

WEST VIRGINIA LEGISLATIVE REGULATIONS
WEST VIRGINIA DEPARTMENT OF AGRICULTURE
CHAPTER 19-10B, SERIES XI D
LICENSING OF LIVESTOCK DEALERS

FILED
1991 JUN 26 AM 8:57
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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These rules amend regulations currently in effect as a result of changes in Chapter 19, Article 10B. These rules adopt language which allows the use of bonding instruments, other than surety bonds, for the purpose of securing livestock sales. The rules also allow the Commissioner to require bonds, of the minimum of \$10,000.00, when evidence indicates that the volume of business of the livestock dealer creates a potential excess liability.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Licensing of Livestock Dealers

Type of Rule: Legislative Interpretive Procedural

Agency WVDA

Address Room 28, State Capitol, Chas. WV 25305

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1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services					
Current Expense					
Repairs and Alterations		SEE NUMBER 2 BELOW			
Equipment					
Other					

2. Explanation of above estimates:

The rule has no affect on revenue.

3. Objectives of these rules:

To protect the sellers of livestock by requiring livestock dealers to be bonded and to protect the health of livestock in West Virginia by requiring record keeping of livestock dealers which will allow for the tracking of diseased animals back to their farm of origin.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NONE

B. Economic Impact on Political Subdivisions; Specific Industries;
Specific groups of citizens.

NO

C. Economic Impact on Citizens/Public at Large.

Will provide protection to farmers selling livestock through livestock dealers.

Date:

June 26 1991

Signature of Agency Head or Authorized Representative

Chris Bishop

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STATE DEPARTMENT OF AGRICULTURE
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TITLE: Licensing of Livestock Dealers

§61-11D-1. General.

1.1 Scope - These legislative rules are promulgated to establish the general procedures for the licensing of livestock dealers under the provisions of "The West Virginia Livestock Dealer's Licensing Act," West Virginia Code, section one, article ten-b, chapter nineteen, et seq.

1.2 Authority - W. Va. Code 19-10B-9.

1.3 Filing Date -

1.4 Effective Date

1.5 Amends Former Rule: This legislative rule amends WV 61CSR 11D filed April 1, 1986 and effective April 1, 1986.

§61-11D-2. Definitions.

2.1 For the purposes of this regulation, unless the context clearly indicates otherwise:

2.1.1 "Livestock Producer" means a person selling livestock which he has raised, or livestock which he has purchased and summered or wintered. A person is deemed to have raised an animal, regardless of its age, if he has owned it since its birth. A person is deemed to have purchased and summered or wintered an animal if he acquired such animal after its birth and has held ownership of such animal for a continuous period of sixty (60) days or more.

2.1.2 "Livestock Transaction" means a transaction whereby livestock is bought, sold, received, exchanged or otherwise transferred to or from a livestock dealer.

§61-11D-3. License Applications And Fee.

3.1 An applicant for a livestock dealer's license shall submit his application on forms provided by the Commissioner.

3.2 Each application shall be filed with the Commissioner on or before the thirtieth day of June of a given year for an annual license to be issued for the period commencing the first day

of July of such year and ending on the thirtieth day of June of the following year.

3.3 A fee of thirty dollars (\$30.00) shall be remitted with each application which is filed.

§61-11D-4. ~~Surety~~ Bond Requirements.

4.1 Each applicant for a livestock dealer's license under the provisions of this regulation shall file with the Commissioner either of the following:

4.1.1 A properly attested sworn statement that he or she is maintaining a valid surety bond pursuant to the requirements of ~~The Federal~~ the United States Department of Agriculture, Packers and Stockyards Act of 1921, as amended; or

4.1.2 ~~A fully executed surety bond, executed by a company authorized to do business in the State of West Virginia, in the amount of ten thousand dollars (\$10,000);~~ A fully executed bond pursuant to the requirements of Chapter 19, Article 10B, Section 4 of the Code of West Virginia.

4.1.2.1 The bond shall guarantee ~~guaranteeing~~ that the applicant shall faithfully fulfill the terms of the contract of purchase and guarantee payment of the purchase price of all livestock purchased by him, made payable to the Commissioner for the benefit of persons sustaining loss resulting from the nonpayment of the purchase price or the failure to fulfill the terms of the contract of purchase, and

4.1.2.2 The bond shall guarantee ~~guaranteeing~~ that a seller of livestock who is adjudged by a court of competent jurisdiction to have been wronged or damaged by any fraud or fraudulent practices of the applicant shall have a right of action for his damages for compensation against such bond.

4.1.3 The Commissioner may require a bond in excess of ten thousand dollars (\$10,000) when evidence shows that the volume of business of the livestock dealer creates a potential liability in excess of ten thousand dollars.

§61-11D-5. Maintenance Of Records Of Transactions.

5.1 Except as otherwise provided in Subsection 5.2 of this section, every person licensed as a livestock dealer under the provisions of this 19-10B of the Code of West Virginia shall maintain a record of livestock transactions in an official transactions record book provided by the Commissioner. Any such transactions record book shall be and remain the property of the department, and the delivery of such transactions record book or

books to the licensed livestock dealer shall in no way affect the ownership of such transactions record book by the Department. As a condition of receiving a license to function as a livestock dealer, each licensee shall agree to use reasonable care and diligence to preserve and protect the transactions record book assigned to such licensee. Upon the request of the licensee, the Commissioner shall provide such additional transactions record book or books as he may deem necessary for the licensee to comply with the provisions of this regulation.

5.2 The Commissioner may authorize a licensee to maintain a record of livestock transactions in an alternate record book, ledger or automated data storage and retrieval system, instead of the transactions record book prescribed in Subsection 5.1 of this section, if:

5.2.1 The commissioner determines that such alternative record book, ledger or automated data storage and retrieval system will permit the recording of information in such a manner that the commissioner can, by examining such alternative record book ledger or a printout of an automated data storage and retrieval system, readily obtain the same information which would otherwise be required to be provided through the use of the official transactions record book of the Department.

5.2.2 The Commissioner determines that such alternative method ~~or~~ of record keeping will allow for the correction of records and the notation of the correction of records in accordance with the provisions of Subsection 5.3 of this section; and

5.2.3 The licensee demonstrates to the Commissioner that such alternative method of record keeping is a normal function of his business operations and, by eliminating duplicating work, will result in a significant reduction in the licensee's administrative costs of doing business.

5.3 Each livestock transaction in which a licensee is a party, either for his own account or that of another person, shall immediately be entered in the transactions record book provided by the Department or in such alternative record as may be authorized by the Commissioner pursuant to the provisions of Subdivision 5.2.2 of this section. The information relating to such livestock transaction shall be accurate and legible as to each detail hereinafter required, and shall not be altered, obliterated, defaced or erased, except that a notation may be added to refer to a later entry appearing in the record which corrects information which has been entered concerning the livestock transaction. Once information has been entered relative to a livestock transaction, if it is found that the information so recorded is incorrect, the correct information shall be reentered in the next available space in the record, and a notation shall be added which refers to

the prior livestock transaction which is the subject of correction.

§61-11D-6. Information To Be Recorded By Licensees.

6.1 The licensee's method of record keeping shall provide for the ~~recordation~~ recording of the following information for each animal involved in a livestock transaction, as of the time of the livestock transaction:

6.1.1 All ear tag numbers or letters and any other identifying numbers or letters affixed to the animal;

6.1.2 Identifying tattoo numbers, except for vaccination tattoos;

6.1.3 In the case of purebred livestock, the registration number assigned to the animal;

6.1.4 The breed and sex of the animal;

6.1.5 The approximate weight of the animal;

6.1.6 The date of the transaction;

6.1.7 The names and addresses of all owners, sellers, consignors or buyers who are party to the transaction with the licensee.

6.2 The records required to be kept under the provisions of this section shall be retained for at least two (2) years by the licensee, after which such records may be retained by the licensee or turned over to the Commissioner for such retention or disposition as he or she sees fit.

6.3 ~~The records required to be kept under the provisions of this section shall be kept and retained by a livestock dealer only during the period during which he is licensed. In the event a licensee's license is suspended or revoked, or expires upon a failure to renew, the licensee shall forthwith deliver the records to the Commissioner upon the suspension of business.~~