WEST VIRGINIA CODE CHAPTER 19 ARTICLE 9

WV Legislature

GENERAL PROVISIONS.

§19-9-1. Definitions.

The following words, as used in this article, or in any rule or regulation authorized thereunder, unless the context otherwise requires or a different meaning is specifically prescribed, shall have the following meanings:

(a) "Commissioner," the state commissioner of agriculture;

(b) "Animal," any domestic equine or bovine animal, sheep, goat, swine, dog, cat or poultry;

(c) "Owner," any person who owns, leases or hires any domestic animal from another, or who allows a domestic animal habitually to remain about the premises inhabited by such person;

(d) "Premises," is to be taken in its widest sense, and shall include land, any structure, building, pen, coop or inclosure thereon, and any vehicle, car or vessel used in transporting passengers, goods or animals by land or water;

(e) "Communicable disease," actinobacillosis, actinomycosis, anaplasmosis, anthrax, apthous fever (foot-and-mouth disease), aujesky's disease (mad itch), bacillary hemoglobinuria, blackleg, brucellosis (cattle, swine and goats), contagious ecthyma (sheep sore mouth), contagious pleuropneumonia, dourine (horses), encephalomyelitis, equine encephalomyelitis, erysipelas (swine), glanders, hemorrhagic enteritis in swine, hemorrhagic septicemia (shipping fever), hog cholera, influenza (horses and swine), infectious equine anemia, infectious keratitis, Johne's disease (paratuberculosis in cattle), laryngo tracheitis (poultry), leptospirosis, listerellosis, malignant oedema, necrobacillosis, newcastle disease (avian pneumonencephalitis), psittacosis, pullorum disease, pox (chicken, cow, swine and horse), Q fever, rabies, rinderpest, Rocky Mountain spotted fever (in rodents and dogs), salmonellosis, scabies (mange -- in all species), tick fever, tularemia, trichinosis, trichomoniasis, tuberculosis, vesicular exanthema (swine), vesicular stomatitis, vibrio foetus, X-disease (hyperkeratosis), or any other disease which has been or may hereafter be adjudged and proclaimed by the commissioner or the bureau of animal industry of the United States Department of Agriculture to be contagious, infectious or otherwise transmissible or communicable.

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§19-9-2. Duties and powers of commissioner.

It shall be the duty of the commissioner, and he shall have authority:

(a) To prevent, suppress, control and eradicate any communicable diseases of animals or poultry;

(b) To make and enforce such rules and regulations as may be necessary to effectuate the provisions of this article;

(c) To collect and disseminate information and statistics by means of circulars and bulletins on the prevalence and control of animal and poultry diseases and their treatment, the proper care and sanitation of stables and other buildings, so as to prevent the existence and spread of communicable diseases among such animals and poultry, and such other information relative thereto as will be of value to the stock industry of the state;

(d) To make or cause to be made any investigations he may deem advisable regarding the causes and methods of preventing, controlling and eradicating diseases of animals or poultry, and exercise such other powers and perform such other duties as may be proper or necessary to prevent the spread of, eradicate or control any communicable disease among animals or poultry, including the power to promulgate, issue, and enforce regulations prohibiting the feeding of garbage to swine unless said garbage has been thoroughly heated to a temperature of at least 212 degrees F for at least thirty minutes or treated in some other manner equally effective for the prevention of swine diseases and the protection of public health, such regulations not to apply to any individual who feeds only his own household garbage to swine which are raised for such individuals' own use;

(e) To prohibit the importation into this state of animals and poultry, when necessary to prevent the spread of disease;

(f) To cause general or special quarantine of premises and of animals and poultry to be established and maintained;

(g) To cause the disinfection of any premises;

(h) To cause the destruction of diseased animals, when such animals are deemed diseased as a result of physical examination or an approved test, and of infected personal property, and to regulate and prohibit the moving or transportation of such animals or property from one place to another in this state;

(i) To have charge of the enforcement of the provisions of this article and the laws of the state relating to diseases of animals and poultry, and the manufacture, preparation, storage, sale and offering for sale of the food and food products derived from diseased animals and poultry.

WV Legislature

§19-9-3. Consulting veterinarians to assist commissioner.

The commissioner shall have authority to appoint, subject to dismissal by him at any time, such consulting veterinarians as may be necessary from time to time to assist him in discharging the duties imposed upon him by this article. Each consulting veterinarian shall be registered as required by article ten, chapter thirty of this code, and shall receive a per diem, and actual expenses, to be determined by the commissioner, for the time actually engaged in carrying out the directions of the commissioner, which per diem and expenses shall be paid out of the current appropriation made for the enforcement of this article.

Whenever any incorporated city of this state shall have in its employ any veterinary sanitary officer engaged in the inspection of meat, milk or animals, and such officer is a registered veterinarian as aforesaid, the commissioner may appoint such city veterinary sanitary officer a consulting veterinarian, but such officer shall not be entitled to compensation or expenses from both the state and city for the same service.

WV Legislature

§19-9-4. Inspectors of animals.

The commissioner may appoint, at different points in the state, inspectors to examine and inspect any of the animals enumerated in this article which are to be moved to states where the sanitary laws require such examination and inspection, with authority to issue certificates of inspection in the name of the state Department of Agriculture in such form as the commissioner may prescribe. Such inspectors shall be registered veterinarians, and the appointment of any such inspector may, at any time, be revoked by the commissioner.

The commissioner shall regulate and fix the fees to be charged by the inspector, which fees shall be paid by the owner requesting such examination and inspection, and the inspector shall receive no compensation from the state for any such service he may render.

Upon the request of any owner for an examination and inspection of such animals and tender of the fees authorized to be charged therefor, it shall be the duty of the inspector to examine and inspect such animals and to issue and deliver to such owner a certificate of inspection showing the results of such examination and inspection.

WV Legislature

§19-9-5. Persons authorized to enter premises; powers thereof; refusal to enforce orders of commissioner.

The commissioner, the consulting veterinarians, and their duly appointed and authorized assistants or employees, in the performance of their duties under this article and the rules and regulations adopted by the commissioner, shall have the power to enter any premises, public or private, where they have reason to believe that diseased animals or poultry may be or may have been confined or kept in or on such premises, or for the purpose of making such examination or applying such tests as may be necessary to determine whether any contagious or infectious disease exists there. They shall have the same powers and protection as other peace officers of this state, and shall have power and authority to require all sheriffs and their deputies, constables, mayors of cities and towns, and state and municipal police officers, to assist them in carrying out the provisions of this article and the rules and regulations adopted thereunder. Any officer who fails or refuses to enforce the lawful orders and quarantine of the commissioner or any one acting under him in the proper execution of the powers conferred by this article, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five nor more than $200.

WV Legislature

§19-9-6. Report of communicable diseases by veterinarians and owners; failure to report.

Every veterinarian engaged in the practice of his profession in this state, immediately upon receiving information thereof, shall report to the commissioner each case of any communicable disease, or of any animal reacting to a tuberculosis or mallein test; and every person who has upon his premises or in his possession any domestic animal which is, or which he has good reason to suspect to be, infected with any communicable disease, shall immediately report the same to the commissioner. The reports shall be in writing and shall include a description of each animal affected, with the name and address of the owner or person in charge of the animal, the locality, and the number of susceptible domestic animals that have been exposed to the disease.

Any veterinarian or other person who shall knowingly fail to report such a case or who shall attempt to conceal the existence of such disease shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $100.

WV Legislature

§19-9-7. Commissioner may accept federal laws and regulations.

The commissioner shall have authority to accept on behalf of the state the laws, rules and regulations of the United States bureau of animal industry for the prevention, control and eradication of communicable diseases among animals and poultry.

WV Legislature

§19-9-7a. Animal disease traceability; rulemaking; exemption.

West Virginia shall be a participating state in the United States Department of Agriculture's Animal Disease Traceability program. The commissioner may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq*. of this code governing the collection of farm premises and animal identification data.

The premises and animal identification data collected by the commissioner in accordance with the requirements of the Animal Disease Traceability program are specifically exempt from disclosure under the provisions of §29B-1-1 *et seq*. of this code.

WV Legislature

§19-9-8. Powers of federal inspectors.

The inspectors of the bureau of animal industry of the United States shall have the right to inspect, quarantine and condemn animals infected with any communicable disease, or suspected to be so infected, or that have been exposed to any such disease, and for these purposes are hereby authorized and empowered to enter upon any ground or premises. Such inspectors shall have power and authority to require sheriffs, constables or peace officers to assist them in the discharge of their duties in carrying out the provisions of the acts of Congress, approved May twenty-ninth, eighteen hundred and eighty-four, establishing the bureau of animal industry, and all acts amendatory thereof, and shall have the same powers and protection as peace officers while engaged in the discharge of their duties.

WV Legislature

§19-9-9. County court may cooperate in control and eradication of communicable diseases.

The county court of any county is hereby authorized to cooperate with the commissioner of agriculture and the United States Department of Agriculture in the control and eradication of bovine tuberculosis, or any other communicable disease of livestock, and in creating modified accredited free areas, and all expenses incurred by such county through this cooperative agreement shall be paid out of the county treasury as other claims against the county.

WV Legislature

TESTS FOR DISEASES AND SALE OF DIAGNOSTIC MATERIAL

§19-9-10. Commissioner may prescribe tests for diseases.

The commissioner may prescribe methods of making tests with tuberculin, mallein or other recognized tests for the diagnosis of animal diseases.

WV Legislature

§19-9-11. Reports of sales of and tests with diagnostic materials.

Every sale in this state of a biological product intended for diagnostic or therapeutic purposes with animals, and each injection or test made therewith, shall be reported in writing to the commissioner within one week after such sale or test. Each such report shall be signed by the person who made the sale or test. In the case of a sale, the report shall state the name of the purchaser of the biological product, with the amount sold, and the date of sale. In the case of a test, the report shall state the name and address of the owner of the animal tested or treated, the locality where such test or treatment was made, a description of the animal or animals tested or treated, and a complete statement of the actual result of such test or treatment. Any person whose duty it is to make such report, who shall fail or refuse to do so, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding $100.

WV Legislature

§19-9-12. Unlawful sale of diagnostic materials.

It shall be unlawful for any person to manufacture for sale, or sell or offer for sale, any biological product intended for diagnostic or therapeutic purposes with animals unless such product is officially approved by the bureau of animal industry of the United States.

WV Legislature

§19-9-12a. Sale, distribution or administration of unattenuated hog cholera virus.

It shall be unlawful for any person, firm, corporation or association to sell or offer for sale, distribute, administer, barter, exchange, give away or otherwise dispose of unattenuated hog cholera virus except upon a special written permit issued by the commissioner of agriculture.

"Hog cholera virus" means an unattenuated virus administered to swine for the purpose of immunizing such swine against the disease known as hog cholera.

WV Legislature

QUARANTINE

§19-9-13. Quarantine of premises or animals; general and special quarantine defined.

Whenever any communicable disease shall exist anywhere in the state a quarantine of any locality or premises, or of any infected or exposed animals, may be established.

Quarantine shall be of two kinds:

(a) "Special quarantine," which shall mean a quarantine of a single animal; or a quarantine of a single building, structure, pen, coop, car, vessel, vehicle, field or inclosure; or a quarantine of any number of animals when confined or contained in the same building, structure, pen, coop, car, vessel, vehicle, field or inclosure;

(b) "General quarantine," which shall include all quarantines not included under the term "special quarantine" as herein defined.

WV Legislature

§19-9-14. Establishment of special quarantine.

The commissioner or his authorized agent shall have the power to establish and maintain a special quarantine, whenever any domestic animal shall be affected with or exposed to any communicable disease, or whenever he deems it necessary to have any animal examined or tested. When a special quarantine is established, the commissioner, or his agent, shall post on the building, structure, pen, coop, car, vessel, vehicle, field, or enclosure wherein the animal or animals quarantined are confined or contained, a notice declaring the quarantine and containing a description of the animal or animals and of the premises where quarantined. Such quarantine may continue for such time as the commissioner, or his agent, may deem advisable.

WV Legislature

§19-9-15. Establishment of general quarantine.

A general quarantine may be established and maintained whenever any communicable disease of domestic animals shall exist in any locality in the state larger in extent than that which may be included in a special quarantine. A general quarantine shall be established and maintained by order of the commissioner only; but in establishing and maintaining such quarantine the commissioner may act through and by an officer or agent employed by him to whom such power is delegated, and the establishment and maintenance of such quarantine by any officer, agent or employee of the commissioner shall be prima facie the establishment and maintenance of quarantine by the commissioner. Such quarantine shall include such premises, locality or territorial district, and such animals, and shall continue for such time, as may be deemed necessary by the commissioner. Whenever any premises or any locality or territorial district shall be placed under a general quarantine, it shall be the duty of the officer, agent or employee by whom the order of quarantine is executed, to post at least ten notices in the most public places within the premises, locality or territorial district quarantined, declaring the quarantine and the duration thereof, the extent and limits of the premises, locality, or territorial district so quarantined, and the animals subject thereto. A copy of such notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the quarantined area. If the quarantine shall be for the purpose of preventing the spread of rabies or hydrophobia, and in the case of other communicable diseases, if the commissioner deems such action necessary, the notice shall require all dogs within the quarantined area to be confined by their owners.

WV Legislature

§19-9-16. Unlawful to remove, deface or destroy quarantine notice.

It shall be unlawful for any person, during the continuance of any quarantine, to tear down, deface or destroy any notice of quarantine posted by any officer, agent, or employee of the commissioner, or to remove or destroy any portion of a building or tree or fence whereon the same shall have been posted.

WV Legislature

§19-9-17. Care of quarantined animals; expense.

The owner of animals placed in quarantine by the commissioner or his agents shall provide suitable quarters for them and feed and water them. If he fails or refuses to do so, the commissioner or his agents shall provide such quarters and feed and water such animals at the expense of the owner. If such expense shall not be paid within ten days after the lifting of the quarantine, the commissioner may sell or cause to be sold any such animal, at public sale, after ten days' notice thereof, and shall apply the proceeds of such sale, first to the payment of the costs and expenses aforesaid, and the residue to the owner. No animal shall be removed from a quarantined area prior to such sale, except upon payment of such expense.

WV Legislature

§19-9-18. Removal of animals, etc., from quarantined area; running at large of dogs in such area.

After the establishment of any quarantine authorized by this article, and the posting of the notices required by law, it shall be unlawful for any person, during the continuance of such quarantine, without a special permit in writing from the commissioner, to remove any animal from or to any premises within the limits of the quarantine, or to remove from any quarantined area or premises any hay, straw, grain, fodder, or other food, or to remove any coop, car, wagon, vehicle, vessel or premises so quarantined, or to sell, exchange, give away, lease, lend or remove, or allow to be removed, any quarantined domestic animal or animals. It shall be unlawful, during the continuance of such quarantine, after notice as aforesaid, for the owner of any dog to permit such dog to run at large in any such quarantined locality, or for any person to remove, or permit to be removed, any dog from such quarantined area. Any dog found running at large in such quarantined area, or known to have been removed from or to have escaped from such area, as aforesaid, may be secured and confined, or may be shot or otherwise destroyed by any person, without liability therefor.

WV Legislature

§19-9-19. Domestic animal within quarantined area running at large.

When any quarantine shall be established under this article, it shall be unlawful for the owner of any domestic animal within the limits of the quarantined area to allow such domestic animal to run at large during the continuance of the quarantine. Any animal so found running at large shall be taken up by any constable or deputy sheriff of the county knowing the facts, or by an agent or employee of the commissioner, and kept at the expense of the owner until the lifting of the quarantine. For such service he shall be entitled to $1 for each animal. Each animal shall be kept until such fee and all cost of keeping such animal shall have been paid. If not paid within two weeks after the lifting of the quarantine, the animal may be sold as provided in section seventeen of this article; and after the deduction of all fees, costs and expenses, the residue shall be paid to the owner, if known, and if not known, shall be paid into the State Treasury. This section shall not apply to dogs, or affect the special provisions of this article with reference to dogs.

WV Legislature

IMPORTATION OF ANIMALS INTO STATE

§19-9-20. Bringing animals into state; health certificate.

It shall be unlawful for any person or his agents or employees knowingly to drive, cause to be driven, bring or cause to be brought into this state any domestic animal infected with any communicable disease. Every domestic animal being brought into the state for any purpose, by any means of transportation, shall be subject to the restrictions imposed by section twenty-one of this article, unless such animal is accompanied by a certificate of good health issued by the state veterinarian or other accredited authority of the state from which such animal originates, or the certificate of a veterinary inspector of the bureau of animal industry of the United States Department of Agriculture, setting forth that such animal is free from all communicable diseases and does not originate from a district of quarantine or infection, and showing inspection to have been made within a period of thirty days prior to the arrival of such animal: Provided, however, That in the case of bovine animals the duration of such period of test shall be sixty days or such other period as shall conform to the regulations of the United States Department of Agriculture. Such certificate shall be made in triplicate, the original to be retained by the owner or person in charge of such animal, and by him attached to the bill of lading accompanying shipment of the animal, the duplicate to be forwarded to the commissioner, and the triplicate to be retained by the veterinarian making the inspection.

WV Legislature

§19-9-21. Animals entering state without health certificate.

It shall be the duty of the owner or owners of any domestic animal, which is to enter this state without a certificate of health, to notify the commissioner in writing stating when, where and how the animal is to be brought into this state. Such notice must reach the commissioner before the animal arrives at the point of destination. Any animal entering the state without a certificate of health may be placed in quarantine by the commissioner under such rules and regulations as he may approve, and held therein at the expense of the owner, and if such animal is found infected with any communicable disease, it shall, at the option of the owner, be killed, without compensation to the owner, or continued in quarantine at the expense of the owner. The expenses incurred in providing such animal or animals with proper quarters, food and water may be recovered by the commissioner from the owner in a suit in the name of the state, as other debts are by law collectible. It shall be unlawful to remove any such domestic animal from quarantine unless it shall have passed a satisfactory examination, and the tuberculin test in the case of bovine animals for dairy or breeding purposes, and unless the charge for the quarters, feed, water and attendance have been paid to the person entitled thereto.

WV Legislature

§19-9-22. Unlawful possession of animal brought into state.

When notified by the commissioner, or any of his agents or employees, not to do so, it shall be unlawful for any person to receive, keep or have in his possession any domestic animal imported or brought into this state in violation of any of the provisions of this article, or to allow any such domestic animal to come in contact with any other domestic animal.

WV Legislature

§19-9-23. Regulation of imported dairy or breeding animals.

No domestic animal that has been, or is to be, used for dairy or breeding purposes shall be imported or brought into this state except under the following regulations: There shall be provided for each bovine animal a health certificate and a tuberculin test chart, each in triplicate, from a veterinary inspector of the United States bureau of animal industry, or from the state veterinarian, or duly authorized and officially certified veterinarian of the state whence the animal has been transported or moved. The originals of the certificate and of the chart shall be attached to the waybill, when the animal shall be transported by common carrier, and the duplicates sent so as to reach the office of the commissioner before the animal reaches the point of destination, and the triplicates shall be retained by the veterinarian issuing the certificate. If the animal be brought into the state other than by common carrier, the office of the commissioner shall be notified before such animal shall be brought in. The original certificate and chart shall be in the possession of the person who shall bring such animal into the state, and shall be surrendered to any officer or agent of the commissioner on demand. The duplicates thereof shall be sent to the commissioner as aforesaid. Such notice to the commissioner shall state when, where and how the animal is to be brought into the state. Such certificates and chart shall show that the animal is free from Texas fever ticks, and all communicable diseases. The chart must show that an approved preparation of tuberculin has been used, and that an examination and tuberculin test have been carried out in a manner approved by the commissioner: Provided, however, That from herds which are recorded and certified as free from tuberculosis, either by the state veterinarian or other accredited authority of such state as the commissioner may see fit to recognize for this purpose, or may be so recorded and certified by the United States bureau of animal industry, animals may be permitted to enter the state upon such herd certificate in lieu of the tuberculin test chart hereinbefore required.

WV Legislature

§19-9-24. Importation of dairy or breeding animal unaccompanied by health certificate and test chart.

Any bovine animal, not accompanied by the health certificate and tuberculin test chart required by section twenty-three of this article, may be brought into this state only under the direct supervision of an officer, or agent of the commissioner, subject to the provisions of section twenty-one of this article and to the following regulations: Each animal shall be held in close quarantine, at the cost and expense of the owner, at such place, under such conditions and during such time as may be prescribed by the commissioner, and during the period of such quarantine shall be submitted to a physical examination and tuberculin test by an agent of the commissioner. The examination and test shall be at the expense of the owner. If the costs and expenses aforesaid are not paid by the owner, they may be recovered by the commissioner as provided in section twenty-one of this article.

WV Legislature

§19-9-25. Commissioner may decline to accept health certificate or test chart.

If the commissioner shall suspect the genuineness of any health certificate or tuberculin test chart relating to imported animals or shall question the competency of the person of the state of export who shall have issued such chart or certificate, he may decline to accept the same, and refuse to permit the importation of the animals concerned, unless a certificate and chart be furnished from the proper inspector of the bureau of animal industry of the United States, or upon such other certificate or tests as the commissioner shall determine.

WV Legislature

§19-9-26. Animals brought into state for slaughter or for exhibition purposes.

Sections twenty to twenty-five, both inclusive, of this article, shall not apply to animals brought into the state for immediate slaughter, or for temporary exhibition purposes only, if a permit, conditioned as the commissioner may prescribe, for each animal intended for exhibition, shall first have been obtained from him

WV Legislature

§19-9-27. Unlawful sale of animals for breeding or dairy purposes.

It shall be unlawful for any person to sell for dairy or breeding purposes any domestic animals brought into the state for immediate slaughter, or to use or permit to be used any such animal for dairy or breeding purposes, unless and until such animals are first subjected to the test required by this article.

WV Legislature

SLAUGHTERING OF DISEASED ANIMALS

§19-9-28. Indemnity for euthanizing infected or exposed animals; agreement.

Whenever, to prevent the spread of any communicable disease which cannot be cured or controlled by isolation and adequate or proper veterinary treatment, the commissioner or any of the commissioner's agents find it necessary to euthanize any animal infected with or directly exposed to any infectious, contagious or communicable disease, which cannot be cured or controlled by isolation and adequate or proper veterinary treatment, and if the owner of the animal elects to receive indemnity for it, the commissioner shall require the owner, before the appraisal and death of the animal, to execute an agreement that the owner will thoroughly clean and disinfect all premises that may have been infected by the animal in the manner the commissioner prescribes. If the animal has tuberculosis, the agreement will require the owner to have the entire herd of bovine animals tested with tuberculin by the commissioner or the commissioner's agent, at times the commissioner designates, and the agreement will require that the owner not admit to the herd any bovine animal that has not had a negative reaction to the test. The agreement shall be in duplicate, one copy to be retained by the signer, on a form prescribed by the commissioner, and shall be signed by the owner or the owner's agent. The agreement shall be effective for a period of two years from the date it is executed. All animals for which the owner claims indemnity shall be appraised before being euthanized, and the owner shall be indemnified as hereinafter provided: Provided, That any animal infected with rabies may be euthanized by the owner or any person authorized to do so without an agreement or appraisal, and if the disease is caused by a dog bite, the animal shall be appraised and the owner shall be compensated as provided in article twenty of this chapter.

WV Legislature

§19-9-29. When right of indemnity does not exist.

The right of indemnity shall not exist nor shall payment be made in any of the following cases:

(a) For animals owned by the United States, this state, or any county, city, town or village in this state;

(b) For animals brought into this state contrary to the provisions of this article, or where the owner of the animals or person claiming compensation has failed to comply with the provisions of this article;

(c) When the owner or claimant at the time of coming into possession of the animal knew or had reason to believe it to be afflicted with a communicable disease;

(d) When the owner has been guilty of negligence or carelessly exposed such animals to a communicable disease; and

(e) When the owner has refused or neglected to comply with the sanitary requirements of the Commissioner of Agriculture or the commissioner's agents.

WV Legislature

§19-9-30. Appraisal of infected or exposed animals; amount; arbitration; fees of arbitrators.

The commissioner or the commissioner's agent shall act as appraiser and shall appraise each infected or directly exposed animal within five days before euthanizing the animal, basing the amount upon the class and market value of the animal at the time of the appraisal, whether for breeding purposes or for milk or meat production. Animals reacting to any approved test, but not exhibiting any physical evidence of disease, shall be appraised without considering the presence of a diseased condition, but animals exhibiting any physical evidence of disease shall be appraised as infected animals: Provided, That where indemnities are claimed for directly exposed animals euthanized on account of rabies infection, appraisal shall be based on the value of the animal before it became infected. If the amount of appraisal of any animal, as determined by the appraiser, is not satisfactory to the owner of the animal, the owner shall immediately notify the appraiser of this fact, setting forth the reason for complaint. The amount of the appraisal shall then be determined by arbitrators, one to be appointed by the appraiser and one by the owner of the animal. If these arbitrators are not able to agree on the amount of appraisal, a third arbitrator shall be appointed by them, whose decision shall be final. Compensation for the arbitrators appointed by the owner and the appraiser shall be paid by the party appointing the arbitrator, and in case a third arbitrator is chosen, the third arbitrator shall be paid by the party against whom the decision is made.

WV Legislature

§19-9-31. Certificate of appraisal.

When the animal is to be euthanized, the commissioner or the commissioner's agent shall deliver to the owner a certificate of appraisal which may cover any number of animals belonging to the same owner, showing the age and description of each animal found to be infected or directly exposed; the name and place of test, if any; the mark or brand signifying an animal with tuberculosis; any other mark or brand which the animal may bear; the date when and the place where the animal is to be euthanized by the veterinarian; the designation of the officer who is to supervise the euthanasia; the appraised value of each animal; the name and address of the owner of the animal; and the fact that the owner has executed the agreement as provided in section twenty-eight of this article.

WV Legislature

§19-9-32. Euthanasia of diseased animals; supervision; certificate of euthanasia.

After the agreement described in section twenty-eight of this article has been executed, the appraisal has been made and the certificate of appraisal issued, the commissioner or the commissioner's agent shall have the animal euthanized and the carcass disposed of in accordance with the meat inspection regulations of the United States Department of Agriculture, or in such manner as the commissioner prescribes. The officer supervising the euthanasia shall immediately include in the certificate of appraisal provided for in section thirty-one of this article a certificate of euthanasia stating that the officer has witnessed the euthanasia of each of the animals; identifying the place and date of the euthanasia; certifying that the number, age, description and brand or mark correspond to those in the certificate of appraisal; stating the result of the post-mortem examination; the disposition made of the carcass; and the amount paid to the veterinarian, which amount shall be paid to the owner and credited on the amount of appraisal: Provided, That in case animals are euthanized as having tuberculosis, the appraisal certificate shall be credited in the manner provided in section thirty-six of this article.

The euthanasia may be supervised and certified by the commissioner; any of the commissioner's agents; or any person with the authority of an agent or officer of the United States Department of Agriculture. The commissioner may prescribe other requirements for the certificates or the affidavits required by this article, and may make and enforce rules governing the handling, shipping and euthanasia of such animals.

WV Legislature

§19-9-33. Payment of indemnity.

All claims for indemnity for animals euthanized as having tuberculosis shall be paid in the manner prescribed in section thirty-seven of this article. In all other cases when animals are euthanized as provided in this article the veterinarian shall forthwith forward to the commissioner the certificates of appraisal and euthanasia, together with the owner's claim for indemnity, and the owner's affidavit that the owner has in all respects complied with the agreement provided for in section twenty-eight of this article, and with any other requirements prescribed by the commissioner. If the certificates, claim and affidavit are correct and the claim is not barred by section twenty-nine of this article, the commissioner shall approve and file them. The commissioner shall, at the end of each fiscal year, issue a requisition to the State Auditor for two thirds of the value of the approved certificates: Provided, That in case of an outbreak of foot-and-mouth disease, or any other dangerously contagious or infectious disease among bovine animals, ovine animals, or swine, on account of which such animals are being euthanized by cooperative order of federal and state authority, and for which euthanized animals the federal government pays one half of the indemnity, this state shall pay one half, and only one half, of such indemnity. The State Auditor shall issue a warrant on the state Treasurer, in favor of the claimant, for the amount ordered by the commissioner, which shall be paid out of the current appropriation for administering this article: Provided, however, That in case the amount of the certificates of appraisal, and of those described in section thirty-seven of this article, in any one year, exceeds the current appropriation therefor, the certificates shall be paid pro rata at the end of each fiscal year.

WV Legislature

§19-9-34. Disposal of carcass of diseased animal.

(a) Whenever it is necessary to destroy or dispose of the carcass of any animal to prevent the spread of disease, the destruction or disposal shall be made by one of the following methods designed to be protective of human health and the environment:

(1) Complete cremation of the entire carcass with all its parts and products;

(2) Boiling the carcass and all its parts and products in water or heating the same with steam at the temperature of boiling water, continuously during at least two hours;

(3) Disposing of the carcass and all its parts and products in a solid waste landfill permitted and approved by the Department of Environmental Protection;

(4) Burial of the carcass and all its parts and products:

(A) In a place that will not be subjected to overflow from ponds or streams, and which is not less than one hundred feet from any watercourse, well, spring, public highway, house or stable;

(B) Covered with quicklime to a depth of not less than three inches; and

(C) So that the top of the carcass is not within two feet of the surface of the ground when the grave is filled and smoothed to the level of the surrounding surface;

(5) Rendering by a licensed facility;

(6) Composting; and

(7) Any other method the commissioner prescribes.

(b) When an animal infected with a communicable disease dies or is euthanized, the owner of the animal shall destroy or dispose of the carcass in the manner provided in this section. It is unlawful to sell the carcass, any part of it, or any hide or offal from it. If the owner of the animal does not dispose of the carcass within twenty-four hours as provided by law, the commissioner or the commissioner's agent shall destroy or dispose of the carcass according to law, at the cost of the owner. The expense of destruction or disposal may be collected from the owner as debts of like amount are by law collectible.

(c) For purposes of this section and rules promulgated under this section:

"Composting" means a natural process in which beneficial microbes reduce organic waste (poultry mortality) into a biologically safe by-product which is capable of being recycled in the agriculture industry.

"Composter" is a roofed structure with an impervious floor, and with treatment areas made

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of wood, designed for composting organic materials; or a rotary drum composter designed, constructed and located to prevent the contamination of ground and surface water.

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§19-9-34a. Authority of commissioner to promulgate rules regulating disposal of dead animals.

Notwithstanding any other provision of law to the contrary, the Commissioner of Agriculture is authorized to promulgate rules to regulate the disposal of dead animals.

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§19-9-35. Tests for bovine tuberculosis; disposition of infected bovine animals.

The commissioner or the commissioner's agent is authorized to test with tuberculin any bovine animal kept within the state, subject to rules prescribed by the commissioner. The tuberculin test shall be applied to bovine animals at times designated by the commissioner for the control and eradication of bovine tuberculosis, and all cows whose milk is sold for human consumption or manufacture, and all uncastrated beef animals, shall be tested with tuberculin to the greatest extent possible.

When a bovine animal has a clearly defined reaction to such test, as prescribed by the commissioner's rules, the animal shall be considered infected with bovine tuberculosis and shall be marked or branded upon the left jaw with a capital "T" not less than two inches high, one and one-half inches wide, with a mark one fourth of an inch wide. Such branding shall not constitute cruelty to animals within the meaning of the penal laws of the state.

All bovine animals within the state which are deemed to have tuberculosis, either as a result of a physical examination or the tuberculin test, shall be euthanized, and if the owner of any such animal demands indemnity, the owner shall execute the agreement provided for in section twenty-eight of this article; such animal shall be appraised as provided in section thirty of this article; an appraisal certificate shall be issued as provided in section thirty-one of this article; and the euthanasia shall be supervised and the certificate shall be issued as provided in section thirty-two of this article.

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§19-9-36. Rules for determining amount of indemnity.

The owners of animals euthanized as having tuberculosis shall be indemnified in an amount determined by the results of post-mortem inspection by the officer supervising the euthanasia, and the certificate of appraisal shall be credited according to the following rules: (a) If an animal is found upon post-mortem inspection not to show lesions of tuberculosis, the carcass and other edible portions shall be passed as food, and the veterinarian shall sell them, including all accompanying parts, for the best price obtainable, which shall be paid to the owner and deducted from the amount of appraisal, and any remaining balance shall be paid to the owner; (b) if an animal is found upon post-mortem inspection to be infected with tuberculosis, and the lesions are such that the carcass and parts of the carcass are passed for food, the veterinarian shall sell them, including all accompanying parts, for the best price obtainable, which shall be paid to the owner and deducted from eighty percent of the amount of the appraisal, and any remaining balance shall be paid the owner; (c) if an animal upon post-mortem inspection is condemned for offal, the veterinarian shall sell the hide and offal for the best price obtainable, which price shall be paid to the owner and deducted from forty percent of the appraisal, and any remaining balance shall be paid to the owner.

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§19-9-37. Payment of indemnity for animals slaughtered as tuberculous.

After an animal shall have been slaughtered as tuberculous, the veterinarian shall forthwith forward to the commissioner the certificates of appraisal and slaughter, together with the owner's claim for indemnity, and his affidavit that he has, in all respects, complied with the agreement provided for in section twenty-eight of this article and with the requirements of the commissioner in respect thereto. If the commissioner find the same to be correct, he shall approve them and within thirty days file them with the county court of the county in which such animals are owned at the time they were condemned as tuberculous. If the county court, upon examination of the certificates filed as aforesaid and of the affidavit of the claimant and any evidence that may be presented, shall find the claim is regular and not barred by the provisions of section twenty-nine of this article, and the facts therein set up are true, and that the claimant is entitled to indemnity as herein provided, the county court shall make an order allowing the claimant one half of the value of the certificate of appraisal, which shall be paid upon the order of the county court out of the General Funds of the county. The commissioner shall at the end of the fiscal year issue his requisition to the State Auditor for the payment of the remaining one half of the value of the certificate of appraisal, and the Auditor shall issue his warrant upon the state Treasurer, in favor of the claimant, for such amount, which shall be paid out of the current appropriations made for carrying out the provisions of this article: Provided, That in case the amount of such certificates of appraisal and those similarly provided for in section thirty-three of this article in any one year shall exceed the current appropriation therefor, such certificates shall be paid pro rata at the end of each fiscal year: Provided further, That any amount of indemnity paid by the federal government shall be deducted equally from the amounts paid by the county and state, respectively.

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TRANSPORTATION OR SALE OF DISEASED ANIMALS

§19-9-38. Transportation of diseased animals.

It shall be unlawful for any person knowingly to drive, move or transport on, across or along any public highway, or in wagons or railroad cars or other vehicles, any animal infected with any communicable disease, except upon express permission in writing from the commissioner or his agents.

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§19-9-39. Selling or giving away diseased animal; permitting it to stray.

Without express permission in writing from the commissioner, or his agent, it shall be unlawful for any person to sell or offer for sale, or give away, or allow to stray, any animal infected with any communicable disease or any animal that has reacted to any tuberculin or mallein test, or with such permission to sell, offer for sale, or give away, any such animal, without notifying the purchaser, or any prospective purchaser, or the person to whom the animal shall be sold or given, that the animal is infected or has reacted as aforesaid, or that it has been in a herd infected with a disease within one year, except when for immediate slaughter in accordance with the meat inspection regulations of the United States Department of Agriculture; or to dispose of to another in any manner any animal that may be quarantined until such time as the quarantine shall have been raised by the proper officer, or to dispose of the meat or milk of any animal that may be infected with such communicable disease for use as food or for other purposes except in such manner as shall be provided by the commissioner: Provided, however, That nothing in this section shall be construed as in conflict with or superseding any of the provisions of the state or national pure food or meat inspection laws.

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PENALTIES FOR VIOLATIONS

§19-9-40. Penalties.

Any person who shall violate any of the provisions of this article, or who shall obstruct or hinder the commissioner, or any officer or employee, in the performance of his duties under this article, shall be guilty of a misdemeanor, and, upon conviction thereof, shall, for the first offense, be fined not more than $100, and upon conviction for each subsequent offense fined not more than $500, and in addition to such fine may be confined in the county jail for not more than ninety days.

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