WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

ENROLLED

SENATE BILL NO. 344

(By Mr. Parker)

PASSED April 11, 1985

In Effect ninety days from Passage
ENROLLED

Senate Bill No. 344

(By Mr. Parker)

[Passed April 11, 1985; 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 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:
(a) “Bond” means a written instrument issued or executed by a surety or an insurance company licensed to do business in this state, guaranteeing that the person bonded shall faithfully fulfill the terms of the contract of purchase and guarantee payment of the purchase price of all livestock purchased by him, made payable to the commissioner for the benefit of persons sustaining loss resulting from the nonpayment of the purchase price or the failure to fulfill the terms of the contract of purchase.

(b) “Commissioner” means the commissioner of agriculture of the state of West Virginia and his duly authorized representatives.

(c) “Department” means the department of agriculture of the state of West Virginia.

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

(e) “Livestock dealer” means a person other than a livestock producer who buys, receives or assembles livestock for resale, either for his own account or that of another person.

(f) “Livestock producer” means a person selling livestock which he has raised or others which he has additionally purchased and summered or wintered.

(g) “Person” means an individual, partnership, corporation, association or other legal entity.

§19-10B-3. License required; fee.

It shall be unlawful for any person except a livestock producer to engage in the business of buying, receiving or assembling livestock for resale, or selling livestock in this state without being licensed as a livestock dealer by the commissioner. All applications for a livestock dealer’s license or renewal of such license shall be made on forms provided by the commissioner and shall be filed on or before June thirtieth of each year with the commissioner. A fee of thirty dollars shall be remitted with each such application. Any license not renewed by the first day of July of any year shall expire.
§19-10B-4. Applicant to furnish surety bond.

1 Before issuing any livestock dealer's license, the commissioner shall require the applicant to file either:

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

3 (2) A fully executed surety bond in an amount prescribed by the commissioner by regulation, but not less than ten thousand dollars for the benefit of the sellers of livestock who have been wronged or damaged by any fraud or fraudulent practices of the livestock dealer, and so adjudged by a court of competent jurisdiction and who shall have the rights of action for damage for compensation against such bonds.

§19-10B-5. Records of transactions; inspection by commissioner.

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

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

1 The commissioner shall have the authority to enter premises and buildings occupied by a livestock dealer at
any reasonable time in order to examine books and records maintained by the livestock dealer.

The commissioner may require livestock dealers to file in such form as he may prescribe, regular or special reports, or answers in regard to specific questions, for the purpose of providing information concerning livestock movement and animal disease control.

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

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

2 (a) Where the applicant or licensee has violated the laws of the state or official regulations governing the interstate or intrastate movement, shipment or transportation of livestock.

3 (b) Where there have been false or misleading statements as to the health or physical condition of the animals with regard to the official tests or quality of the animals, or the practice of fraud or misrepresentation in connection therewith or in the buying or receiving of animals or receiving, selling, exchanging, soliciting or negotiating the sale, resale, exchange, weighing or shipment of animals.

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

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

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

7 (f) Where the licensee fails to maintain a bond or to adjust a bond upon thirty days notice or refuses or
neglects to pay the fees or inspection charges required to be paid.

(g) Where the licensee has been suspended by order of the Secretary of Agriculture of the United States Department of Agriculture under provisions of The Federal Packers and Stockyards Act of 1921, 42 stat 159.7 USCA, 181 as amended.

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

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

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

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

§19-10B-9. Commissioner to enforce article; rules and regulations.

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

§19-10B-10. Penalties.

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

Chairman Senate Committee

Floyd Fuller
Chairman House Committee

Originated in the Senate.

In 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 approved this the 1st day of May, 1985.

Governor