

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1966

ENROLLED

Com. Sub. No.
SENATE BILL NO. 32

(By Mr. *Carson, Mr. President,*
and Mr. Parker original sponsors)

PASSED February 7, 1966

In Effect July 1, 1966 Passage

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 2-14-66

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ENROLLED
JUDICIARY
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 32

(MR. CARSON [MR. PRESIDENT] and MR. PARKER
original sponsors)

[Passed February 7, 1966; in effect July 1, 1966.]

AN ACT to repeal article two-b, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article two-b, relating to the department of agriculture, to the inspection, labeling and disposition of animals, carcasses, meat, meat food products and meat by-products, to the licensing of commercial slaughterers, custom slaughterers, and processors, and to the inspection of slaughterhouses and processing plants; and providing exclusions and penalties.

Be it enacted by the Legislature of West Virginia:

That article two-b, chapter nineteen of the code of West Vir-

ginia, one thousand nine hundred thirty-one, as amended, be repealed and that a new article two-b be enacted in lieu thereof to read as follows:

Article 2-b. Inspection of Animals, Carcasses, Meat, Meat Food Products and Meat By-Products; Inspection and Licensing of Establishments.

Section 1. Purpose and Construction.—Subject to the provisions of subsection (a) of section seven hereof, the basic purpose of this article is to provide for the inspection, labeling and disposition of animals, carcasses, meat, meat food products and meat by-products which are to be sold or offered for sale through commercial outlets for human consumption, the licensing of commercial slaughterers, custom slaughterers, and processors, and the inspection of slaughterhouses and processing plants located in the state of West Virginia. This article, being intended to protect the health of the citizens of West Virginia, shall be liberally construed.

Sec. 2. Definitions.—Unless the context in which used clearly requires a different meaning, as used in this article:

4 (a) "Department" means the department of agricul-
5 ture of the state of West Virginia;

6 (b) "Commissioner" means the commissioner of agri-
7 culture of the state of West Virginia and his duly author-
8 ized representatives;

9 (c) "Person" means any individual, partnership, cor-
10 poration, association, or other entity;

11 (d) "Contract veterinarian" means a graduate of a
12 school of veterinary medicine accredited by the American
13 veterinary medical association who provides services for
14 the department under contract;

15 (e) "Veterinary supervisor" means a graduate of a
16 school of veterinary medicine accredited by the American
17 veterinary medical association, and employed by the de-
18 partment to inspect and supervise the inspection of
19 animals, carcasses, meat, meat food products or meat by-
20 products;

21 (f) "Meat inspector" means an individual employed by
22 the department to inspect animals, carcasses, meat, meat
23 food products or meat by-products under the supervision
24 of a veterinary supervisor;

25 (g) "State inspection" means inspection services con-

26 ducted by the department at or in connection with estab-
27 lishments required to be licensed by this article;

28 (h) "W. Va. Condemned", or abbreviation thereof,
29 means the animal so marked has been inspected and found
30 to be in a dying condition, or to be affected with any other
31 condition or disease that would require condemnation of
32 its carcass;

33 (i) "W. Va. Inspected and Condemned", or abbrevia-
34 tion thereof, means that the carcass, meat, meat food
35 product or meat by-product, so marked or so identified, is
36 unwholesome or adulterated and shall be disposed of in
37 the manner prescribed by the commissioner;

38 (j) "W. Va. Retained" means that the carcass, meat,
39 meat food product or meat by-product so identified is held
40 for further examination by a veterinary supervisor or
41 contract veterinarian to determine its disposal;

42 (k) "W. Va. Suspect" means that the animal so marked
43 and identified is suspected of being affected with a disease
44 or condition which may require its condemnation, in
45 whole or in part, when slaughtered, and is subject to
46 further examination by a contract veterinarian or veter-
47 inary supervisor to determine its disposal;

48 (l) "W. Va. Inspected and Passed", or abbreviation
49 thereof, means that the carcass, meat, meat food product
50 or meat by-product, so marked or so identified, was at the
51 time it was so marked or so identified found to be whole-
52 some;

53 (m) "Country" when used in the name of a meat, meat
54 food product or meat by-product means that such meat,
55 meat food product or meat by-product was actually pre-
56 pared on a farm;

57 (n) "Federal inspection" means the meat and poultry
58 inspection service conducted or approved by the meat
59 inspection division and the poultry inspection division of
60 the United States department of agriculture;

61 (o) "Federal Meat Inspection Act" means the act of
62 Congress approved March four, one thousand nine hun-
63 dred seven, as amended and extended [21 U. S. C. 71
64 *et seq.*] and the imported meat provisions of subsections
65 306 (b) and (c) of the tariff act of one thousand nine
66 hundred thirty, as amended [19 U. S. C. 1306 (b) and
67 (c)];

68 (p) "Federal Poultry Products Inspection Act" means
69 the act of Congress approved August twenty-eight, one

70 thousand nine hundred fifty-seven, as amended [21 U. S.
71 C. 451 *et seq.*];

72 (q) "Inspection legend" means a mark or a statement
73 on a carcass, meat, meat food product or meat by-product
74 indicating the same has been inspected and passed in this
75 state under the provisions of this article;

76 (r) "Meat label" means a display of written, printed
77 or graphic matter on a container indicating the carcass,
78 meat, meat food products or meat by-products contained
79 therein have been inspected and passed in this state under
80 the provisions of this article;

81 (s) "Official inspection mark" means any symbol pre-
82 scribed by the commissioner for the purpose of identify-
83 ing the inspection status of any article so inspected;

84 (t) "Establishment number" means an official number
85 assigned by the commissioner to each establishment and
86 included on the inspection legend and meat label to
87 identify all inspected and passed carcasses, meat, meat
88 food products and meat by-products handled in that
89 establishment;

90 (u) "Container" and "package" shall include but not

91 be limited to any box, can, tin, cloth, plastic or any other
92 receptacle, wrapper or cover;

93 (v) "Animals" mean cattle, swine, sheep, goats and
94 rabbits;

95 (w) "Carcass" means all or any part of a slaughtered
96 animal, including viscera, which is capable of being used
97 for human consumption;

98 (x) "Meat" means the edible part of the muscle of
99 animals, which is skeletal or which is found in the tongue,
100 in the diaphragm, in the heart or in the esophagus, with
101 or without the accompanying or overlying fat, and the
102 portions of bone, skin, sinew nerve and blood vessels
103 which normally accompany the muscle tissue and which
104 are not separated from it in the process of dressing; it
105 does not include the muscle found in the lips, snout or
106 ears;

107 (y) "Meat food product" means any article of food for
108 human consumption or any article which enters into the
109 composition of food for human consumption, which is
110 derived or prepared in whole or in part from any portion
111 of any animal, except organo-therapeutic substances, meat

112 juices, meat extract and the like which are only for
113 medicinal purposes and are advertised only to the medical
114 profession; any edible part of the carcass which has been
115 manufactured, cured, smoked, processed or otherwise
116 treated shall be considered a meat food product;

117 (z) "Meat by-product" means any edible part of an
118 animal other than meat or meat food product;

119 (aa) "Commercial slaughterer" means a person en-
120 gaged for profit in this state in the business of slaughter-
121 ing or dressing animals for human consumption which
122 are to be sold or offered for sale through a commercial
123 outlet, and shall include a person who in addition to such
124 commercial slaughtering also engages in the business of
125 a custom slaughterer;

126 (bb) "Custom slaughterer" means a person engaged
127 for profit in this state in the business of slaughtering or
128 dressing animals for human consumption which are not to
129 be sold or offered for sale through a commercial outlet
130 and shall include the boning or cutting up of carcasses
131 of such animals and the grinding, chopping and mixing of
132 the carcasses thereof;

133 (cc) "Slaughterhouse" shall include but not be limited
134 to all buildings, structures and facilities used in the
135 slaughtering or dressing of animals for human consump-
136 tion;

137 (dd) "Processor" means a person who engages for
138 profit in this state in the business of packing or packaging
139 carcasses, meat, meat food products or meat by-products
140 for human consumption or a person engaged for profit in
141 the business of curing, salting, processing or other prepar-
142 ing of carcasses, meat, meat food products or meat by-
143 products for human consumption;

144 (ee) "Processing plant" shall include but not be limited
145 to all buildings, structures, chill rooms, aging rooms, proc-
146 essing rooms, sanitary facilities, other facilities, and
147 utensils, used by or in connection with the operations of
148 a processor;

149 (ff) "Establishment" means any slaughterhouse or
150 processing plant in this state;

151 (gg) "Commercial outlet" means a place of business
152 in this state in which carcasses, meat, meat food products
153 or meat by-products are sold or offered for sale for human
154 consumption by the purchaser or others;

155 (hh) "Commercial dealer" means any person who op-
156 erates one or more commercial outlets and who sells or
157 offers for sale thereat any carcasses, meat, meat food prod-
158 ucts or meat by-products for human consumption, and who
159 does not can, cook, cure, dry, smoke or render any car-
160 cass, meat, meat food products or meat by-products at
161 such outlets and who conducts no slaughtering or pre-
162 paring of carcasses, meat, meat food products or meat by-
163 products at such outlets other than boning or cutting up
164 of carcasses, and other than grinding, chopping and mix-
165 ing operations at such outlets with respect to trim or meat
166 derived only from such boning or cutting up operations;

167 (ii) "Custom slaughtered carcass or meat", "custom
168 slaughtered meat food products" or "custom slaughtered
169 meat by-products" mean, respectively, carcasses, meat,
170 meat food products or meat by-products which were
171 slaughtered, dressed or otherwise processed by a custom
172 slaughterer;

173 (jj) "Wholesome" means sound, healthful, clean, and
174 otherwise fit for human consumption;

175 (kk) "Unwholesome" means any animal, carcass, meat,
176 meat food product or meat by-product which:

177 (i) Is unsound, injurious to health, contains any bio-
178 logical residue not permitted under reasonable rules and
179 regulations promulgated by the commissioner, or is other-
180 wise unfit for human consumption;

181 (ii) Consists in whole or in part of any filthy, putrid,
182 or decomposed substance;

183 (iii) Was processed, prepared, packed, or held under
184 insanitary conditions so that the same may have become
185 contaminated or may have become injurious to health;
186 and

187 (iv) Was produced in whole or in part from animals
188 which died other than by slaughter.

189 (II) "Adulterated" means any animal, carcass, meat,
190 meat food product or meat by-product:

191 (i) Which bears or contains any poisonous or deleteri-
192 ous substance, whether added or natural, that may render
193 it injurious to health or unfit for human consumption;

194 (ii) Concerning which a substance has been substi-
195 tuted, wholly or in part;

196 (iii) In which damage or inferiority has been con-
197 cealed in any manner;

198 (iv) Concerning which any casing has been used which
199 contains any dye or artificial coloring not authorized by
200 reasonable rules and regulations promulgated by the
201 commissioner;

202 (v) From which a valuable constituent has been in
203 whole or in part omitted or abstracted; and

204 (vi) To or with which any substance has been added,
205 mixed or packed for the purpose of increasing its bulk
206 or weight, or so as to reduce its quality or strength, or to
207 make it appear better or of greater value than it is, unless
208 authorized by reasonable rules and regulations promul-
209 gated by the commissioner.

210 (mm) "Licensee" means any person licensed under
211 the provisions of this article.

Sec. 3. Commissioner to Enforce Article; Rules and

2 **Regulations.**—(a) The commissioner shall administer and
3 enforce the provisions of this article and for this purpose
4 he is hereby authorized and empowered to promulgate
5 reasonable rules and regulations and to employ or con-
6 tract with such persons as may be appropriate. All rules
7 and regulations shall be promulgated in accordance with

8 the provisions of chapter twenty-nine-a of this code. Such
 9 rules and regulations shall, insofar as practicable, be in
 10 conformity with the rules and regulations issued under
 11 the federal meat inspection act and the federal poultry
 12 products inspection act.

13 (b) The commissioner is hereby authorized and em-
 14 powered to cooperate with the federal government and
 15 any agencies, departments and instrumentalities thereof,
 16 the state of West Virginia and any agencies, depart-
 17 ments or political subdivisions thereof, and any other
 18 state or commonwealth and any agencies, departments
 19 or political subdivisions thereof, in order to carry out the
 20 effective administration of this article.

Sec. 4. License Required for Commercial Slaughterer,

2 **Custom Slaughterer, or Processor; Application for Such**
 3 **License; Fees; Revocation or Suspension; Suspension of**
 4 **Inspection; Establishment Number or Numbers.—(a) No**
 5 commercial slaughterer, custom slaughterer, or processor
 6 shall operate an establishment unless he shall first have
 7 obtained a license from the commissioner so to do, which
 8 license remains unsuspended and unrevoked. Application

9 for such license shall be made on forms prescribed by the
10 commissioner and shall be accompanied by the fee re-
11 quired in this section. When such a person operates as
12 a commercial slaughterer and also operates as a processor,
13 whether such operations are located on the same or dif-
14 ferent premises in this state, each such operation shall be
15 licensed. When such a person operates two or more slaugh-
16 terhouses not on the same premises in this state, or oper-
17 ates two or more processing plants not on the same prem-
18 ises in this state, a separate license shall be required for
19 each such slaughterhouse and each such processing plant.
20 Each license shall expire on the thirtieth day of June next
21 following its issuance, and the annual fee for each such
22 license shall be one hundred dollars, except that the
23 annual fee for the license of a person who operates solely
24 as a custom slaughterer shall be twenty-five dollars. Be-
25 fore issuing any license required by the provisions of this
26 section, the commissioner shall inspect the applicant's
27 establishment and if the commissioner is satisfied that
28 the establishment is clean and sanitary, is properly equip-
29 ped, and is in conformity with the provisions of this

30 article and any reasonable rules and regulations promul-
31 gated by the commissioner, and if he is further satisfied
32 that the carcasses, meat, meat food products or meat by-
33 products to be sold or offered for sale therefrom through
34 commercial outlets will be wholesome and unadulterated,
35 he shall issue the license. Each license shall specify the
36 location of the establishment at which the licensee shall
37 carry on his operations. The license shall also contain the
38 establishment number assigned by the commissioner.

39 (b) When a licensee changes the location of his estab-
40 lishment, he shall not operate at such new location unless
41 and until his establishment at such new location has been
42 inspected by the commissioner and a new license has
43 been issued in accordance with the provisions of subsec-
44 tion (a) of this section: *Provided*, That a fee shall not
45 be charged for such new license during the license year
46 in which the change in location was made.

47 (c) The commissioner may refuse to grant a license or
48 may suspend or revoke a license issued under the pro-
49 visions of this section whenever he finds that the appli-
50 cant's or licensee's establishment, as the case may be, is

51 not clean or sanitary, or is not properly equipped, or is
52 not in conformity with the provisions of this article or
53 any reasonable rules and regulations promulgated by
54 the commissioner, or if he finds that the carcasses, meat,
55 meat food products or meat by-products to be sold or
56 offered for sale therefrom through commercial outlets
57 are or will be unwholesome or adulterated. Upon the
58 refusal to grant a license, the commissioner shall fur-
59 nish a written statement to the applicant specifying the
60 grounds for such refusal. No such revocation or suspen-
61 sion of a license shall be effective until the licensee has
62 received written notice thereof, which notice shall specify
63 the grounds for such revocation or suspension. Whenever
64 there is sufficient cause for the revocation or suspension
65 of a license as hereinabove specified, the commissioner
66 may in lieu of such revocation or suspension, suspend
67 inspections at the establishment. Immediately upon sus-
68 pension of such inspections, the commissioner shall give
69 the licensee written notice thereof, and such notice shall
70 contain a recitation of the deficiencies which must be
71 fully and completely corrected before inspections shall

72 be resumed. Upon receipt of a written statement advising
73 that a license has been refused or upon receipt of a writ-
74 ten notice of the revocation or suspension of a license,
75 or upon the suspension of inspections at the licensee's
76 establishment, the applicant or licensee, as the case may
77 be, may, in writing, demand a hearing. The commissioner
78 shall hold such a hearing within ten days after receipt
79 of such written demand, in accordance with the provi-
80 sions of section nine of this article.

Sec. 5. Access to Establishments, Records, etc.—The com-
2 missioner may at any time enter upon and inspect any
3 establishment, place, premises or conveyance, either pri-
4 vate or public, where animals are slaughtered or carcasses,
5 meat, meat food products or meat by-products are proc-
6 essed, handled, stored, transported, distributed, sold or
7 offered for sale, for the purpose of examining such ani-
8 mals, carcasses, meat, meat food products or meat by-
9 products. Any person engaged in the business of operat-
10 ing an establishment shall maintain such records as the
11 commissioner may require directly pertaining to the
12 movement, storage and distribution or other disposition

13 of animals, carcasses, meat, meat food products or meat
14 by-products, and such records shall be open to inspection
15 by the commissioner at any time during the normal work-
16 ing hours at such establishment.

Sec. 6. Inspection, Marking, Labeling, Branding, etc.;

2 Quarantine and Segregation; Scheduling of Operations;

3 Disposition of Carcasses, etc.; Reinspection; Health Ex-

4 aminations; Rejection Tags.—(a) The commissioner shall

5 provide ante-mortem inspection of all animals before they

6 are slaughtered for human consumption in any establish-

7 ment under state inspection.

8 (b) The commissioner shall provide post-mortem in-

9 spection of all animals slaughtered for human consump-

10 tion in any establishment under state inspection.

11 (c) All inspections under the provisions of this article

12 shall be performed in accordance with reasonable rules

13 and regulations promulgated by the commissioner.

14 (d) The commissioner shall inspect all establishments

15 under state inspection to make certain that they are oper-

16 ating in accordance with the provisions of this article and

17 all reasonable rules and regulations promulgated by the

18 commissioner.

19 (e) When one inspector is assigned to make inspections
 20 at two or more establishments where few animals are
 21 slaughtered, or where small quantities of carcasses, meat,
 22 meat food products or meat by-products are handled, or
 23 where the operations at such establishments are sporadic,
 24 and such establishments in any of such cases are in rea-
 25 sonably close proximity to one another, the commission-
 26 er, giving full consideration to the convenience of the
 27 licensees of such establishments, may by written notice
 28 to such licensees specify a reasonable schedule for such
 29 operations: *Provided*, That the commissioner may not
 30 require operations other than during normal working
 31 hours.

32 (f) Every conveyance used by any establishment under
 33 state inspection, and, notwithstanding the provisions of
 34 subsection (a) of section seven of this article, every con-
 35 veyance used by any slaughterhouse or processing plant
 36 operating under federal inspection or approved by the
 37 United States department of agriculture, for the trans-
 38 portation of carcasses, meat, meat food products or meat
 39 by-products shall be maintained in a clean and sanitary

40 condition and may be inspected in accordance with the
41 provisions of this article and reasonable rules and regu-
42 lations promulgated by the commissioner.

43 (g) The commissioner shall require such quarantine
44 and segregation of animals, carcasses, meat, meat food
45 products and meat by-products in establishments as is
46 deemed necessary to effectuate the provisions of this
47 article.

48 (h) The head, tongue, tail, thymus glands, viscera,
49 blood and other parts of any slaughtered animal shall be
50 retained in such a manner as to preserve their identity
51 until after the post-mortem inspection has been com-
52 pleted.

53 (i) Each licensee shall pay for such devices for the
54 affixing of marks, brands or stamps and for such meat
55 labels as may be prescribed for his establishment by the
56 commissioner. Such devices and meat labels shall be
57 under the exclusive control and supervision of the com-
58 missioner. The meat label used by any licensee shall be
59 of the form and size prescribed by reasonable rules and
60 regulations promulgated by the commissioner.

61 (j) Each carcass that has been inspected and passed
 62 in this state by the commissioner shall be marked at the
 63 time of inspection with the inspection legend. Any carcass
 64 which is not passed shall be marked conspicuously by the
 65 commissioner at the time of inspection in the following
 66 manner: "W. Va. Inspected and Condemned", or any ab-
 67 breviation thereof.

68 (k) Each primal part of a carcass that has been in-
 69 spected and passed shall be marked with the inspection
 70 legend, and each liver, beef heart and beef tongue that
 71 has been inspected and passed shall be branded with the
 72 inspection legend at the time of final inspection. Meat
 73 that has been boned out, cut from primal parts or other-
 74 wise changed so that the inspection legend is no longer
 75 plainly visible, and meat food products and meat by-
 76 products that are too small to be marked with the inspec-
 77 tion legend shall be packed in closed containers to which
 78 shall be affixed the meat label indicating that the meat,
 79 meat food products or meat by-products contained therein
 80 have been inspected and passed. Upon removal of the
 81 contents of such containers bearing such label, the label
 82 shall be defaced to prevent its reuse.

83 (l) All carcasses, meat, meat food products and meat
84 by-products which have been derived from an animal
85 slaughtered by a custom slaughterer shall be marked
86 "W. Va. Custom Slaughtered" in letters not less than
87 three-eighths of an inch in height.

88 (m) Each official inspection mark shall contain the
89 establishment number of the establishment involved,
90 unless otherwise authorized by rules and regulations
91 promulgated by the commissioner.

92 (n) The commissioner is hereby authorized and em-
93 powered to seize and destroy (i) any animal to be slaugh-
94 tered in this state and thereafter sold or offered for sale
95 through a commercial outlet which cannot be made fit
96 for human consumption; (ii) any animal, carcass, meat,
97 meat food product or meat by-product slaughtered or
98 processed in this state in violation of the provisions of
99 this article or any reasonable rules and regulations pro-
100 mulgated by the commissioner; (iii) any carcass, meat,
101 meat food product or meat by-product that does not bear
102 an inspection legend or meat label provided for by this
103 article or which has not been inspected and passed under

104 federal inspection or approved by the United States De-
105 partment of agriculture and which is intended to be sold
106 or offered for sale through a commercial outlet; and (iv)
107 any animal, carcass, meat, meat food product or meat by-
108 product which is unwholesome or adulterated. Where
109 appropriate the commissioner may in lieu of destruction
110 as aforesaid denature, decharacterize, mutilate or slash
111 any carcass, meat, meat food product or meat by-product
112 intended to be sold or offered for sale through a com-
113 mercial outlet. The commissisoner is also authorized and
114 empowered to seize and retain under a retained tag any
115 animal, carcass, meat, meat food product or meat by-
116 product until the commissioner determines to destroy,
117 denature, decharacterize, mutilate, slash or release the
118 same. Whenever the commissioner is authorized or em-
119 powered to take any of the actions specified in this sub-
120 section, he may order and direct the person having
121 custody or possession of such animal, carcass, meat, meat
122 food product or meat by-product, or the licensee of the
123 establishment in which it is found, to be responsible for
124 the disposition thereof, as well as any necessary storage,

125 handling or other incidentals related thereto. Such dis-
126 position shall be carried out only under the direction and
127 supervision of the commissioner.

128 (o) Whenever practicable, the commissioner shall fore-
129 go the actions authorized in the immediately preceding
130 subsection and permit reprocessing if such reprocessing
131 will correct or eliminate the conditions which would have
132 justified any of such actions. Any such reprocessing in
133 this state shall be under the supervision of the commis-
134 sioner.

135 (p) Whenever the commissioner has good cause to
136 believe that any carcass, meat, meat food product or meat
137 by-product, whether fresh, frozen, cured or otherwise
138 prepared, and which is intended to be sold or offered for
139 sale through a commercial outlet, may be unwholesome
140 or adulterated or otherwise injurious to health, he may
141 inspect or reinspect the same under the provisions of
142 this article and any reasonable rules and regulations
143 promulgated by him, even though such carcass, meat,
144 meat food product or meat by-product may have been
145 previously inspected and passed.

146 (q) No licensee shall employ in any establishment any
 147 person who has any communicable disease or infected
 148 wounds or who is a carrier of any communicable disease.
 149 To enforce the provisions of this subsection, the com-
 150 missioner may require any employee or prospective em-
 151 ployee to submit to a health examination by a physician
 152 and furnish to the commissioner a certificate from such
 153 physician concerning his findings. The cost of conducting
 154 such examination and furnishing such certificate shall be
 155 borne by the licensee concerned.

156 (r) Whenever the commissioner inspects any room,
 157 compartment, equipment or utensil in any establishment
 158 subject to state inspection and finds the same not to be
 159 clean and sanitary or finds the same to be otherwise un-
 160 suitable for the slaughtering or processing operations
 161 carried on in such establishment, he shall affix thereto a
 162 rejection tag or rejection notice. No such rejected room,
 163 compartment, equipment or utensil shall be used until
 164 the deficiencies requiring such rejection shall have been
 165 fully and completely corrected. No person other than the
 166 commissioner shall remove any such rejection tag or
 167 notice.

168 (s) When any animal, carcass, meat, meat food product
169 or meat by-product has been inspected hereunder, the ap-
170 propriate official inspection mark shall be affixed thereto,
171 and no person shall remove the same unless authorized
172 so to do by the commissioner.

Sec. 7. Exclusion of Slaughterhouses and Processing

2 **Plants Under the Supervision of or Approved by the**
3 **United States Department of Agriculture; Exclusion of**
4 **Farmers.**—(a) The provisions of this article shall not apply
5 to any slaughterhouse or processing plant operating under
6 the federal meat inspection act or the federal poultry
7 products inspection act, or approved by the United States
8 department of agriculture.

9 (b) For the purposes of this subsection, a farmer is a
10 person who owns or operates a farm or farms in this state
11 and does not engage, directly or indirectly, in the business
12 of buying or selling any animals, other than as a part of his
13 normal farming operations, and does not engage in any
14 business that involves the slaughtering of any animals
15 other than those owned by him, or the buying or selling
16 of any carcasses, meat, meat food products or meat by-

17 products of any animals other than those owned by him.
 18 Without being licensed under the provisions of this article,
 19 a farmer may slaughter or cause to be slaughtered his
 20 own animals for his own consumption on his own prem-
 21 ises, on the premises of another person or in the estab-
 22 lishment of a licensed custom slaughterer, and a farmer
 23 may sell or trade such animals or the carcasses, meat,
 24 meat food products or meat by-products thereof to other
 25 individuals in his county or immediately surrounding
 26 counties.

Sec. 8. Exemptions.—(a) The provisions of this article

2 shall not apply to:

- 3 (i) Any commercial dealer, provided all carcasses,
 4 meat, meat food products and meat by-products sold or
 5 offered for sale by such dealer were slaughtered and/or
 6 processed in establishments under state inspection or fed-
 7 eral inspection;
- 8 (ii) Persons slaughtering animals, or processing car-
 9 casses, meat, meat food products or meat by-products, in
 10 accordance with recognized religious dietary laws;
- 11 (iii) Any educational activities relating to animals, car-

12 casses, meat, meat food products or meat by-products and
13 conducted by 4-H clubs, future farmers of America, fu-
14 ture homemakers of America;

15 (iv) Any meat by-product processed, offered, sold and
16 advertised for medicinal use only by physicians or other
17 persons engaged in the practice of the healing arts; and

18 (v) The West Virginia university meat laboratory.

19 (b) The commissioner may by reasonable rules and
20 regulations exempt any other activity, any animal, car-
21 cass, meat, meat food product or meat by-product, or
22 any person, from all of the provisions of this article or
23 one or more of such provisions.

24 (c) The commissioner may by reasonable rules and
25 regulations exempt a licensed custom slaughterer from
26 the requirements of this article relating to ante-mortem
27 and post-mortem inspection.

28 (d) The commissioner may by written order to the
29 person concerned suspend, limit or terminate any exemp-
30 tion provided under this section or granted by rules and
31 regulations authorized under subsections (b) and (c)
32 hereof when he determines that such suspension, limita-

tion or termination is necessary to effectuate the purposes of this article: *Provided*, That the person affected by any such suspension, limitation or termination may demand a hearing in writing which shall be held by the commissioner in accordance with the provisions of section nine of this article. The commissioner shall hold such a hearing within ten days after receipt of such written demand.

Sec. 9. Hearings; Judicial Review.—(a) When any person is entitled to a hearing before the commissioner as authorized in this article, the commissioner shall hold such hearing and all of the pertinent provisions of article five, chapter twenty-nine-a of this code shall apply to and govern such hearing and the administrative procedures in connection with and following such hearing, with like effect as if the provisions of said article five were set forth in extenso in this subsection, except that the hearing shall be held in the county in which the establishment involved is located, or in which the affected person resides or has his principal place of business, or in Kanawha county, West Virginia, at the election of the person de-

14 manding the hearing. Any such hearing shall be held
15 within the time limits hereinbefore specified in this ar-
16 ticle, unless there is a postponement or a continuance for
17 good cause shown.

18 (b) For the purpose of any such hearing, the commis-
19 sioner shall have the power and authority to issue sub-
20 poenas and subpoenas duces tecum, in accordance with
21 the provisions of section one, article five, chapter twenty-
22 nine-a of this code. All subpoenas and subpoenas duces
23 tecum shall be issued and served within the time and for
24 the fees and shall be enforced, as specified in section one,
25 article five of said chapter twenty-nine-a, and all of the
26 said section one provisions dealing with subpoenas and
27 subpoenas duces tecum shall apply to subpoenas and sub-
28 poenas duces tecum issued for the purpose of a hearing
29 hereunder. At any such hearing, the person who de-
30 manded the same may represent himself or be represented
31 by an attorney at law admitted to practice before any
32 circuit court of this state.

33 (c) After such hearing and consideration of all the
34 testimony, evidence and record in the case, the commis-

35 sioner shall make and enter an order deciding the matter
36 in question. Such order shall be accompanied by findings
37 of fact and conclusions of law as specified in section three,
38 article five, chapter twenty-nine-a of this code, and a
39 copy of such order and accompanying findings and con-
40 clusions shall be served upon all the parties and their
41 attorneys of record, if any, in person or by registered or
42 certified mail. The commissioner shall also cause a notice
43 to be served with a copy of such order, which notice shall
44 advise the parties of their right to judicial review, in
45 accordance with the provisions of subsection (d) of this
46 section. The order of the commissioner shall be final un-
47 less vacated or modified upon judicial review thereof in
48 accordance with the provisions of subsection (d) of this
49 section.

50 (d) Any party adversely affected by a final order made
51 and entered by the commissioner after such hearing, held
52 in accordance with the provisions of subsections (a)
53 through (c) of this section, is entitled to judicial review
54 thereof. All of the pertinent provisions of section four,
55 article five, chapter twenty-nine-a of this code shall apply

56 to and govern such review with like effect as if the pro-
57 visions of said section four were set forth in extenso in
58 this subsection, except that the petition shall be filed in
59 the circuit court of the county in which the hearing be-
60 fore the commissioner was held.

61 (e) The judgment of the circuit court shall be final
62 unless reversed, vacated or modified on appeal to the
63 supreme court of appeals in accordance with the provi-
64 sions of section one, article six, chapter twenty-nine-a of
65 this code.

Sec. 10. Additional Prohibitions.—In addition to any
2 other prohibitions contained in this article, it shall be un-
3 lawful:

4 (a) For any person to operate any establishment under
5 state inspection which is not clean and sanitary;

6 (b) To slaughter any unwholesome or adulterated
7 animal intended to be sold or offered for sale through a
8 commercial outlet;

9 (c) To sell or offer for sale through a commercial out-
10 let any carcass, meat, meat food product or meat by-

11 product for human consumption which is unwholesome
12 or adulterated.

13 (d) To slaughter for human consumption any animal
14 tagged or permanently identified as "W. Va. Condemned",
15 or abbreviation thereof;

16 (e) To process, sell or offer for sale for human con-
17 sumption any carcass, meat, meat food product or meat
18 by-product which is mislabeled with intent to deceive or
19 which is marked "W. Va. Inspected and Condemned", or
20 abbreviation thereof;

21 (f) To process in an establishment under state inspec-
22 tion for sale through any commercial outlet any carcass,
23 meat, meat food product or meat by-product intended for
24 human consumption and derived in whole or in part from
25 any calf, pig, kid or lamb which is so immature as to be
26 lacking in nutritional value;

27 (g) To knowingly or intentionally expose any carcass,
28 meat, meat food product or meat by-product in any estab-
29 lishment under state inspection to insects, live animals
30 or any contamination;

31 (h) To add kangaroo meat, horse meat, mule meat or

32 other equine meat to any animal meat, or meat food
33 product or meat by-product derived from animals and to
34 be sold or offered for sale through commercial outlets for
35 human consumption;

36 (i) To remove any hide, skin or any other part of an
37 unborn or stillborn animal in the confines of a room in an
38 establishment where any animals, carcasses, meat, meat
39 food products or meat by-products are slaughtered or
40 processed, as the case may be, to be sold or offered for
41 sale through a commercial outlet;

42 (j) To process for human consumption in any estab-
43 lishment subject to state inspection any carcass, meat,
44 meat food product or meat by-product derived from any
45 animal which died other than by slaughter;

46 (k) To transport to any commercial outlet for the pur-
47 pose of being sold or offered for sale therein, any carcass,
48 meat, meat food product or meat by-product which is not
49 marked, branded or stamped as having been inspected and
50 passed by the commissioner or by the United States de-
51 partment of agriculture or which has not been approved
52 by the United States department of agriculture;

53 (l) To slaughter any horse, mule or other equine in
54 any establishment under state inspection in which animals
55 are slaughtered for human consumption for the purpose
56 of being sold or offered for sale through commercial
57 outlets;

58 (m) To bring any kangaroo meat, horse meat, mule
59 meat or other equine meat into any establishment under
60 state inspection where animal carcasses, meat, meat food
61 products or meat by-products are processed for human
62 consumption for the purpose of being sold or offered for
63 sale through commercial outlets;

64 (n) To transport, process, sell or offer for sale any
65 kangaroo meat, horse meat, mule meat or other equine
66 meat within this state for human consumption unless it
67 is conspicuously and plainly identified or stamped as
68 such;

69 (o) For any person to use an establishment number
70 not assigned to him or to use an establishment number in
71 connection with operations concerning which a different
72 establishment number was assigned by the commissioner;

73 (p) To remove from any article any retained tag af-

74 fixed by the commissioner, unless such removal is au-
75 thorized by him;

76 (q) For a licensee to use any container bearing an
77 official inspection mark unless it contains the exact car-
78 cass, meat, meat food product or meat by-product which
79 was in the container at the time such contents were in-
80 spected and passed: *Provided*, That such a container may
81 be otherwise used if such official inspection mark thereon
82 is removed, obliterated or destroyed, and such other use
83 is authorized by reasonable rules and regulations promul-
84 gated by the commissioner;

85 (r) For any person, other than the commissioner, to
86 possess, keep or use, except as authorized by the commis-
87 sioner, any meat label or device for the affixing of a mark,
88 brand or stamp prescribed for inspection purposes here-
89 under;

90 (s) For any person, with intent to deceive, to possess,
91 keep or use any meat label, mark, brand or stamp similar
92 in character or import to an official meat label, mark,
93 brand or stamp prescribed by the commissioner here-
94 under or to an official meat label, mark, brand or stamp

95 used by the United States department of agriculture;

96 (t) To falsely make, falsely issue, falsely publish, alter,
97 forge, simulate or counterfeit any inspection certificate,
98 memorandum, meat label, mark, brand, or stamp, or de-
99 vice for making an inspection mark, brand or stamp, or
100 to possess, keep or use the same, with intent to deceive;

101 (u) For any person to refuse to permit the commis-
102 sioner to enter and inspect at any time, upon presentation
103 of appropriate credentials, an establishment under state
104 inspection, or to interfere with any such lawful entry or
105 inspection;

106 (v) For any person to refuse to permit the commis-
107 sioner, upon presentation of appropriate credentials, to
108 examine and copy the records described in section five
109 of this article.

Sec. 11. Penalties.—Any person who shall violate any
2 of the provisions of this article shall be guilty of a mis-
3 demeanor and upon conviction thereof, shall for the first
4 offense be fined not less than fifty dollars nor more than
5 one hundred dollars and upon conviction of each subse-

6 quent offense shall be fined not less than one hundred
7 dollars nor more than five hundred dollars.

Sec. 12. Severability.—If any provision of this article
2 or the application thereof to any person or circumstance
3 is held invalid, such invalidity shall not affect other pro-
4 visions or applications of the article which can be given
5 effect without the invalid provision or application, and
6 to this end the provisions of this article are declared to
7 be severable.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

O Roy Parker
Chairman Senate Committee

James W. Loop
Chairman House Committee

Originated in the Senate.

Takes effect July 1, 1966 Passage.

J. Howard Hayes
Clerk of the Senate

C. A. Blaskenship
Clerk of the House of Delegates

Howard E. Carson
President of the Senate

H. Laban White
Speaker House of Delegates

The within approved this the 14th
day of February, 1966.

Arnell C. Smith
Governor



FEB 14 12 08 PM '66
OFFICE OF THE GOVERNOR

PRESENTED TO THE
GOVERNOR

Date 2/10/66

Time 2:00 PM

FILED

FEB 14 11 05 PM '66

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

RDA