

APPROVED AND SIGNED BY THE GOVERNOR

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OFFICE OF THE GOVERNOR

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983

— ● —

ENROLLED

Com. Sub. for
HOUSE BILL No. 1294

(By Mr. Burke)

— ● —

Passed February 24, 1983

In Effect Ninety Days From Passage



No: 1294

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 1294

(By MRS. BURKE)

(Originating in the House Committee on Government Organization)

[Passed February 24, 1983; in effect ninety days from passage.]

AN ACT to amend chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article two-f, all relating to title; declaration of purpose; definitions; authorization of program by referendum; termination of program by referendum; beef industry self-improvement assessment board; administration by board; report to Legislature; rules and regulations; assessment on sales; dairy cattle exempt; reimbursement for collecting; refunds; penalties; separability; and sunset provision.

Be it enacted by the Legislature of West Virginia:

That chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article two-f, to read as follows:

ARTICLE 2F. BEEF INDUSTRY SELF-IMPROVEMENT ASSESSMENT PROGRAM.

§19-2F-1. Title.

- 1 This article shall be known by the short title of the "Beef
- 2 Check-off Act of 1983."

§19-2F-2. Declaration of purpose.

1 The purpose of this article is to enhance the sale and
2 thus the profit potential of the state's beef industry by
3 supporting efforts to solve problems in livestock health, pro-
4 duction, marketing and breeding; by supporting the research
5 and educational activities of the national livestock and meat
6 board and its beef industry council; and by informing and
7 educating the public about the value of beef and beef pro-
8 ducts.

§19-2F-3. Definitions.

1 As used in this article:

2 (a) "Beef industry self-improvement assessment board"
3 or "board" means those persons appointed by the governor
4 from nominations submitted by the incorporated beef pro-
5 ducer associations in the state.

6 (b) "Commissioner" means the commissioner of agriculture
7 of the state of West Virginia and his duly authorized agent.

8 (c) "Person" means any individual, partnership, corpora-
9 tion, association, fiduciary or other group of persons whether
10 organized or not.

11 (d) "Producer" means any person in the business of pro-
12 ducing beef cattle or causing beef cattle to be produced.

§19-2F-4. Authorization of program by referendum.

1 (a) None of the provisions of this article shall be authorized
2 until sixty days after being ratified through referendum by a
3 majority of the beef producers participating in the referendum.
4 If a referendum is proposed and defeated, a subsequent
5 referendum shall not be held for a period of at least two
6 years.

7 (b) The commissioner, when petitioned by no less than
8 fifty producers, shall call a public hearing in accordance with
9 the provisions of chapter twenty-nine-a of the code of West
10 Virginia as to whether a referendum should be held and the
11 amount of the assessment and if a majority of those present are
12 in favor, shall notify producers of the date of a pending

13 referendum by publishing a notice three times in two news-
14 papers of general circulation and such other places as the
15 commissioner may deem necessary.

16 (c) Producers shall vote at polling places provided in each
17 county for that purpose on ballots furnished by the commis-
18 sioner. The ballots shall be furnished to producers for voting
19 upon their presentation of proof, such as tax assessment
20 records, sales receipts or income tax records, no more than
21 one year old, showing them to be bona fide producers. The
22 commissioner shall announce the results in two newspapers of
23 general circulation within seventy-two hours and shall pre-
24 serve all ballots for one year after the date of the referendum.

§19-2F-5. Termination of program by referendum.

1 The commissioner shall provide for a referendum on con-
2 tinuation or cessation of the program within sixty days after
3 receiving notification in writing signifying by signatures that
4 thirty-three and one-third percent or more of the producers
5 request that the program be terminated. A majority of the
6 producers voting in said referendum must vote for con-
7 tinuation of the program or it shall be terminated ninety
8 days after said referendum. If such a referendum is held and
9 if the program is continued, a subsequent referendum shall not
10 be held for at least two years. Unencumbered money left in the
11 fund upon termination of the program shall be deposited in the
12 general fund of the state of West Virginia.

**§19-2F-6. Beef industry self-improvement assessment board; ad-
ministration of article by board; report to Legislature;
rules and regulations.**

1 (a) There is hereby created a West Virginia beef industry
2 self-improvement assessment board consisting of nine persons
3 who are residents of the state and citizens of the United States
4 and who shall be and have been actually engaged in that phase
5 of the cattle industry he represents for the preceding five years.
6 Six members of the board shall be beef producers, one a dairy
7 producer, one a public livestock market representative and
8 one a meat packer. The nine members shall be appointed by
9 the governor for terms of three years and may serve succes-

10 sive terms: *Provided*, That at the inception, three shall be ap-
11 pointed for one year, three for two years and three for three
12 years and that appointments to fill a vacancy shall be only for
13 the unexpired term. In making the appointments, the governor
14 shall take into consideration the recommendations made to
15 him by incorporated organizations in West Virginia who repre-
16 sent or who are engaged in the same type of production as the
17 proposed member of the board. If the governor fails to make
18 an appointment within ninety days after expiration of any
19 term, the board shall make the necessary appointment. Each
20 member shall hold office until the expiration of the term for
21 which such member is appointed and until a successor shall
22 have been duly appointed and qualified. The board shall elect
23 a chairman, a secretary and a treasurer and shall meet at such
24 time and place as called by the chairman or by majority of
25 the board. All meetings shall be held in accordance with the
26 open meetings law. The board shall pay each member a sti-
27 pend from board collections not to exceed thirty-five dollars
28 per meeting attended and expenses for room, meals and mile-
29 age in the same amount and manner as stipulated in the rules
30 and regulations promulgated by the governor for state officials
31 and employees of the state. No member shall receive any other
32 salary or compensation for his services. The board may contract
33 for services, may employ and discharge employees and may
34 provide such facilities and equipment as are necessary for the
35 the employees to perform their duties and may cooperate with
36 other state or federal agencies or other organizations whose
37 activities may be beneficial to the purpose of this article. The
38 board shall not expend funds to influence legislation or any
39 political campaign.

40 (b) The board shall administer the beef industry self-im-
41 provement assessment program including, but not limited to,
42 receiving assessment funds, disbursing such funds for research
43 on beef production and beef marketing practices and for edu-
44 cational purposes. The board may accept grants and gifts from
45 any private source for expenditure consistent with the pro-
46 visions of this article: *Provided*, That all such activity shall be
47 directed towards increasing the sale of beef and/or beef cattle
48 without reference to any particular firm, individual, brand or
49 trade name.

50 (c) The board shall submit a report, including a complete
51 fiscal accounting, of activities to the Legislature at the begin-
52 ning of each annual legislative session.

53 (d) The board, in order to carry out the provisions of this
54 article, shall have authority to issue rules and regulations after
55 a public hearing following due notice to all interested persons
56 in conformance with the provisions of the state administrative
57 procedure set forth in chapter twenty-nine-a of this code.

**§19-2F-7. Assessment on sales; dairy cattle exempt; reimburse-
ment for collecting.**

1 (a) All livestock markets, packers, buying stations, order
2 buyers, livestock dealers or other persons purchasing cattle,
3 including direct shipments from farms and other private treaty
4 sales, shall be authorized to deduct the assessment stipulated
5 in the authorizing referendum from the settlement of such cattle
6 and forward it within thirty days to the treasurer of the board.
7 Dairy cattle for milk production purposes are not subject to
8 this assessment. Dairy cattle sold for slaughter or feeding pur-
9 poses shall be subject to assessment. Five percent of the funds
10 collected shall be retained by the person remitting the funds
11 as reimbursement for their added problems and costs.

12 (b) The board shall keep accurate records of the amount of
13 assessments and the date on which they were received, the ex-
14 penditures and the date they were made, and shall preserve
15 such records for at least five years.

§19-2F-8. Refunds.

1 (a) Any producer of cattle from whom an assessment has
2 been collected, shall have the right to demand and receive a
3 refund of the total amount of assessment. The demand must
4 be made in writing to the board within thirty days of the as-
5 sessment and shall contain the name and address of the pro-
6 ducer, the amount of the assessment, the name and address
7 of the collecting agent, the date of sale and the invoice number.
8 The board, or its administrative staff, upon determination that
9 the assessment was paid by the producer, shall then make the
10 refund.

§19-2F-9. Penalties.

1 (a) When a person who should collect the assessment in

2 section seven of this article fails to do so, or when a person
3 collecting the assessment fails to forward it within thirty days,
4 the board shall certify same to the commissioner who shall
5 write the person giving him fifteen days to begin the collection
6 or forwarding of the assessment: *Provided*, That the person
7 may submit to the board justification for nonpayment and
8 thereupon, the board may extend said payment period. If
9 payment is not made within the fifteen-day period or the ex-
10 tension thereof, the commissioner shall revoke such person's
11 license to engage in cattle purchasing activities in the state.
12 Persons having their license revoked under provisions of this
13 section shall not be eligible for relicensing for a period of three
14 years.

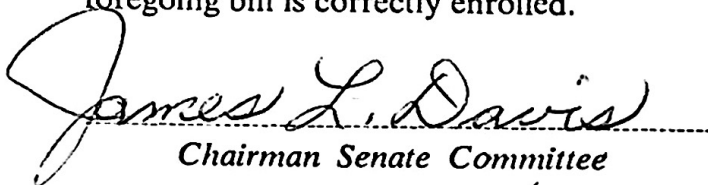
§19-2F-10. Separability.

1 If any of the provisions of this article or the application
2 thereof to any person or circumstances is held invalid, such
3 invalidity shall not affect other provisions or application of
4 the article which can be given effect without the invalid pro-
5 vision or application and to this end the provisions of the
6 article are declared to be separable.

§19-2F-11. Termination of program by law.

1 This program shall be terminated on the first day of July,
2 one thousand nine hundred eighty-eight, unless review of its
3 functions shall be undertaken pursuant to the provisions of
4 sections nine, ten and eleven, article ten, chapter four of this
5 code.


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



Chairman Senate Committee

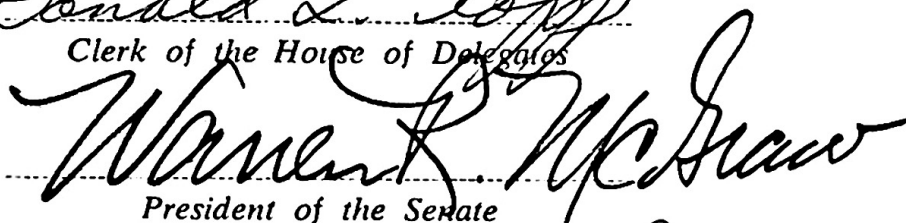

Chairman House Committee

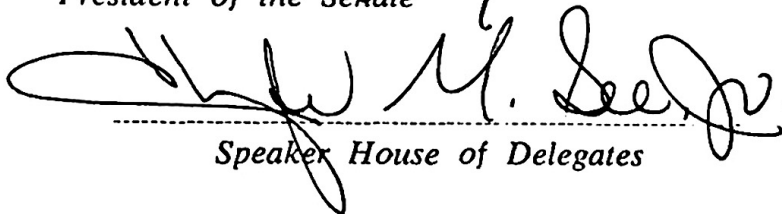
Originating in the House.

Takes effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within in approved this the 10
day of March, 1983.


Governor

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