
13 until expended.

14 “(2) APPROPRIATIONS IN ADVANCE.—Only
15 funds appropriated under paragraph (1) in advance
16 specifically to carry out this section shall be avail-
17 able to carry out this section.

18 “(i) RULE OF CONSTRUCTION.—Tribal personnel
19 may use funds made available under subsection (h) to
20 carry out inspections of any species that is not an ame-
21 nable species only pursuant to, and in accordance with,
22 a self-determination contract under this section.”.

23 “(b) RURAL WATER, WASTE DISPOSAL, AND COMMU-
24 NITY FACILITY LOANS AND GRANTS.—An Indian Tribe
25 or Tribal organization (as those terms are defined in sec-

1 tion 4 of the Indian Self-Determination and Education As-
2 sistance Act (25 U.S.C. 5304)) operating under a self-de-
3 termination contract described in section 411(b) of the
4 Federal Meat Inspection Act (as amended by subsection
5 (a)) shall be eligible to receive grants and loans under sec-
6 tion 306(a) of the Consolidated Farm and Rural Develop-
7 ment Act (7 U.S.C. 1926(a)).