

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996

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ENROLLED

HOUSE BILL No. 4344

(By Delegates BEACH AND RIGGS )



Passed MARCH 8, 1996

In Effect NINETY DAYS FROM Passage

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LEGISLATIVE SERVICES DIVISION

**ENROLLED**

**H. B. 4344**

(By DELEGATES BEACH AND RIGGS)

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[Passed March 8, 1996; in effect ninety days from passage.]

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AN ACT to amend and reenact sections two, six and ten, article two-b, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to agriculture; inspection of meat and poultry; definitions; inspections; additional prohibitions; and criminal offenses.

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

That sections two, six and ten, 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-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 functions under  
23 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  
85 be 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 which is skeletal or which is found in the tongue,  
95 in the diaphragm, in the heart or in the esophagus, with or  
96 without the accompanying or overlying fat, and the por-  
97 tions of bone, skin, sinew nerve and blood vessels which  
98 normally accompany the muscle tissue and which are not  
99 separated from it in the process of dressing; it does not  
100 include the muscle found in the lips, snout or ears;

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

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

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

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

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

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

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

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

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

134 (ii) "Denature" means the uniform application of suf-  
135 ficient quantities of crude carbolic acid, cresylic disinfect-  
136 ant, or any other agent approved by the commissioner  
137 upon and into the freely slashed flesh of any carcass or  
138 product condemned;

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

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

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

153 (mm) "Commercial slaughterer" means a person en-  
154 gaged for profit in this state in the business of slaughtering  
155 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  
170 slaughtering of animals or poultry for human consump-  
171 tion;

172 (pp) "Distributor" means a person engaged for profit  
173 in this state in the business where carcasses, meat products  
174 or poultry products are received from state inspected es-  
175 tablishments, or establishments inspected by the United  
176 States department of agriculture and who stores and dis-  
177 tributes to commercial outlets, processors or individuals  
178 and who conducts no processing;

179 (qq) "Processor" means a person who engages for  
180 profit in this state in the business of processing carcasses,  
181 meat products or poultry products for human consump-  
182 tion;

183 (rr) "Commercial processor" means a processor for  
184 commercial outlets or distributors and shall include the  
185 business of custom processing;

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

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

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

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

204 (ww) "Commercial outlet" means a place of business in  
205 this state and shall include all retail stores and public eat-  
206 ing places in which carcasses, meat products or poultry  
207 products are stored, sold or offered for sale for human  
208 consumption by the purchaser or other individual con-  
209 sumers;

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



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

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

229 (aaa) "Adulterated" means and shall apply to any  
230 carcass, part thereof, meat product or poultry product  
231 under one or more of the following circumstances:

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

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

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

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

254 (D) If it bears or contains any color additive which is  
255 unsafe within the meaning of the federal Food, Drug and  
256 Cosmetic Act: *Provided*, That a carcass, meat product or  
257 poultry product which is not adulterated under paragraph

258 (B), (C) or (D) of this subsection, shall nevertheless be  
259 deemed adulterated if use of the pesticide chemical, food  
260 additive, or color additive in or on such carcass, meat  
261 product or poultry product is prohibited by rules in estab-  
262 lishments at which inspection is maintained;

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

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

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

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

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

280 (8) If any valuable constituent has been in whole or in  
281 part omitted or abstracted therefrom; or if any substance  
282 has been substituted, wholly or in part therefor; or if dam-  
283 age or inferiority has been concealed in any manner; or if  
284 any substance has been added thereto or mixed or packed  
285 therewith so as to increase its bulk or weight, or reduce its  
286 quality or strength, or make it appear better or of greater  
287 value than it is;

288 (bbb) "Antemortem" means before death;

289 (ccc) "Postmortem" means after death;

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

293 (eee) "Licensee" means any person licensed under the  
294 provisions of this article;

295 (fff) "Misbranded" applies to any carcass, meat prod-  
296 uct or poultry product under one or more of the following  
297 circumstances:

298 (1) If its labeling is false or misleading in any particu-  
299 lar;

300 (2) If it is offered for sale under the name of another  
301 meat product or poultry product;

302 (3) If it is an imitation of another meat product or  
303 poultry product; unless its label bears, in type of uniform  
304 size and prominence, the word "imitation" and immediat-  
305 ely thereafter, the name of the meat product or poultry  
306 product imitated;

307 (4) If its container is made, formed or filled as to be  
308 misleading;

309 (5) Unless it bears a label showing: (A) The name and  
310 place of business of the establishment; and (B) an accurate  
311 statement of the quantity of the contents in terms of  
312 weight, measure or numerical count;

313 (6) If any word, statement or other information re-  
314 quired by or under authority of this article to appear on  
315 the label or other labeling is not prominently placed there-  
316 on with such conspicuousness (as compared with other  
317 words, statements, designs or devices, in the labeling) and  
318 in such terms as to render it likely to be read and under-  
319 stood by the ordinary individual under customary condi-  
320 tions of purchase and use;

321 (7) If it purports to be or is represented as a meat  
322 product or poultry product for which a definition and  
323 standard of identity or composition has been prescribed  
324 by rules promulgated by the commissioner unless: (A) It  
325 conforms to such definition and standards; and (B) its  
326 label bears the name of the meat product or poultry prod-  
327 uct specified in the definition and standard of identity and  
328 the common names of optional ingredients (other than  
329 spices, flavoring and coloring) present in such products;

330 (8) If it is not subject to the provisions of subsection  
331 (7), unless its label bears: (A) The common or usual name  
332 of the meat product or poultry product, if any there be,  
333 and (B) in case it is fabricated from two or more ingredi-  
334 ents, the common or usual name of each such ingredient;  
335 except that spices, flavorings and colorings may be desig-  
336 nated as such without naming each;

337 (9) If it purports to be or is represented for special  
338 dietary uses, unless its label bears such information con-  
339 cerning its vitamin, mineral and other dietary properties as  
340 the commissioner determines to be necessary in order  
341 fully to inform purchasers as to its value for such uses;

342 (10) If it bears or contains any artificial flavoring,  
343 artificial coloring, or chemical preservative, unless it bears  
344 labeling stating that fact; or

345 (11) If it fails to bear, directly thereon or on its con-  
346 tainer, as the commissioner may by rules prescribe, the  
347 inspection legend and, unrestricted by any of the forego-  
348 ing, such other information as the commissioner may  
349 require in such rules to assure that it will not have false or  
350 misleading labeling and that the public will be informed  
351 of the manner of handling required to maintain the meat  
352 product or poultry product in a wholesome condition.

**§19-2B-6. Inspection, marking, labeling, branding, etc.; quar-  
antine; 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 casses, 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 carcass that has been inspected and  
56 passed in this state by the commissioner shall be marked at  
57 the time of inspection with the inspection legend. Any  
58 animal or poultry carcass which is not passed shall be  
59 marked conspicuously by the commissioner at the time of  
60 inspection in the following manner: "W. Va. inspected  
61 and condemned," or any abbreviation thereof.

62 (k) Each primal part of an animal carcass that has  
63 been inspected and passed shall be marked with the in-  
64 spection legend, and each liver, beef heart and beef tongue  
65 that has been inspected and passed shall be branded with  
66 the inspection legend at the time of final inspection. Meat  
67 that has been boned out, cut from primal parts or other-  
68 wise changed so that the inspection legend is no longer  
69 plainly visible, and meat products and poultry products  
70 that are too small to be marked with the inspection legend  
71 shall be packed in closed containers to which shall be  
72 affixed the label indicating that the meat products or poul-  
73 try products contained therein have been inspected and  
74 passed. Upon removal of the contents of such containers  
75 bearing such label, the label shall be defaced to prevent its  
76 reuse.

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

82 (m) Each official inspection mark shall contain the  
83 establishment number of the establishment involved, un-

84 less otherwise authorized by rules promulgated by the  
85 commissioner.

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

103 Where appropriate the commissioner may in lieu of  
104 destruction as aforesaid denature, decharacterize, mutilate  
105 or slash any carcass, meat product or poultry product  
106 intended to be sold or offered for sale through a commer-  
107 cial outlet or distributor. The commissioner is also autho-  
108 rized and empowered to seize and retain under a retained  
109 tag any animal or poultry, carcass, meat product or poul-  
110 try product until the commissioner determines to destroy,  
111 denature, decharacterize, mutilate, slash or release the  
112 same. Whenever the commissioner is authorized or em-  
113 powered to take any of the actions specified in this subsec-  
114 tion, he or she may order and direct the person having  
115 custody or possession of such animal or poultry, carcass,  
116 meat product or poultry product, or the licensee of the  
117 establishment in which it is found, to be responsible for  
118 the disposition thereof, as well as any necessary storage,  
119 handling or other incidentals related thereto. Such dispo-  
120 sition shall be carried out only under the direction and  
121 supervision of the commissioner.

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

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

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

149 (r) Whenever the commissioner inspects any room,  
150 compartment, equipment or utensil in any establishment  
151 subject to state inspection and finds the same not to be  
152 clean and sanitary or finds the same to be otherwise un-  
153 suitable for the slaughtering or processing operations  
154 carried on in such establishment, he or she shall affix  
155 thereto a rejection tag or rejection notice. No such reject-  
156 ed room, compartment, equipment or utensil shall be used  
157 until the deficiencies requiring such rejection shall have  
158 been fully and completely corrected and the rejection tag



159 or rejection notice has been removed. No person other  
160 than the commissioner shall remove any such rejection tag  
161 or notice.

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

**§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 and to be sold or offered for sale through  
32 commercial outlets or distributors for human consump-  
33 tion;

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

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

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

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

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

61 (n) To bring any kangaroo meat, horse meat, mule

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

67 (o) To transport, process, sell or offer for sale any  
68 kangaroo meat, horse meat, mule meat or other equine  
69 meat within this state for human consumption unless it is  
70 conspicuously and plainly identified or stamped as such;

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

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

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

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

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

96 (u) For any person, with intent to deceive, to possess,  
97 keep or use any label, mark, brand or stamp similar in

98 character or import to an official label, mark, brand or  
99 stamp prescribed by the commissioner hereunder or to an  
100 official label, mark, brand or stamp used by the United  
101 States department of agriculture;

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

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

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

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

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

128 (aa) For a person to store offal, blood, or inedible and  
129 condemned parts of animal and poultry carcasses from  
130 slaughterhouses, processing plants or other related indus-  
131 tries during interim transit movement in refrigerated ware-  
132 houses, food lockers or other related industries: *Provided*,  
133 That such products may be otherwise stored if properly

134 marked "NOT FOR HUMAN FOOD" "FOR ANIMAL  
135 FOOD ONLY" and identified as approved products to be  
136 used for animal food;

137 (bb) For a person knowingly to deliver, a dead or  
138 dying animal or poultry to an establishment in this state;

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

143 (dd) For any person who forcibly assaults, resists,  
144 opposes, impedes, intimidates, or interferes with the com-  
145 missioner or his or her representative while engaged in or  
146 on account of the performances of his or her official du-  
147 ties;

148 (ee) For any person to deliver, with intent to deceive,  
149 any graded meat product or poultry product to a state  
150 institution that does not meet the grade specifications for  
151 that grade when a specified grade is required in a contract.

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

Randy Schroyer  
Chairman Senate Committee

Randy Seaint  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Carol M. Padden  
Clerk of the Senate

Bryony M. Swan  
Clerk of the House of Delegates

Carl Ray Tomblin  
President of the Senate

Jack C. Corman  
Speaker of the House of Delegates

The within is approved this the 28<sup>th</sup>  
day of March, 1996.

Easton C. Caperton  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/22/96

Time 9:15 am