

HB 2425

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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995

— ● —

## ENROLLED

*Com. Sub. for*  
HOUSE BILL No. 2425

(By Delegate BEACH AND MICHAEL)

— ● —

Passed MARCH 11, 1995

In Effect 90 days from Passage



**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**  
**H. B. 2425**

(BY DELEGATES BEACH AND MICHAEL)

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[Passed March 11, 1995; in effect ninety days from passage.]

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AN ACT to amend and reenact sections one, two, three, four, five, six, eight, nine, ten and eleven, article two-b, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the regulation of poultry as well as meat; allowing the commissioner of agriculture to elect where a hearing will be held for grievances filed under this article; increasing the penalties for violating this article; and new violation and penalties.

*Be it enacted by the Legislature of West Virginia:*

That sections one, two, three, four, five, six, eight, nine, ten and eleven, article two-b, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 2B. INSPECTION OF MEAT AND POULTRY.**

**§19-2B-1. Purpose and construction; continuation of meat and poultry inspection program.**

1       Subject to the provisions of section seven of this arti-  
2       cle, the basic purpose of this article is to provide for the  
3       inspection, labeling and disposition of animals, poultry,  
4       carcasses, meat products and poultry products which are to

5 be sold or offered for sale through commercial outlets for  
6 human consumption, the licensing of commercial slaugh-  
7 terers, custom slaughterers and processors, and the inspec-  
8 tion of slaughterhouses and processing plants located in  
9 the state of West Virginia. This article, being intended to  
10 protect the health of the citizens of West Virginia, shall be  
11 liberally construed.

12 After having conducted a performance and fiscal audit  
13 through its joint committee on government operations,  
14 pursuant to section nine, article ten, chapter four of this  
15 code, the Legislature hereby finds and declares that the  
16 meat inspection program should be continued and rees-  
17 tablished. Accordingly, notwithstanding the provisions of  
18 section four, article ten, chapter four of this code, the meat  
19 and poultry inspection program shall continue to exist  
20 until the first day of July, one thousand nine hundred  
21 ninety-eight.

**§19-2B-2. Definitions.**

1 Unless the context in which used clearly requires a  
2 different meaning, as used in this article:

3 (a) "Department" means the department of agriculture  
4 of the state of West Virginia;

5 (b) "Commissioner" means the commissioner of agri-  
6 culture of the state of West Virginia and duly authorized  
7 representatives;

8 (c) "Person" means any individual, partnership, corpo-  
9 ration, association, or other entity;

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

14 (e) "Veterinary supervisor" means a graduate of a  
15 school of veterinary medicine accredited by the American  
16 Veterinary Medical Association, employed by the depart-  
17 ment and authorized by the commissioner to perform on  
18 his or her behalf any inspection and supervisory functions  
19 under this article;

20 (f) "Inspector" means an individual employed by the  
21 department and authorized by the commissioner to per-  
22 form on his or her behalf any inspection and supervisory  
23 functions under this article;

24 (g) "State inspection" means inspection services con-  
25 ducted by the department at or in connection with estab-  
26 lishments required to be licensed by this article;

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

32 (i) "W. Va. inspected and condemned," or abbreviation  
33 thereof, means that the carcass, meat product or poultry  
34 product, so marked or so identified, is adulterated and  
35 shall be disposed of in the manner prescribed by the com-  
36 missioner;

37 (j) "W. Va. retained" means that the carcass, meat  
38 product or poultry product or any ingredient used in  
39 processing, or any direct or indirect container used for  
40 meat products or poultry products so identified is held for  
41 further examination by a veterinary supervisor or contract  
42 veterinarian to determine its disposal;

43 (k) "W. Va. suspect" means that the animal or poultry  
44 so marked and identified is suspected of being affected  
45 with a disease or condition which may require its condem-  
46 nation, in whole or in part, when slaughtered, and is sub-  
47 ject to further examination by a contract veterinarian or  
48 veterinary supervisor to determine its disposal;

49 (l) "W. Va. inspected and passed," or abbreviation  
50 thereof, means that the carcass, meat product or poultry  
51 product so marked or so identified, was at the time it was  
52 so marked or so identified found to be wholesome;

53 (m) "Country" when used in the name of a meat prod-  
54 uct or poultry product means that such meat product or  
55 poultry product was actually prepared on a farm;

56 (n) "Federal inspection" means the meat and poultry

57 inspection service conducted by the food safety and in-  
58 spection service of the United States department of agri-  
59 culture;

60 (o) "Federal Meat Inspection Act" means the act so  
61 entitled, approved March four, one thousand nine hundred  
62 seven, as amended by the Wholesome Meat Act.

63 (p) "Federal Poultry Products Inspection Act" means  
64 the act of Congress approved August twenty-eighth, one  
65 thousand nine hundred fifty-seven, as amended;

66 (q) "Inspection legend" means a mark or a statement  
67 on a carcass, meat product or poultry product indicating  
68 the same has been inspected and passed in this state under  
69 the provisions of this article;

70 (r) "Label" means a display of written, printed or  
71 graphic matter on a container indicating the carcass, meat  
72 product or poultry product contained therein has been  
73 inspected and passed in this state under the provisions of  
74 this article;

75 (s) "Official inspection mark" means any symbol pre-  
76 scribed by the commissioner for the purpose of identify-  
77 ing the inspection status of any meat product or poultry  
78 product so inspected;

79 (t) "Establishment number" means an official number  
80 assigned by the commissioner to each establishment and  
81 included on the inspection legend and label to identify all  
82 inspected and passed carcasses, meat product or poultry  
83 product handled in that establishment;

84 (u) "Container" and "package" shall include but not be  
85 limited to any box, can, tin, cloth, plastic or any other  
86 receptacle, wrapper or cover;

87 (v) "Sell" means offer for sale, expose for sale, have in  
88 possession for sale, exchange, barter or trade;

89 (w) "Animals" mean cattle, swine, sheep and goats;

90 (x) "Carcass" means all or any part of a slaughtered  
91 animal or poultry, including viscera, which is capable of  
92 being used for human consumption;

93 (y) "Meat" means the edible part of the muscle of  
94 animals or poultry, which is skeletal or which is found in  
95 the tongue, in the diaphragm, in the heart or in the esoph-  
96 agus, with or without the accompanying or overlying fat,  
97 and the portions of bone, skin, sinew nerve and blood  
98 vessels which normally accompany the muscle tissue and  
99 which are not separated from it in the process of dressing;  
100 it does not include the muscle found in the lips, snout or  
101 ears;

102 (z) "Meat food product" means any article of food for  
103 human consumption or any article which enters into the  
104 composition of food for human consumption, which is  
105 derived or prepared in whole or in part from any portion  
106 of any animal or poultry, except organotherapeutic sub-  
107 stances, meat juices, meat extract and the like which are  
108 only for medicinal purposes and are advertised only to the  
109 medical profession; any edible part of the carcass which  
110 has been manufactured, cured, smoked, processed or oth-  
111 erwise treated shall be considered a meat food product;

112 (aa) "Meat by-product" means any edible part of an  
113 animal or poultry other than meat or meat food product;

114 (bb) "Meat product" means any meat, meat food prod-  
115 uct, and meat by-product capable of use as human food;

116 (cc) "Poultry" means any domesticated bird which is  
117 used or intended to be used for human consumption;

118 (dd) "Poultry meat" means the carcass or parts of such  
119 carcass of any poultry;

120 (ee) "Poultry food product" means any product of  
121 poultry, other than eggs, capable of use as human food  
122 which is made wholly or in part from any poultry meat or  
123 other portion of the carcass of poultry;

124 (ff) "Poultry by-product" means any part or parts of  
125 poultry, other than eggs, capable of use as human food,  
126 other than poultry carcass which have been derived from  
127 one or more birds;

128 (gg) "Poultry product" means any poultry meat, poul-  
129 try food product, and poultry by-product capable of use

130 as human food;

131 (hh) "Process" means to cut up, bone, chop, mix, grind,  
132 slice, cook, smoke, cure, salt, marinate, dry, can, or other-  
133 wise manufacture, process, or package any meat product  
134 or poultry product;

135 (ii) "Denature" means the uniform application of suffi-  
136 cient quantities of crude carbolic acid, cresylic disinfec-  
137 tant, or any other agent approved by the commissioner  
138 upon and into the freely slashed flesh of any carcass or  
139 product condemned;

140 (jj) "Decharacterization" means the uniform applica-  
141 tion of sufficient quantities of dye, charcoal, malodorous  
142 fish oil, or any other agent approved by the commissioner,  
143 upon and into the freely slashed flesh of carcasses or meat  
144 not being rendered, so as to unequivocally preclude its use  
145 for human food;

146 (kk) "Inedible" means the carcass, meat product or  
147 poultry product derived from 4-D or condemned animals  
148 or poultry, or meat products or poultry products which  
149 have deteriorated or are otherwise unfit for human con-  
150 sumption;

151 (ll) "4-D animal" means an animal that is dead, dying,  
152 down or diseased on arrival at the slaughterhouse;

153 (mm) "Commercial slaughterer" means a person en-  
154 gaged for profit in this state in the business of slaughter-  
155 ing animals or poultry for human consumption which are  
156 to be sold or offered for sale through a commercial outlet  
157 or establishment, and shall include a person who in addi-  
158 tion to such commercial slaughtering also engages in the  
159 business of a custom slaughterer;

160 (nn) "Custom slaughterer" means a person engaged  
161 for profit in this state in the business of slaughtering ani-  
162 mals or poultry for human consumption which are not to  
163 be sold or offered for sale through a commercial outlet,  
164 commercial establishment, distributor, or to an individual,  
165 and shall include the boning or cutting up of carcasses of  
166 such animals or poultry and the grinding, chopping and  
167 mixing of the carcasses thereof;

168 (oo) "Slaughterhouse" shall include but not be limited  
169 to all buildings, structures and facilities used in the slaugh-  
170 tering of animals or poultry for human consumption;

171 (pp) "Distributor" means a person engaged for profit  
172 in this state in the business where carcasses, meat products  
173 or poultry products are received from state inspected es-  
174 tablishments, or establishments inspected by the United  
175 States department of agriculture;

176 (gg) "Processor" means a person who engages for  
177 profit in this state in the business of processing carcasses,  
178 meat products or poultry products for human consump-  
179 tion;

180 (rr) "Commercial processor" means a processor for  
181 commercial outlets or distributors and shall include the  
182 business of custom processing;

183 (ss) "Custom processor" means a processor in which  
184 the carcass, meat products or poultry products derived  
185 through processing cannot be sold or offered for sale  
186 through a commercial outlet, commercial establishment,  
187 distributor, or to an individual;

188 (tt) "Processing plant" shall include but not be limited  
189 to all buildings, structures, chill rooms, aging rooms, pro-  
190 cessing rooms, sanitary facilities, other facilities, and uten-  
191 sils, used by or in connection with the operations of a  
192 processor;

193 (uu) "Establishment" means any slaughterhouse, pro-  
194 cessing plant or distributor in this state;

195 (vv) "Related industries" means rendering plants, re-  
196 frigerated meat warehouses, food lockers, meat and poul-  
197 try wholesalers, brokers, pet food manufacturers, other  
198 animal food manufacturers, animal impoundments whose  
199 main source of food supply is derived from the raw meats,  
200 transportation firms and private carriers;

201 (ww) "Commercial outlet" means a place of business in  
202 this state and shall include all retail stores and public eat-  
203 ing places in which carcasses, meat products or poultry  
204 products are stored, sold or offered for sale for human



205 consumption by the purchaser or other individual con-  
206 sumers;

207 (xx) "Commercial dealer" means any person who  
208 operates one or more commercial outlets and who sells or  
209 offers for sale thereat any carcasses, meat products or  
210 poultry products for human consumption, and who does  
211 not can, cook, cure, dry, smoke or render any carcass,  
212 meat products or poultry products at such outlets and who  
213 conducts no slaughtering or preparing of carcasses, meat  
214 products or poultry products at such outlets other than  
215 boning or cutting up of carcasses, and other than grinding,  
216 chopping and mixing operations at such outlets with re-  
217 spect to trim or meat derived only from such boning or  
218 cutting up operations;

219 (yy) "Custom slaughtered carcass, meat or poultry" or  
220 "custom processed meat products or poultry products"  
221 mean, respectively, carcasses, meat products or poultry  
222 products which were slaughtered, or processed by a cus-  
223 tom slaughterer;

224 (zz) "Wholesome" means sound, healthful, clean, and  
225 otherwise fit for human consumption;

226 (aaa) "Adulterated" means and shall apply to any car-  
227 cass, part thereof, meat product or poultry product under  
228 one or more of the following circumstances:

229 (1) If it bears or contains any poisonous or deleterious  
230 substance which may render it injurious to health; but in  
231 case the substance is not an added substance, such carcass,  
232 meat product or poultry product shall not be considered  
233 adulterated under this clause if the quantity of such sub-  
234 stance in or on such carcass, meat product or poultry  
235 product does not ordinarily render it injurious to health;

236 (2) (A) If it bears or contains (by reason of adminis-  
237 tration of any substance to the live animal or poultry or  
238 otherwise) any added poisonous or added deleterious  
239 substance (other than one which is a pesticide chemical in  
240 or on a raw agricultural commodity; a food additive; or a  
241 color additive) which may, in the judgment of the com-  
242 missioner make such carcass, meat product or poultry

243 product unfit for human food;

244 (B) If it is, in whole or in part, a raw agricultural com-  
245 modity and such commodity bears or contains a pesticide  
246 chemical which is unsafe within the meaning of the federal  
247 Food, Drug and Cosmetic Act;

248 (C) If it bears or contains any food additive which is  
249 unsafe within the meaning of the federal Food, Drug and  
250 Cosmetic Act;

251 (D) If it bears or contains any color additive which is  
252 unsafe within the meaning of the federal Food, Drug and  
253 Cosmetic Act: *Provided*, That a carcass, meat product or  
254 poultry product which is not adulterated under paragraph  
255 (B), (C), or (D) of this subsection, shall nevertheless be  
256 deemed adulterated if use of the pesticide chemical, food  
257 additive, or color additive in or on such carcass, meat  
258 product or poultry product is prohibited by rules in estab-  
259 lishments at which inspection is maintained;

260 (3) If it consists in whole or in part of any filthy, pu-  
261 trid, or decomposed substance or is for any other reason  
262 unsound, unhealthful, unwholesome, or otherwise unfit for  
263 human food;

264 (4) If it has been processed, packed, or held under  
265 insanitary conditions whereby it may have become con-  
266 taminated with filth or pathogenic microorganisms, or  
267 whereby it may have been rendered injurious to health;

268 (5) If it is, in whole or in part, the product of an ani-  
269 mal or poultry which has died otherwise than by slaughter;

270 (6) If its container is composed, in whole or in part, of  
271 any poisonous or deleterious substance which may render  
272 the contents injurious to health;

273 (7) If it has been intentionally subjected to radiation,  
274 unless the use of the radiation was in conformity with a  
275 regulation or exemption in effect pursuant to the federal  
276 Food, Drug and Cosmetic Act;

277 (8) If any valuable constituent has been in whole or in  
278 part omitted or abstracted therefrom; or if any substance  
279 has been substituted, wholly or in part therefor; or if dam-

280 age or inferiority has been concealed in any manner; or if  
281 any substance has been added thereto or mixed or packed  
282 therewith so as to increase its bulk or weight, or reduce its  
283 quality or strength, or make it appear better or of greater  
284 value than it is;

285 (bbb) "Antemortem" means before death;

286 (ccc) "Postmortem" means after death;

287 (ddd) "Reinspection" means inspection of the process-  
288 ing of carcass, meat products and poultry products, as well  
289 as a reexamination of products previously inspected;

290 (eee) "Licensee" means any person licensed under the  
291 provisions of this article.

**§19-2B-3. Commissioner to enforce article; rules; cooperation  
with federal agencies, etc.**

1 (a) The commissioner shall administer and enforce the  
2 provisions of this article and for this purpose is hereby  
3 authorized and empowered to promulgate reasonable rules  
4 and to employ or contract with such persons as may be  
5 appropriate. All rules shall be promulgated in accordance  
6 with the provisions of chapter twenty-nine-a of this code.  
7 Such rules shall, insofar as practicable, be in conformity  
8 with the rules and regulations issued under the federal  
9 Meat Inspection Act and the federal Poultry Products  
10 Inspection Act.

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

**§19-2B-4. License required for commercial slaughterer, cus-  
tom slaughterer, commercial processor, custom  
processor or distributor; application for license;  
fees; refusal, revocation or suspension; suspen-  
sion of inspection; establishment number or  
numbers.**

1 (a) No commercial slaughterer, custom slaughterer,  
 2 commercial processor, custom processor or distributor  
 3 shall operate an establishment unless he or she shall first  
 4 have obtained a license from the commissioner, which  
 5 license remains unsuspended and unrevoked. Application  
 6 for such license shall be made on forms prescribed by the  
 7 commissioner and shall be accompanied by the fee re-  
 8 quired in this section.

9 When such a person operates as a commercial slaugh-  
 10 terer and also operates as a commercial processor, whether  
 11 such operations are located on the same or different pre-  
 12 mises in this state, each such operation shall be licensed.  
 13 When such a person operates two or more slaughterhouses  
 14 not on the same premises in this state, or operates two or  
 15 more processing plants not on the same premises in this  
 16 state, a separate license shall be required for each such  
 17 slaughterhouse and each such processing plant. Each  
 18 license shall expire on the thirtieth day of June next fol-  
 19 lowing its issuance, and the annual fee for each such li-  
 20 cense shall be based upon the average number of animals  
 21 slaughtered per year and upon the average finished prod-  
 22 uct poundage processed per year, as set forth in the fol-  
 23 lowing table, except that the annual fee for the license of a  
 24 person who operates solely as a custom slaughterer shall  
 25 be ten dollars or as a custom processor shall be five dollars  
 26 or as a distributor shall be five dollars.

27	Average Number of Animals		Annual
28	Class	Slaughtered Per Year	Fee
29	Small	1-500	\$10.00
30	Medium	501-1000	\$25.00
31	Large	1001-5000	\$50.00
32	Extra Large	Over 5000	\$75.00
33	Average Finished Product		Annual
34	Class	Poundage Processed Per Year	Fee
35	Small	1-25,000	\$10.00
36	Medium	25,001-250,000	\$25.00
37	Large	250,001-1,000,000	\$50.00
38	Extra Large	Over 1,000,000	\$75.00

39 Before issuing any license required by the provisions  
40 of this section, the commissioner shall inspect the appli-  
41 cant's establishment and if the commissioner is satisfied  
42 that the establishment is clean and sanitary, is properly  
43 equipped, and is in conformity with the provisions of this  
44 article and any reasonable rules promulgated by the com-  
45 missioner, and if he or she is further satisfied that the car-  
46 casses, meat products or poultry products to be sold or  
47 offered for sale therefrom through commercial outlets will  
48 be wholesome and unadulterated, he or she shall issue the  
49 license. Each license shall specify the location of the  
50 establishment at which the licensee shall carry on his or  
51 her operations. The license shall also contain the estab-  
52 lishment number assigned by the commissioner.

53 (b) When a licensee changes the location of his or her  
54 establishment, he or she shall not operate at such new  
55 location unless and until his or her establishment at such  
56 new location has been inspected by the commissioner and  
57 a new license has been issued, or when a licensee leases,  
58 sells, changes name, incorporates or in any other way  
59 changes the status of his or her establishment with rela-  
60 tionship to issuance of current license, the new lessee,  
61 owner, etc., shall not operate at the location unless and  
62 until the establishment at such location has been inspected  
63 and approved by the commissioner and a new license has  
64 been issued in accordance with the provisions of subsec-  
65 tion (a) of this section: *Provided*, That a fee shall not be  
66 charged for such new license during the license year in  
67 which the change in location or change in ownership,  
68 name or leasing was made.

69 (c) The commissioner may refuse to grant a license or  
70 may suspend or revoke a license issued under the provi-  
71 sions of this section whenever he or she finds that the  
72 applicant's or licensee's establishment, as the case may be,  
73 is not clean or sanitary, or is not properly equipped, or is  
74 not in conformity with the provisions of this article or any  
75 reasonable rules promulgated by the commissioner, or if  
76 he or she finds that the carcasses, meat products or poultry  
77 products to be sold or offered for sale therefrom through  
78 commercial outlets are or will be adulterated.

79       Upon the refusal to grant a license, the commissioner  
80 shall furnish a written statement to the applicant specifying  
81 the grounds for such refusal. No such revocation or sus-  
82 pension of a license shall be effective until the licensee has  
83 received written notice thereof, which notice shall specify  
84 the grounds for such revocation or suspension.

85       Whenever there is sufficient cause for the revocation  
86 or suspension of a license as hereinabove specified, the  
87 commissioner may in lieu of such revocation or suspen-  
88 sion, suspend inspections at the establishment. Immediate-  
89 ly upon suspension of such inspections the commissioner  
90 shall give the licensee written notice thereof, and such  
91 notice shall contain a recitation of the deficiencies which  
92 must be fully and completely corrected before inspections  
93 shall be resumed.

94       Upon receipt of a written statement advising that a  
95 license has been refused or upon receipt of a written no-  
96 tice of the revocation or suspension of a license, or upon  
97 the suspension of inspections at the licensee's establish-  
98 ment, the applicant or licensee, as the case may be, may, in  
99 writing, demand a hearing. The commissioner shall hold  
100 such a hearing within ten days after receipt of such written  
101 demand, in accordance with the provisions of section nine  
102 of this article.

**§19-2B-5. Access to establishments, records, etc.**

1       The commissioner may at any time enter upon and  
2 inspect any establishment, place, premises or conveyance,  
3 either private or public, where animals or poultry are  
4 slaughtered or carcasses, meat products or poultry prod-  
5 ucts are processed, handled, stored, transported, distribut-  
6 ed, sold or offered for sale, for the purpose of examining  
7 such animals or poultry, carcasses, meat products or poul-  
8 try products. Any person engaged in the business of  
9 operating an establishment shall maintain such records as  
10 the commissioner may require directly pertaining to the  
11 movement, storage and distribution or other disposition of  
12 animals or poultry, carcasses, meat products and poultry  
13 products, and such records shall be open to inspection by  
14 the commissioner at any time during the normal working  
15 hours at such establishment.

**§19-2B-6. Inspection, marking, labeling, branding, etc.; quarantine; segregation; scheduling of operations; disposition of carcasses, etc.; reinspection; health examination; rejection tags.**

1 (a) The commissioner shall provide antemortem and  
2 postmortem inspection of all animals and poultry which  
3 are to be sold or offered for sale through a commercial  
4 outlet, establishment or distributor.

5 (b) The commissioner shall provide reinspection of  
6 carcasses, meat products and poultry products during  
7 further processing which have previously been inspected.

8 (c) All inspections under the provisions of this article  
9 shall be performed in accordance with reasonable rules  
10 promulgated by the commissioner.

11 (d) The commissioner shall inspect all establishments  
12 under state inspection to make certain that they are operat-  
13 ing in accordance with the provisions of this article and all  
14 reasonable rules promulgated by the commissioner.

15 (e) When one inspector is assigned to make inspec-  
16 tions at two or more establishments where few animals or  
17 poultry are slaughtered, or where small quantities of car-  
18 carcasses, meat products or poultry products are processed, or  
19 where the operations at such establishments are sporadic,  
20 and such establishments in any of such cases are in rea-  
21 sonable close proximity to one another, the commissioner,  
22 giving full consideration to the convenience of the licens-  
23 ees of such establishments and considering the available  
24 inspection work force, may by written notice to such li-  
25 censees specify a reasonable schedule for such operations:  
26 *Provided*, That the commissioner may not require opera-  
27 tions other than during normal working hours.

28 (f) Every conveyance used by any establishment un-  
29 der state inspection, and, notwithstanding the provisions of  
30 section seven of this article, every conveyance used by any  
31 slaughterhouse, processing plant or distributor inspected  
32 by the United States department of agriculture, for the  
33 transportation of carcasses, meat products or poultry prod-  
34 ucts shall be maintained in a clean and sanitary condition

35 and may be inspected in accordance with the provisions of  
36 this article and reasonable rules promulgated by the com-  
37 missioner.

38 (g) The commissioner shall require such quarantine  
39 and segregation of animals or poultry, carcasses, meat  
40 products or poultry products in establishments as is  
41 deemed necessary to effectuate the provisions of this arti-  
42 cle.

43 (h) The head, tongue, tail, thymus glands, viscera,  
44 blood and other parts of any slaughtered animal shall be  
45 retained in such a manner as to preserve their identity until  
46 after the postmortem inspection has been completed.

47 (i) Each licensee shall pay for such devices for the  
48 affixing of marks, brands, or stamps and for such labels as  
49 may be prescribed for his or her establishment by the  
50 commissioner. Such devices and labels shall be under the  
51 exclusive control and supervision of the commissioner.  
52 The label used by any licensee shall be of the form and  
53 size prescribed by reasonable rules promulgated by the  
54 commissioner.

55 (j) Each animal or poultry carcass that has been in-  
56 spected and passed in this state by the commissioner shall  
57 be marked at the time of inspection with the inspection  
58 legend. Any animal or poultry carcass which is not passed  
59 shall be marked conspicuously by the commissioner at the  
60 time of inspection in the following manner: "W. Va. in-  
61 spected and condemned," or any abbreviation thereof.

62 (k) Each primal part of an animal or poultry carcass  
63 that has been inspected and passed shall be marked with  
64 the inspection legend, and each liver, beef heart and beef  
65 tongue that has been inspected and passed shall be brand-  
66 ed with the inspection legend at the time of final inspec-  
67 tion. Meat that has been boned out, cut from primal parts  
68 or otherwise changed so that the inspection legend is no  
69 longer plainly visible, and meat products and poultry  
70 products that are too small to be marked with the inspec-  
71 tion legend shall be packed in closed containers to which  
72 shall be affixed the label indicating that the meat products  
73 or poultry products contained therein have been inspected



74 and passed. Upon removal of the contents of such con-  
75 tainers bearing such label, the label shall be defaced to  
76 prevent its reuse.

77 (l) All carcasses, meat products and poultry products  
78 which have been derived from an animal or poultry  
79 slaughtered by a custom slaughterer or processed by a  
80 custom slaughterer or custom processor shall be marked  
81 "W. Va. custom slaughtered" in letters not less than three  
82 eights of an inch in height.

83 (m) Each official inspection mark shall contain the  
84 establishment number of the establishment involved, un-  
85 less otherwise authorized by rules promulgated by the  
86 commissioner.

87 (n) The commissioner is hereby authorized and em-  
88 powered to seize and destroy (1) any animal or poultry to  
89 be slaughtered in this state and thereafter sold or offered  
90 for sale through a commercial outlet or distributor which  
91 cannot be made fit for human consumption; (2) any ani-  
92 mal or poultry, carcass, meat product or poultry product  
93 slaughtered or processed in this state in violation of the  
94 provisions of this article or any reasonable rules promul-  
95 gated by the commissioner; (3) any carcass, meat product  
96 or poultry product that does not bear an inspection legend  
97 or meat label provided for by this article or which has not  
98 been inspected and passed under inspection provided by  
99 the United States department of agriculture and which is  
100 intended to be sold or offered for sale through a commer-  
101 cial outlet or distributor; and (4) any animal or poultry,  
102 carcass, meat product or poultry product which is adulter-  
103 ated.

104 Where appropriate the commissioner may in lieu of  
105 destruction as aforesaid denature, decharacterize, mutilate  
106 or slash any carcass, meat product or poultry product  
107 intended to be sold or offered for sale through a commer-  
108 cial outlet or distributor. The commissioner is also autho-  
109 rized and empowered to seize and retain under a retained  
110 tag any animal or poultry, carcass, meat product or poul-  
111 try product until the commissioner determines to destroy,  
112 denature, decharacterize, mutilate, slash or release the  
113 same. Whenever the commissioner is authorized or em-

114 powered to take any of the actions specified in this subsec-  
115 tion, he or she may order and direct the person having  
116 custody or possession of such animal or poultry, carcass,  
117 meat product or poultry product, or the licensee of the  
118 establishment in which it is found, to be responsible for  
119 the disposition thereof, as well as any necessary storage,  
120 handling or other incidentals related thereto. Such dispo-  
121 sition shall be carried out only under the direction and  
122 supervision of the commissioner.

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

130 (p) Whenever the commissioner has good cause to  
131 believe that any carcass, meat product or poultry product  
132 whether fresh, frozen, or processed, and which is intended  
133 to be sold or offered for sale through a commercial outlet  
134 or distributor, may be adulterated or otherwise injurious to  
135 health, he or she may inspect or reinspect the same under  
136 the provisions of this article and any reasonable rules  
137 promulgated by him or her, even though such carcass,  
138 meat product or poultry product may have been previous-  
139 ly inspected and passed.

140 (q) No licensee shall employ in any establishment any  
141 person who has any communicable disease or infected  
142 wounds or who is a carrier of any communicable disease.  
143 To enforce the provisions of this subsection, the commis-  
144 sioner may require any employee or prospective employ-  
145 ee to submit to a health examination by a physician and  
146 furnish to the commissioner a certificate from such physi-  
147 cian concerning his or her findings. The cost of conduct-  
148 ing such examination and furnishing such certificate shall  
149 be borne by the licensee concerned.

150 (r) Whenever the commissioner inspects any room,  
151 compartment, equipment or utensil in any establishment  
152 subject to state inspection and finds the same not to be  
153 clean and sanitary or finds the same to be otherwise un-

154 suitable for the slaughtering or processing operations  
155 carried on in such establishment, he or she shall affix  
156 thereto a rejection tag or rejection notice. No such reject-  
157 ed room, compartment, equipment or utensil shall be used  
158 until the deficiencies requiring such rejection shall have  
159 been fully and completely corrected and the rejection tag  
160 or rejection notice has been removed. No person other  
161 than the commissioner shall remove any such rejection tag  
162 or notice.

163 (s) When any animal or poultry, carcass, meat product  
164 or poultry product has been inspected hereunder, the  
165 appropriate official inspection mark shall be affixed there-  
166 to, and no person shall remove the same unless authorized  
167 so to do by the commissioner.

**§19-2B-8. Exemptions.**

1 (a) In order to accomplish the objectives of this article,  
2 the commissioner may by reasonable rules exempt from  
3 inspection:

4 (1) Any commercial dealer, provided all carcasses,  
5 meat products or poultry products sold or offered for sale  
6 by such dealer were slaughtered and/or processed in com-  
7 mercial establishments under state inspection or have been  
8 inspected and passed by the United States department of  
9 agriculture and shall be identified, labeled and sold in  
10 normal retail quantities as prescribed by reasonable rules  
11 promulgated by the commissioner;

12 (2) The slaughtering by any person of animals of his  
13 or her own raising, and the preparation by him or her of  
14 the carcasses, meat products or poultry products of such  
15 animals exclusively for use by him or her and members of  
16 his or her household and his or her nonpaying guests and  
17 employees; or custom slaughtered animals, by a custom  
18 slaughterer, delivered by the owner thereof for such  
19 slaughter and the preparation by such slaughterer or cus-  
20 tom processor of the carcasses, meat products or poultry  
21 products of such animals, exclusively for use, in the  
22 household of such owner, by him or her and members of  
23 his or her household and his or her nonpaying guests and  
24 employees: *Provided*, That the custom slaughterer or

25 custom processor is not handling adulterated carcasses,  
26 meat products and poultry products; maintains identity of  
27 carcasses, meat products and poultry products; and main-  
28 tains acceptable sanitation and operational controls as  
29 prescribed by reasonable rules promulgated by the com-  
30 missioner;

31 (3) Antemortem and postmortem inspection of a li-  
32 censed custom slaughterer;

33 (4) Any other operations which the commissioner may  
34 determine would best be exempted to further the purposes  
35 of this article, to the extent such exemptions conform to  
36 the federal Meat Inspection Act and the federal Poultry  
37 Products Inspection Act as amended from time to time  
38 and the regulations thereunder;

39 (b) Any institution operated by the state requiring  
40 inspection under this article shall be exempt from the  
41 licensing fee as required by section four of said article.

**§19-2B-9. Hearings; judicial review.**

1 (a) When any person is entitled to a hearing before the  
2 commissioner as authorized in this article, the commis-  
3 sioner shall hold such hearing and all of the pertinent  
4 provisions of article five, chapter twenty-nine-a of this  
5 code shall apply to and govern such hearing and the ad-  
6 ministrative procedures in connection with and following  
7 such hearing, with like effect as if the provisions of said  
8 article five were set forth in extensio in this subsection,  
9 except that the hearing shall be held in the county in  
10 which the establishment involved is located, or in which  
11 the affected person resides or has his or her principal  
12 place of business, or in Kanawha county, West Virginia, at  
13 the election of the commissioner. Any such hearing shall  
14 be held within the time limits hereinbefore specified in this  
15 article, unless there is a postponement or a continuance for  
16 good cause shown.

17 (b) For the purpose of any such hearing, the commis-  
18 sioner shall have the power and authority to issue subpoe-  
19 nas and subpoenas duces tecum, in accordance with the  
20 provisions of section one, article five, chapter twenty-

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

32 (c) After such hearing and consideration of all the  
33 testimony, evidence and record in the case, the commis-  
34 sioner shall make and enter an order deciding the matter  
35 in question. Such order shall be accompanied by findings  
36 of fact and conclusions of law as specified in section three,  
37 article five, chapter twenty-nine-a of this code, and a copy  
38 of such order and accompanying findings and conclu-  
39 sions shall be served upon all the parties and their attor-  
40 neys of record, if any, in person or by registered or certi-  
41 fied mail. The commissioner shall also cause a notice to  
42 be served with a copy of such order, which notice shall  
43 advise the parties of their right to judicial review, in accor-  
44 dance with the provisions of subsection (d) of this section.  
45 The order of the commissioner shall be final unless vacat-  
46 ed or modified upon judicial review thereof in accordance  
47 with the provisions of subsection (d) of this section.

48 (d) Any party adversely affected by a final order  
49 made and entered by the commissioner after such hearing,  
50 held in accordance with the provisions of subsections (a)  
51 through (c) of this section, is entitled to judicial review  
52 thereof. All of the pertinent provisions of section four,  
53 article five, chapter twenty-nine-a of this code shall apply  
54 to and govern such review with like effect as if the provi-  
55 sions of said section four were set forth in extensio in this  
56 subsection, except that the petition shall be filed in the  
57 circuit court of the county in which the hearing before the  
58 commissioner was held.

59 (e) The judgment of the circuit court shall be final  
60 unless reversed, vacated or modified on appeal to the su-

61 preme court of appeals in accordance with the provisions  
62 of section one, article six, chapter twenty-nine-a of this  
63 code.

**§19-2B-10. Additional prohibitions.**

1 In addition to any other prohibitions contained in this  
2 article, it shall be unlawful:

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

5 (b) To slaughter any adulterated animal or poultry  
6 intended to be sold or offered for sale through a commer-  
7 cial outlet or distributor;

8 (c) To sell or offer for sale through a commercial  
9 outlet or distributor any carcass, meat product or poultry  
10 product for human consumption which is adulterated;

11 (d) To slaughter for human consumption any animal  
12 or poultry tagged or permanently identified as "W. Va.  
13 condemned," or abbreviation thereof;

14 (e) To process, sell or offer for sale for human con-  
15 sumption any carcass, meat product or poultry product  
16 which is mislabeled with intent to deceive or which is  
17 marked "W. Va. inspected and condemned," or abbrevia-  
18 tion thereof;

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

25 (g) To knowingly or intentionally expose any carcass,  
26 meat product and poultry product in any establishment  
27 under state inspection to insects, live animals or any con-  
28 tamination;

29 (h) To add kangaroo meat, horse meat, mule meat or  
30 other equine meat to any animal meat, meat product or  
31 poultry product derived from animals and to be sold or  
32 offered for sale through commercial outlets or distributors

33 for human consumption;

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

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

45 (k) To transport to any commercial outlet or distribu-  
46 tor for the purpose of being sold or offered for sale there-  
47 in, any carcass, meat product or poultry product which is  
48 not marked, branded or stamped as having been inspected  
49 and passed by the commissioner or by the United States  
50 department of agriculture;

51 (l) For any commercial outlet or distributor to receive,  
52 for the purpose of being sold or offered for sale therein,  
53 any carcass, meat product or poultry product which is not  
54 marked, branded or stamped as having been inspected and  
55 passed by the commissioner or by the United States de-  
56 partment of agriculture;

57 (m) To slaughter any horse, mule or other equine in  
58 any establishment under state inspection in which animals  
59 or poultry are slaughtered for human consumption for the  
60 purpose of being sold or offered for sale through com-  
61 mercial outlets;

62 (n) To bring any kangaroo meat, horse meat, mule  
63 meat or other equine meat into any establishment under  
64 state inspection where animal or poultry carcasses, meat  
65 products or poultry products are processed for human  
66 consumption for the purpose of being sold or offered for  
67 sale through commercial outlets;

68 (o) To transport, process, sell or offer for sale any  
69 kangaroo meat, horse meat, mule meat or other equine  
70 meat within this state for human consumption unless it is

71 conspicuously and plainly identified or stamped as such;

72 (p) For any person to use an establishment number  
73 not assigned to him or her or to use an establishment  
74 number in connection with operations concerning which a  
75 different establishment number was assigned by the com-  
76 missioner;

77 (q) To remove from any article any retained tag af-  
78 fixed by the commissioner, unless such removal is autho-  
79 rized by him or her;

80 (r) To remove from any room, compartment, equip-  
81 ment or utensil any rejection tag or rejection notice af-  
82 fixed by the commissioner, unless such removal is autho-  
83 rized by him or her;

84 (s) For a licensee to use any container bearing an  
85 official inspection mark unless it contains the exact car-  
86 cass, meat product or poultry product which was in the  
87 container at the time such contents were inspected and  
88 passed: *Provided*, That such a container may be otherwise  
89 used if such official inspection mark thereon is removed,  
90 obliterated or destroyed, and such other use is authorized  
91 by reasonable rules promulgated by the commissioner;

92 (t) For any person, other than the commissioner, to  
93 possess, keep or use, except as authorized by the commis-  
94 sioner, any meat label or device for the affixing of a mark,  
95 brand or stamp prescribed for inspection purposes here-  
96 under;

97 (u) For any person, with intent to deceive, to possess,  
98 keep or use any label, mark, brand or stamp similar in  
99 character or import to an official label, mark, brand or  
100 stamp prescribed by the commissioner hereunder or to an  
101 official label, mark, brand or stamp used by the United  
102 States department of agriculture;

103 (v) To falsely make, falsely issue, falsely publish, alter,  
104 forge, simulate or counterfeit any inspection certificate,  
105 memorandum, label, mark, brand, or stamp, or device for  
106 making an inspection mark, brand or stamp, or to possess,  
107 keep or use the same, with intent to deceive;



108 (w) For any person to refuse to permit the commis-  
109 sioner to enter and inspect at any time, upon presentation  
110 of appropriate credentials, an establishment under state  
111 inspection, or to interfere with any such lawful entry or  
112 inspection;

113 (x) For any person to refuse to permit the commis-  
114 sioner, upon presentation of appropriate credentials, to  
115 examine and copy the records described in section five of  
116 this article;

117 (y) For a person to prevent or fail to decharacterize or  
118 denature carcasses, meat products or poultry products as  
119 prescribed by reasonable rules promulgated by the com-  
120 missioner;

121 (z) For a person to transport offal, blood, or inedible  
122 and condemned parts of animal and poultry carcasses  
123 from slaughterhouses, processing plants or other related  
124 industries: *Provided*, That such products may be trans-  
125 ported if placed in suitable containers with tight covers, or  
126 watertight tanks so as not to contaminate the public high-  
127 ways or private roadways while going to or from the  
128 points of pickup;

129 (aa) For a person to store offal, blood, or inedible and  
130 condemned parts of animal and poultry carcasses from  
131 slaughterhouses, processing plants or other related indus-  
132 tries during interim transit movement in refrigerated ware-  
133 houses, food lockers or other related industries: *Provided*,  
134 That such products may be otherwise stored if properly  
135 marked "NOT FOR HUMAN FOOD" "FOR ANIMAL  
136 FOOD ONLY" and identified as approved products to be  
137 used for animal food;

138 (bb) For a person knowingly to purchase or deliver, or  
139 both, a 4-D animal to an establishment in this state;

140 (cc) For any person to transport carcasses, meat prod-  
141 ucts and poultry products that are intended for human  
142 consumption in a manner which would permit the prod-  
143 ucts to become adulterated;

144 (dd) For any person who forcibly assaults, resists,  
145 opposes, impedes, intimidates, or interferes with the com-

146 missioner or his or her representative while engaged in or  
147 on account of the performances of his or her official du-  
148 ties.

**§19-2B-11. Penalties.**

1 (a) Any person who violates 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 not  
4 less than two hundred nor more than one thousand dollars  
5 and upon conviction of each subsequent offense shall be  
6 fined not less than four hundred nor more than two thou-  
7 sand dollars.

8 (b) If such a person knowingly sells, offers for sale or  
9 distribution, or attempts to sell, offers for sale or distribu-  
10 tion of a carcass, meat product or poultry product that is  
11 contaminated with pathogenic microorganisms or other-  
12 wise adulterated, such a person shall be guilty of a misde-  
13 meanor, and upon conviction thereof, shall be fined not  
14 less than five thousand dollars nor more than ten thousand  
15 dollars upon conviction of each offense.

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

Randy Schooner  
Chairman Senate Committee

Ernest C. Moore  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Darrell R. Baker  
Clerk of the Senate

Donald L. Kapp  
Clerk of the House of Delegates

Earl Ray Tomblin  
President of the Senate

Paul E. Abner  
Speaker of the House of Delegates

The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 1995.

\_\_\_\_\_  
Governor



PRESENTED TO THE

GOVERNOR

Date 3/31/95

Time 2:30 pm