

SB 219

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999



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COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 219

(By Senator ANDERSON, ET AL)



PASSED MARCH 13, 1999

In Effect NINETY DAYS FROM Passage

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SECRETARIAT OF STATE

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FOR

Senate Bill No. 219

(SENATORS ANDERSON, ROSS, SHARPE, BAILEY, SCHOONOVER,
LOVE, DITTMAR, KESSLER AND BALL, *original sponsors*)

[Passed March 13, 1999; in effect ninety days from passage.]

AN ACT to amend and reenact section eleven, article two-b, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the inspection of meat and poultry; authorizing the commissioner of agriculture to assess civil penalties against slaughterers, processors and distributors for violations of this article; providing for recording of liens; permitting commissioner to settle cases; and limiting recovery of damages against the state.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2B. INSPECTION OF MEAT AND POULTRY.

§19-2B-11. Criminal penalties; civil penalties.

1 (a) Criminal penalties.

2 (1) Any person who violates any of the provisions of this
3 article is guilty of a misdemeanor and, upon conviction
4 thereof, shall for the first offense be fined not less than
5 two hundred nor more than one thousand dollars and upon
6 conviction of each subsequent offense shall be fined not
7 less than four hundred nor more than two thousand
8 dollars.

9 (2) If a person knowingly sells, offers for sale or distribu-
10 tion, or attempts to sell, offers for sale or distribution of a
11 carcass, meat product or poultry product that is contami-
12 nated with pathogenic microorganisms or otherwise
13 adulterated, the person is guilty of a misdemeanor, and
14 upon conviction thereof, shall be fined not less than five
15 thousand dollars nor more than ten thousand dollars upon
16 conviction of each offense.

17 (b) Civil penalties.

18 (1) Any slaughterer, processor or distributor who violates
19 any of the provisions of this article or regulations adopted
20 hereunder may be assessed a civil penalty by the commis-
21 sioner. In determining the amount of any civil penalty, the
22 commissioner shall give due consideration to the history of
23 previous violations; the seriousness of the violation,
24 including any hazards to the health and safety of the
25 public; and the demonstrated good faith efforts by the
26 charged party to ensure that similar violations do not
27 recur.

28 (2) The commissioner may assess a penalty of not more
29 than five hundred dollars for a first violation and not more
30 than one thousand dollars for each subsequent violation.

31 (3) The civil penalty is payable to the state of West
32 Virginia and may be collected in any manner for collection

33 of debt to the state. If a person assessed a civil penalty
34 pursuant to this subsection neglects or refuses to pay, the
35 amount of that penalty, together with interest calculated
36 at ten percent per annum, may be filed as a lien in favor of
37 the state upon any and all property of the person, both real
38 and personal. The lien shall be recorded in the records
39 kept in the office of the county clerk in the county wherein
40 the violation occurred. The county clerk in the recording
41 county shall enter the same to record without requiring
42 payment of recording fees as a condition precedent to the
43 recording. A notice of the lien shall be mailed or delivered
44 to the person against whose property the lien has been
45 placed. All penalties, together with any interest, collected
46 by the state, pursuant to this subsection, shall be deposited
47 in the general revenue fund.

48 (4) Notwithstanding any other provision of the law to the
49 contrary, the commissioner may enter into consent agree-
50 ments or negotiated settlement agreements for the civil
51 penalties assessed pursuant to this subsection.

52 (5) No state court may allow the recovery of damages for
53 administrative action taken by the commissioner if the
54 court finds, as a matter of law, that there was probable
55 cause for such action.

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

Andy Schomone
.....
Chairman Senate Committee

Joe F. Smith
.....
Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

Barrett Thomas
.....
Clerk of the Senate

Benny D. King
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *approved* this the *25th*
Day of *March*, 1999

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

3/23/99

Time

10:25 am