WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1999

ENROLLED
Committee Substitute for
SENATE BILL NO. 219

(By Senator ANDERSON ET AL.)

PASSED March 13, 1999
In Effect NINETY DAYS FROM Passage
ENROLLED

COMMITTEE SUBSTITUTE

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.

(a) Criminal penalties.

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

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

(b) Civil penalties.

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

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

(3) The civil penalty is payable to the state of West
Virginia and may be collected in any manner for collection
of debt to the state. If a person assessed a civil penalty
pursuant to this subsection neglects or refuses to pay, the
amount of that penalty, together with interest calculated
at ten percent per annum, may be filed as a lien in favor of
the state upon any and all property of the person, both real
and personal. The lien shall be recorded in the records
kept in the office of the county clerk in the county wherein
the violation occurred. The county clerk in the recording
county shall enter the same to record without requiring
payment of recording fees as a condition precedent to the
recording. A notice of the lien shall be mailed or delivered
to the person against whose property the lien has been
placed. All penalties, together with any interest, collected
by the state, pursuant to this subsection, shall be deposited
in the general revenue fund.

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

(5) No state court may allow the recovery of damages for
administrative action taken by the commissioner if the
court finds, as a matter of law, that there was probable
cause for such action.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor