

WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE DEPARTMENT OF AGRICULTURE
TITLE 61
SERIES XI D

TITLE: Licensing of Livestock Dealers

\$61-11D-1. General.

1.1 Scope - These legislative regulations 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 61CSR11D filed April 1, 1986 and effective April 1, 1986.

\$61-11D-2. Definitions.

2.1 For the purposes of ~~this regulation~~ these rules, 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 considered to have raised an animal, regardless of its age, if he has owned it since its birth. A person is deemed considered 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~~ The applicant for a livestock dealer's license shall submit his application on forms provided by the commissioner.

3.2 ~~Each-application~~ The applicant shall be-filed file an application 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 The applicant shall remit a fee of thirty dollars (\$30.00) shall-be-remitted with each application which-is-filed.

Section 4. Surety Bond Requirements.

4.1 Each applicant for a livestock dealer's license under the provisions of this regulation rule 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 WV Code 19-10B-4 in an amount of not less than \$10,000.

~~4.1.2.1~~ 4.2. 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 the applicant. The applicant shall cause the bond to be made payable to the commissioner for the benefit of persons-sustaining-loss the seller resulting from the livestock dealer's nonpayment of the purchase price or the his failure to fulfill the terms of the contract of purchase, and .

~~4.1.2.2~~ ~~-----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.~~

4.3. 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 rule, every person licensed as a livestock dealer under the provisions of ~~this regulation~~ WV Code 19-10B-1 et seq. 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 applicant shall agree to use reasonable care and diligence to preserve and protect the transactions record book assigned to such licensee him. Upon the request of the licensee licensed livestock dealer, the commissioner shall provide such additional transactions record book or books as he may deem necessary for the licensee licensed livestock dealer to comply with the provisions of this regulation rule.

5.2 The commissioner may authorize a licensee licensed livestock dealer 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 rule, 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; i

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 rule; and

5.2.3 The licensee licensed livestock dealer 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 licensed livestock dealer 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 5.2. of this section rule. 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.

Section 6. Information To Be Recorded By Licensees Licensed Livestock Dealers.

6.1 ~~The licensed livestock dealer shall record licensee's method-of-record-keeping-shall-provide-for-the-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; and

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

6.2 ~~The licensed livestock dealer shall retain the records required to be kept under the provisions of this section of the rule shall-be-retained for at least two (2) years by-the-licensee; . After two years the licensed livestock dealer shall retain the records or may deliver them to the commissioner who may retain or dispose of such records as he sees fit. after-which-such-records may-be-retained-by-the-licensee-or-turned-over-to-the-commissioner for-such-retention-or-disposition-as-he-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.-~~ The licensed livestock dealer shall forthwith deliver to the commissioner all records required to be maintained by WV Code 19-10B-5 and by this rule upon the suspension of his business or upon the suspension or revocation of his livestock dealer's license.



FILED

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WEST VIRGINIA LEGISLATURE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Room M-152, State Capitol
Charleston, West Virginia 25305
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Delegate David Grubb, Co-Chairman

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Michael McThomas, Associate Counsel
Marie Nickerson, Admr. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

September 10, 1991

TO: Ken Hechler, Secretary of State, State Register

TO: The Honorable Cleve Benedict
Department of Agriculture
State Capitol
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Licensing of Livestock Dealers

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed _____
 - (b) as modified by the agency X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Robert Williams, Director
Marketing & Development Div.
Barbara Smith
Compliance Division