

No. 344 ✓

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1985

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ENROLLED

SENATE BILL NO. 344

(By Mr. Barber)

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PASSED April 11 1985

In Effect ninety days from Passage



**ENROLLED**  
**Senate Bill No. 344**  
(By MR. PARKER)

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[Passed April 11, 1985; in effect ninety days from passage.]

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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 ten-b, relating to enacting a livestock dealer's licensing act; providing definitions, providing that a license be procured before engaging in the business of livestock dealing, providing for refusals, suspensions and revocation of licenses; providing for a fee and surety bond; providing for records of transactions, inspections by and orders of the commissioner; hearings and review; disposition of fees; rules and regulations; penalties.

*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 ten-b, to read as follows:

**ARTICLE 10B. LIVESTOCK DEALER'S LICENSING ACT.**

**§19-10B-1. Short title.**

- 1 This article shall be known and may be cited as "The
- 2 West Virginia Livestock Dealer's Licensing Act."

**§19-10B-2. Definitions.**

- 1 Unless the context clearly indicates otherwise, as used
- 2 in this article:

3 (a) "Bond" means a written instrument issued or  
4 executed by a surety or an insurance company licensed  
5 to do business in this state, guaranteeing that the person  
6 bonded shall faithfully fulfill the terms of the contract  
7 of purchase and guarantee payment of the purchase price  
8 of all livestock purchased by him, made payable to the  
9 commissioner for the benefit of persons sustaining loss  
10 resulting from the nonpayment of the purchase price or  
11 the failure to fulfill the terms of the contract of purchase.

12 (b) "Commissioner" means the commissioner of agri-  
13 culture of the state of West Virginia and his duly author-  
14 ized representatives.

15 (c) "Department" means the department of agriculture  
16 of the state of West Virginia.

17 (d) "Livestock" means cattle, horses, swine, sheep,  
18 goats or any other animal of the bovine, equine, porcine,  
19 ovine or caprine specie and domestic poultry.

20 (e) "Livestock dealer" means a person other than a live-  
21 stock producer who buys, receives or assembles livestock  
22 for resale, either for his own account or that of another  
23 person.

24 (f) "Livestock producer" means a person selling live-  
25 stock which he has raised or others which he has addi-  
26 tionally purchased and summered or wintered.

27 (g) "Person" means an individual, partnership, cor-  
28 poration, association or other legal entity.

**§19-10B-3. License required; fee.**

1 It shall be unlawful for any person except a livestock  
2 producer to engage in the business of buying, receiving or  
3 assembling livestock for resale, or selling livestock in this  
4 state without being licensed as a livestock dealer by the  
5 commissioner. All applications for a livestock dealer's  
6 license or renewal of such license shall be made on forms  
7 provided by the commissioner and shall be filed on or  
8 before June thirtieth of each year with the commissioner.  
9 A fee of thirty dollars shall be remitted with each such  
10 application. Any license not renewed by the first day of  
11 July of any year shall expire.

**§19-10B-4. Applicant to furnish surety bond.**

1 Before issuing any livestock dealer's license, the com-  
2 missioner shall require the applicant to file either:

3 (1) A properly attested sworn statement that he or  
4 she is maintaining a valid surety bond pursuant to the  
5 requirements of The Federal Packers and Stockyards Act  
6 of 1921, 42 stat 159.7 USCA, 181 as amended; or

7 (2) A fully executed surety bond in an amount pre-  
8 scribed by the commissioner by regulation, but not  
9 less than ten thousand dollars for the benefit of the  
10 sellers of livestock who have been wronged or damaged  
11 by any fraud or fraudulent practices of the livestock  
12 dealer, and so adjudged by a court of competent juris-  
13 diction and who shall have the rights of action for dam-  
14 age for compensation against such bonds.

**§19-10B-5. Records of transactions; inspection by commission-  
er.**

1 Every licensed livestock dealer shall make and retain  
2 for at least two years written livestock sales records  
3 in the form and manner prescribed by the commissioner,  
4 including, but not limited to, records indicating the iden-  
5 tification numbers or letters, sex, brand and approximate  
6 weight of all livestock bought, sold, received, exchanged  
7 or otherwise transferred, and the names and addresses of  
8 all owners, sellers, consignors or buyers with whom he  
9 has in any manner exchanged livestock, with the date of  
10 such exchanges.

11 If the commissioner has reasonable cause to believe  
12 any livestock in this state are diseased in a manner such  
13 as to constitute a health hazard to other livestock, where-  
14 ever located, he may request in writing the livestock  
15 sales records of any livestock dealer in the state for the  
16 purpose of tracing or discovering the diseased livestock,  
17 the source of the disease, and all other livestock which  
18 may be affected by the disease. A livestock dealer shall  
19 comply with such request within twenty-four hours.

20 The commissioner shall have the authority to enter  
21 premises and buildings occupied by a livestock dealer at

22 any reasonable time in order to examine books and rec-  
23 ords maintained by the livestock dealer.

24 The commissioner may require livestock dealers to file  
25 in such form as he may prescribe, regular or special re-  
26 ports, or answers in regard to specific questions, for the  
27 purpose of providing information concerning livestock  
28 movement and animal disease control.

**§19-10B-6. Refusals, suspensions or revocation of licenses.**

1 The commissioner may refuse to grant or may suspend  
2 or revoke a livestock dealer's license when he determines  
3 from evidence presented him that there is reasonable  
4 cause to believe that any of the following situations exists:

5 (a) Where the applicant or licensee has violated the  
6 laws of the state or official regulations governing the  
7 interstate or intrastate movement, shipment or transpor-  
8 tation of livestock.

9 (b) Where there have been false or misleading state-  
10 ments as to the health or physical condition of the ani-  
11 mals with regard to the official tests or quality of the  
12 animals, or the practice of fraud or misrepresentation in  
13 connection therewith or in the buying or receiving of  
14 animals or receiving, selling, exchanging, soliciting or  
15 negotiating the sale, resale, exchange, weighing or ship-  
16 ment of animals.

17 (c) Where the applicant or licensee acts as a dealer for  
18 a person attempting to conduct business in violation of  
19 this article, after the notice of such violation has been  
20 given the licensee by the commissioner.

21 (d) Where the applicant or licensee fails to practice  
22 measures of sanitation, disinfection and inspection of  
23 premises or vehicles used for the yarding, holding or  
24 transportation of livestock.

25 (e) Where there has been a failure to keep records  
26 required by the commissioner or where there is a refusal  
27 on the part of the applicant or licensee to produce records  
28 of transactions in the carrying on of the business for  
29 which such license is granted.

30 (f) Where the licensee fails to maintain a bond or to  
31 adjust a bond upon thirty days notice or refuses or

32 neglects to pay the fees or inspection charges required to  
33 be paid.

34 (g) Where the licensee has been suspended by order of  
35 the Secretary of Agriculture of the United States Depart-  
36 ment of Agriculture under provisions of The Federal  
37 Packers and Stockyards Act of 1921, 42 stat 159.7 USCA,  
38 181 as amended.

**§19-10B-7. Orders of the commissioner; hearing; review.**

1 Any order of the commissioner shall be served upon  
2 all persons affected thereby by registered mail. Within  
3 ten days of receipt of such order, any party adversely  
4 affected thereby may, in writing, request a hearing be-  
5 fore the commissioner. Such hearing and any judicial  
6 review thereof shall be conducted in accordance with the  
7 applicable provisions of articles five and six, chapter twen-  
8 ty-nine-a of this code, as if the same were set forth herein  
9 in extenso. The effect of any order shall be suspended  
10 during the course of any hearing or subsequent appeals.

**§19-10B-8. Fees paid into special fund in state treasury.**

1 All funds collected under this article shall be paid  
2 into the state treasury and credited to a special fund to  
3 be appropriated by order of the commissioner for the  
4 enforcement of this article.

**§19-10B-9. Commissioner to enforce article; rules and regula-  
tions.**

1 The commissioner shall administer and enforce the  
2 provisions of this article and shall have authority to issue  
3 regulations, after a public hearing, following due notice  
4 in conformance with the provisions of the state admin-  
5 istrative procedures as set forth in chapter twenty-nine-a  
6 of this code, to carry out the provisions of this article.

**§19-10B-10. Penalties.**

1 Any person who shall violate any of the provisions of  
2 this article shall be guilty of a misdemeanor, and, upon  
3 conviction thereof, shall for the first offense be fined  
4 not less than fifty dollars nor more than five hundred  
5 dollars, and upon conviction of each subsequent offense

6 shall be fined not less than one hundred dollars nor more  
7 than one thousand dollars.

**§19-10B-11. Construction.**

1 The provisions of this article are remedial and shall be  
2 liberally construed and applied so as to promote the pur-  
3 poses set out in the various sections of the article.

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

Besse O. Williams  
Chairman Senate Committee

Floyd Fullen  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Todd C. Webb  
Clerk of the Senate

Donald L. Hopp  
Clerk of the House of Delegates

Sam Tombarino  
President of the Senate

Joseph Platt Wright  
Speaker House of Delegates

The within appeared this the 1<sup>st</sup>  
May  
day of \_\_\_\_\_, 1985.

Archie Prange Jr.  
Governor



PRESENTED TO THE

GOVERNOR

Date 4/17/85

Time 4:01 p.m.

RECEIVED

1985 MAY -2 PM 3:18

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE