WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1991

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ENROLLED
Committee Substitute for
HOUSE BILL No. 2293

(By Mr. Delegate D. Miller)

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Passed February 28, 1991
In Effect July 1, 1991
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2293
(By Delegate D. Miller)

[Passed February 28, 1991; in effect July 1, 1991.]

AN ACT to amend and reenact article thirteen, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the apiary law; definitions; commissioner's powers and duties generally; apiary education; cooperation with governmental agencies; registration of bees and identifying apiaries; right of entry to inspect apiaries; authorizing quarantines; abandoned apiaries and equipment; requirements for importing bees; pesticide poisoning to bees; candy for mailing cages; article violations; increasing criminal penalties; adding civil penalties; severability.

Be it enacted by the Legislature of West Virginia:

That article thirteen, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 13. INSPECTION AND PROTECTION OF APICULTURE.

§19-13-1. Title.

This article shall be known by the short title as “The West Virginia Apiary Law of 1991.”

The following definitions shall apply in the interpretation and enforcement of this article. All words shall be construed to impart either the plural or the singular, as the case demands:

(a) "Abandoned apiary" means any apiary in which the owner cannot be determined and in which twenty-five percent or more of the colonies are dead or diseased, or death or disarray of the colonies exposes them to robbing, or diseased or potentially diseased abandoned equipment which may jeopardize the welfare of neighboring colonies.

(b) "Apiary" means any place where one or more colonies or nuclei of bees are kept or where bee equipment is stored.

(c) "Appliances" means any apparatus, tool, machine or other device, used in the handling and manipulating of bees, honey, wax and hives. It also means any container of honey and wax that may be used in any apiary or in transporting bees and their products and apiary supplies.

(d) "Bees" shall be construed to mean any stage of the common hive or honeybee, (Apis mellifera), or other species of the genus Apis.

(e) "Bee diseases" shall be construed to mean American foulbrood (Bacillus larvae), European foulbrood (Bacillus pluton), Varroa mite (Varroa jacobsoni), honeybee tracheal mite (Acarapis woodi), or any other infection or parasitic infestation determined by the commissioner to be transmissible to other bee colonies and that represents a threat to beekeeping in West Virginia.

(f) "Bee equipment" means hives, supers, frames, veils, gloves or any other appliances.

(g) "Colony" means the hive and includes bees, comb, honey and equipment.

(h) "Commissioner" means the commissioner of the department of agriculture of the state of West Virginia or a duly authorized employee.
(i) “Control agents or control mechanisms” means any method of chemical or mechanical control to suppress or eradicate an apiary disease, pest, or parasitic infestation in an apiary or the colonies contained therein.

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

(k) “Hive” shall be construed to mean frame hive, box hive, box, barrel, log, gum, skep or any other receptacle or container, natural or artificial, or any part thereof, which may be used or employed as a domicile for bees.

(l) “Nuclei” means the removal of a split portion or division of any colony of honey bees for the express purpose of creating a numerical increase in colonies for honey production, pollination service or monetary gain through sale of honey bees.

(m) “Packaged bees” means bees shipped in combless packages which shall bear a valid certificate of health by an authorized state or federal agency verifying the absence or presence of any infectious or communicable diseases or parasitic infestations, and further provides that no honey has been used for food while in transit or that bears an affidavit that any honey used as food in transit was properly sterilized.

(n) “Person” shall include all corporations, partnerships, associations, societies, individuals or group of individuals or any employee, servant or agent acting for or employed by any person as above defined.

(o) “Premises” means any parcel of real estate and structures in which bee equipment, bees, bee products and bee appliances can be utilized for storage purposes.

(p) “Quarantine” means a specific period of enforced isolation to contain and prevent the spread of contagious bee diseases or parasites, which shall include specific perimeters deemed by the commissioner to be affected or potentially affected by such contagious bee diseases or parasites.

(q) “Sterilized or sterilization” means to treat and neutralize contagious bee diseases by means of steam autoclave or ethylene oxide fumigation, boiling at a
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79 temperature of two hundred twelve degrees fahrenheit
80 for thirty minutes, pit incineration, or by any other
81 acceptable method which the commissioner determines
82 effective for control of bee diseases or parasites.

§19-13-3. Commissioner's powers and duties; apiary
education; cooperation with governmental
agencies.

(a) It shall be the duty of the commissioner of
1 agriculture to exercise the powers and duties imposed
2 by this article for the purpose of protecting agriculture.
3 For this purpose, the commissioner is hereby authorized
4 and empowered to promulgate such rules in accordance
5 with the provisions of chapter twenty-nine-a of this code:
6 (1) to effectively eradicate, suppress or control bee
7 diseases as far as may be practical; (2) to regulate the
8 keeping and maintaining of bees, bee equipment, queen
9 breeding equipment, apiaries and appliances; (3) to
10 regulate treatments, retreatments, and fees for said
11 services; and (4) such other rules as are necessary to
12 effectuate the enforcement of this article.

(b) The commissioner is authorized to conduct apiary
education in a manner which may advance and promote
bee culture in West Virginia.

(c) The commissioner is hereby authorized and
17 empowered to cooperate with the federal government
18 and any agencies, departments and instrumentalities
19 thereof; the state of West Virginia and any agencies,
20 departments, divisions, or political subdivisions thereof;
21 and any other state or commonwealth and any agencies,
22 departments or political subdivisions thereof, in order to
23 carry out the effective administration of this article.

§19-13-4. Registration of bees; identification of apiaries.

(a) All persons keeping bees in this state shall, within
1 ninety days of the effective date of this article, notify the
2 commissioner in writing of the number and location of
3 colonies they own or rent, or which they keep for
4 someone else, whether the bees are located on their own
5 property or someone else's property. Thereafter, such
6 information shall be provided within ten days of the
7 time the bees are acquired. Bees shall be registered on
8 an annual basis thereafter.
(b) All persons owning or operating an apiary which is not located on said owner's or operator's property must post the name and address of the owner or operator in a conspicuous place in the apiary.

§19-13-5. Right of entry; apiary inspections; quarantines.

(a) To effectuate the purpose of this article, the commissioner is hereby invested with authority, during reasonable working hours, with prior consent by the owner or person in charge of such apiaries, if known, to enter upon any public or private premises, except private residences, and shall have access to any apiary for the purpose of inspecting or sampling.

(b) The commissioner shall inspect, as practical, all colonies of honey bees domiciled within the state of West Virginia. If upon such inspection, it is found that any bee disease or parasite exists in such apiary, the inspector making the inspection shall immediately notify, in writing, the owner or person in charge of such apiary, stating the nature of the disease or parasite and whether the same may be successfully treated or not.

In cases where the disease or parasite is subject to treatment, the inspector shall specify and direct the necessary treatment, which shall be administered by the owner or person in charge, within fourteen days thereafter. Otherwise, the colonies contained in the apiary in which such bee diseases or parasites are found shall be depopulated without remuneration to the owner. All bee hives and related equipment found in any diseased apiary shall be destroyed or sterilized under the direction of the commissioner.

(c) All queen breeding apiaries shall be thoroughly inspected twice each season. If upon such inspection it shall appear that any bee disease or parasite exists in such apiary, the inspector making the inspection shall immediately notify, in writing, the owner or person in charge thereof, and thereafter it shall be unlawful for any such person to ship, sell or give away any queen bees from such apiary until the disease or parasitic infestation has been eradicated.
(d) The commissioner shall have the power to establish interior and exterior quarantines to prevent or contain the spread of contagious bee diseases and parasitic infestations. Such quarantines shall include specific perimeters to encompass any township, area, county or region within the state deemed by the commissioner, which may be affected by such contagious diseases or parasitic infestations.

Exterior quarantines may be established to prevent diseased or parasitized bees and related equipment from being transported into West Virginia. When the commissioner issues a quarantine pursuant to this authority, he/she shall issue an order which specifies the type of contagious bee disease or parasitic infestation, the area or areas quarantined, conditions governing movement of bees or bee equipment from the quarantined area and such other information that protects the beekeeping industry as deemed necessary by the commissioner. The commissioner shall post a notice of quarantine at the primary location of the bee disease or parasitic infestation. If the quarantine affects more than three miles in radius, then notice of the order of quarantine shall be published as a Class I legal advertisement in compliance with the provisions of chapter fifty-nine of this code, and the publication area for such publication shall be the quarantined area.

All apiaries, bees, bee products, premises, bee equipment and appliances wherein or on which bee diseases and parasites are found to exist shall be quarantined by the commissioner. Such quarantine shall continue until the commissioner declares the same to be apparently free from any such bee diseases and parasites.

The commissioner shall have authority to rescind quarantines as he/she determines the need or practicability no longer exists by the same notice method utilized to implement the quarantine.

§19-13-6. Abandoned apiaries and equipment; notice.

1 When any apiary or bee equipment is deemed by the commissioner to be abandoned, the commissioner shall
give written notice by registered mail to the owner or
operator thereof, if such ownership or operator can be
determined, that the commissioner deems such apiary
or bee equipment abandoned. If the owner or operator
of the property cannot be located after reasonable
inquiry, said notice shall be provided by the same
mailing requirement to the owner of the real property
on which the apiary or equipment is located. If such
apiary or equipment continues to be abandoned for a
period of sixty days thereafter, the commissioner may
seize the apiary or equipment and take such action as
is necessary to dispose or destroy said apiary or
equipment as its condition warrants. In order to halt the
spread of bee diseases and parasitic infestation when an
abandoned apiary is found upon inspection to be
diseased, the commissioner is authorized to cause it to
be destroyed.

§19-13-7. Bees brought into state to carry inspection
certificate; commissioner to be notified;
interstate movement of bees.

(a) It shall be unlawful for any person to transport
bees, used hives, used bee equipment or used appliances
into West Virginia, unless the same be accompanied by
a certificate of inspection signed by an authorized
inspection official of the state from which such bees or
equipment is being transported. Such certificate shall
certify the actual inspection of the bees made within
thirty days preceding the date of shipment, and that the
bees, hives, equipment and appliances contained in the
shipment are apparently free from bee diseases and
parasitic infestation.

(b) Prior to the movement of any bees, used bee
equipment, combs, bee appliances or equipment into
West Virginia, and as a prerequisite to the issuance of
a permit of entry, the commissioner shall be furnished
by the owner, transporter, or lessee the following:

(1) The exact location or destination of the bees or
equipment.

(2) Name and address of the owner of the property
where the bees or equipment will be located.
(3) The exact number of colonies or amount of bee equipment and appliances in the shipment.

(4) A copy of the inspection certificate issued by the inspector of the state of origin.

Upon compliance with the mandatory requirements set forth heretofore, the commissioner shall issue a permit of entry not to exceed sixty days, unless said bees and equipment are to be permanently located within West Virginia, then the commissioner shall issue a nonlimited permit.

If the commissioner denies the request for an entry permit, then the commissioner shall notify the owner or transporter of said denial and the reasons therefore.


Any application or treatment of any pesticide to agricultural crops while in full bloom which is inconsistent with product labeling of the pesticide and is deemed by the commissioner to be injurious to bees shall be prohibited.


Any person who engages in the shipping of bees in combless packages in this state shall, in manufacturing candy for mailing cages, sterilize the same or use candy that does not contain honey.


It shall be unlawful for any person to:

(a) Knowingly keep in his/her possession without proper treatment, any colony of bees affected with any bee disease or parasitic infestation; or to expose any diseased or infested colony, hive, or appliance so that foraging bees have access to them.

(b) To sell, barter, give away, accept, receive or transport any bees that are known to be affected with any bee disease or parasitic infestation.

(c) To resist, impede or hinder the commissioner or an authorized employee in the performance of his/her
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duties under the provision of this article.

(d) To use or apply any apiary disease, pest or
parasite control chemical by any mechanism which is
inconsistent with the product label as approved by the
United States Environmental Protection Agency.


(a) Criminal penalties—Any person violating any
provision of this article or rule adopted hereunder is
guilty of a misdemeanor, and, upon conviction thereof,
shall be fined not less than fifty dollars for the first
offense, and for each subsequent offense, shall be fined
not less than five hundred dollars nor more than one
thousand dollars, or imprisoned in the county jail not
more than six months, or both fined and imprisoned.
Magistrates have concurrent jurisdiction with circuit
courts to enforce the provisions of this article.

(b) Civil penalties.

(1) Any person violating the provisions of this article
or rule adopted hereunder may be assessed a civil
penalty by the commissioner. In determining the
amount of any civil penalty, the commissioner shall give
due consideration to the history of previous violation of
any persons, the seriousness of the violation, including
any hazards to agriculture in West Virginia and the
demonstrated good faith of any person charged in
attempting to achieve compliance with this article after
written notification of the violation.

(2) The commissioner may assess a penalty of not
more than two hundred fifty dollars for the first offense
or nonserious violation, as determined by the commis-
sioner in accordance with the rules promulgated in
accordance with the provisions of chapter twenty-nine-
a of this code, and not more than one thousand dollars
for a serious, repeat or intentional violation, as deter-
mined by the commissioner in accordance with such
promulgated rules.

(3) The civil penalty is payable to the state of West
Virginia and is collectible in any manner now or
hereafter provided for collection of a debt. Any person
liable to pay the civil penalty and neglecting or refusing to pay the same, shall be assessed interest at ten percent from the date the penalty was assessed. Such penalty and interest constitute a lien in favor of the state of West Virginia and shall attach on the person's property when such lien is properly recorded in the county where the property is situated. There shall be no cost as a condition precedent to recording.

(4) Notwithstanding any other provision of law to the contrary, the commissioner may promulgate and adopt rules which permit consent agreements for the civil penalties assessed as a result of violation of the provisions of this article.

(5) No state court may allow the recovery of damages for administrative action taken if the court finds that there was probable cause for such action.

(6) It shall be the duty of the prosecuting attorney of the county in which the violation occurred to represent the department of agriculture, to institute proceedings, and to prosecute the person charged with such violation.


If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of the article are declared severable.
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 July 1, 1991.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the day of , 1991.

Governor