

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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1992 APR 23 AM 11:58
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: Agriculture TITLE NUMBER: 61

AMENDMENT TO AN EXISTING RULE: YES X, NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 11D

TITLE OF RULE BEING AMENDED: Licensing of Livestock Dealers

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB1

SECTION 64-9-1 (jj), PASSED ON March 14, 1992

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: April 27, 1992



2.40

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

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1986 APR 23 AM 11:58
OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

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 61CSR11D filed April 1, 1986 and effective April 1, 1986.

§61-11D-2. Definitions.

2.1 For the purposes of these rules, unless the context clearly indicates otherwise:

2.1.a "Livestock Producer" means a person selling livestock which he has raised, or livestock which he has purchased and summered or wintered. A person is considered to have raised an animal, regardless of its age, if he has owned it since its birth. A person is 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.b "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 The applicant for a livestock dealer's license shall submit his application on forms provided by the commissioner.

3.2 The applicant shall 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) with each application.

§61-11D-4. Bond Requirements.

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

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

4.1.b A fully executed bond pursuant to the requirements of WV Code 19-10B-4 in an amount of not less than \$10,000.

4.2. The bond shall guarantee 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 the applicant. The applicant shall cause the bond to be made payable to the commissioner for the benefit of the seller resulting from the livestock dealer's nonpayment of the purchase price or his failure to fulfill the terms of the contract of purchase.

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 rule, every person licensed as a livestock dealer under the provisions of 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 applicant shall agree to use reasonable care and diligence to preserve and protect the transactions record book assigned to him. Upon the request of the licensed livestock dealer, the commissioner shall provide such additional transactions record book or books as he may deem necessary for the licensed livestock dealer to comply with the provisions of this rule.

5.2 The commissioner may authorize a 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 rule, if:

5.2.a 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.b The commissioner determines that such alternative method 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 rule; and

5.2.c The 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 administrative costs of doing business.

5.3 Each livestock transaction in which a 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. of this 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.

§61-11D-6. Information To Be Recorded By Licensed Livestock Dealers.

6.1 The licensed livestock dealer shall record the following information for each animal involved in a livestock transaction, as of the time of the livestock transaction:

6.1.a All ear tag numbers or letters and any other identifying numbers or letters affixed to the animal;

6.1.b Identifying tattoo numbers, except for vaccination tattoos;

6.1.c In the case of purebred livestock, the registration number assigned to the animal;

6.1.d The breed and sex of the animal;

6.1.e The approximate weight of the animal;

6.1.f The date of the transaction; and

6.1.g The names and addresses of all owners, sellers, consignors or buyers who are party to the transaction with the 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 for at least two (2) years. 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.

6.3 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.

Bill Agri, Livestock Dealers 61-11D

H. B. 4252

(By Delegate Grubb)

(Introduced January 27, 1992; referred to the

Committee on Agriculture and Natural Resources
then the Judiciary)

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10 A BILL to amend and reenact section one, article nine, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 commissioner of agriculture to promulgate legislative rules
14 relating to the licensing of livestock dealers.

15 Be it enacted by the Legislature of West Virginia:

16 That section one, article nine, chapter sixty-four of the
17 code of West Virginia, one thousand nine hundred thirty-one, as
18 amended, be amended and reenacted, to read as follows:

19 ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS
20 TO PROMULGATE LEGISLATIVE RULES.

21 §64-9-1. Commissioner of Agriculture.

22 (a) The legislative rules filed in the state register on the
23 sixth day of April, one thousand nine hundred eighty-three,

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1 relating to the commissioner of agriculture (schedule of charges
2 for inspection services: fruit), are authorized.

3 (b) The legislative rules filed in the state register on the
4 third day of August, one thousand nine hundred eighty-three,
5 relating to the commissioner of agriculture (licensing of
6 auctioneers), are authorized.

7 (c) The legislative rules filed in the state register on the
8 eighth day of February, one thousand nine hundred eighty-four,
9 relating to the commissioner of agriculture (conduct of beef
10 industry self-improvement assessment program referendum), are
11 authorized.

12 (d) The legislative rules filed in the state register on the
13 fourth day of June, one thousand nine hundred eighty-four,
14 relating to the commissioner of agriculture (feeding untreated
15 garbage to swine), are authorized.

16 (e) The legislative rules filed in the state register on the
17 fourth day of June, one thousand nine hundred eighty-four,
18 relating to the commissioner of agriculture (registration,
19 taxation and control of dogs), are authorized.

20 (f) The legislative rules filed in the state register on the
21 first day of November, one thousand nine hundred eighty-four,
22 relating to the commissioner of agriculture (public markets), are
23 authorized.

24 (g) The legislative rules filed in the state register on the
25 tenth day of September, one thousand nine hundred eighty-four,

1 relating to the commissioner of agriculture (noxious weed rules),
2 are authorized.

3 (h) The legislative rules filed in the state register on the
4 fourth day of June, one thousand nine hundred eighty-four,
5 relating to the commissioner of agriculture (animal disease
6 control), are authorized.

7 (i) The legislative rules filed in the state register on the
8 fifth day of January, one thousand nine hundred eighty-four,
9 relating to the commissioner of agriculture (use of certain
10 picloram products), are authorized.

11 (j) The legislative rules filed in the state register on the
12 eighth day of March, one thousand nine hundred eighty-five,
13 relating to the commissioner of agriculture (increasing certain
14 fees by rules and regulations), are authorized.

15 (k) The legislative rules filed in the state register on the
16 thirteenth day of January, one thousand nine hundred eighty-six,
17 modified by the commissioner of agriculture to meet the
18 objections of the legislative rule-making review committee and
19 refiled in the state register on the thirty-first day of January,
20 one thousand nine hundred eighty-six, relating to the
21 commissioner of agriculture (licensing of livestock dealers), are
22 authorized.

23 (l) The legislative rules filed in the state register on the
24 eighteenth day of June, one thousand nine hundred eighty-six,
25 modified by the commissioner of agriculture to meet the

1 objections of the legislative rule-making review committee and
2 refiled in the state register on the fifth day of January, one
3 thousand nine hundred eighty-seven, relating to the commissioner
4 of agriculture (West Virginia pesticide use and application act),
5 are authorized.

6 (m) The legislative rules filed in the state register on the
7 eighteenth day of August, one thousand nine hundred eighty-six,
8 modified by the director of the division of forestry of the
9 department of agriculture to meet the objections of the
10 legislative rule-making review committee and refiled in the state
11 register on the fifth day of January, one thousand nine hundred
12 eighty-seven, relating to the director of the division of
13 forestry of the department of agriculture (ginseng), are
14 authorized.

15 (n) The legislative rules filed in the state register on the
16 tenth day of April, one thousand nine hundred eighty-seven,
17 relating to the commissioner of agriculture (schedule of charges
18 for inspection services: fruit), are authorized.

19 (o) The legislative rules filed in the state register on the
20 thirteenth day of August, one thousand nine hundred eighty-seven,
21 modified by the commissioner of agriculture to meet the
22 objections of the legislative rule-making review committee and
23 refiled in the state register on the eighth day of September, one
24 thousand nine hundred eighty-seven, relating to the commissioner
25 of agriculture (animal disease control), are authorized.

1 (p) The legislative rules filed in the state register on the
2 fifteenth day of September, one thousand nine hundred
3 eighty-eight, relating to the commissioner of agriculture (sale
4 and distribution of commercial fertilizer), are authorized.

5 (q) The legislative rules filed in the state register on the
6 fifteenth day of September, one thousand nine hundred
7 eighty-eight, modified by the commissioner of agriculture to meet
8 the objections of the legislative rule-making review committee
9 and refiled in the state register on the twenty-sixth day of
10 October, one thousand nine hundred eighty-eight, relating to the
11 commissioner of agriculture (animal disease control), are
12 authorized.

13 (r) The legislative rules filed in the state register on the
14 fifteenth day of May, one thousand nine hundred eighty-nine,
15 modified by the commissioner of agriculture to meet the
16 objections of the legislative rule-making review committee and
17 refiled in the state register on the twenty-first day of August,
18 one thousand nine hundred eighty-nine, relating to the
19 commissioner of agriculture (production of milk and cream for
20 manufacturing purposes), are authorized.

21 (s) The legislative rules filed in the state register on the
22 seventh day of August, one thousand nine hundred eighty-nine,
23 modified by the commissioner of agriculture to meet the
24 objections of the legislative rule-making review committee and
25 refiled in the state register on the twenty-third day of October,

1 one thousand nine hundred eighty-nine, relating to the
2 commissioner of agriculture (animal disease control), are
3 authorized.

4 (t) The legislative rules filed in the state register on the
5 tenth day of August, one thousand nine hundred ninety, modified
6 by the commissioner of agriculture to meet the objections of the
7 legislative rule-making review committee and refiled in the state
8 register on the fifth day of October, one thousand nine hundred
9 ninety, relating to the commissioner of agriculture (meat
10 inspection), are authorized.

11 (u) The legislative rules filed in the state register on the
12 tenth day of August, one thousand nine hundred ninety, modified
13 by the commissioner of agriculture to meet the objections of the
14 legislative rule-making review committee and refiled in the state
15 register on the third day of October, one thousand nine hundred
16 ninety, relating to the commissioner of agriculture (agricultural
17 liming materials), are authorized.

18 (v) The legislative rules filed in the state register on the
19 tenth day of August, one thousand nine hundred ninety, modified
20 by the commissioner of agriculture to meet the objections of the
21 legislative rule-making review committee and refiled in the state
22 register on the third day of October, one thousand nine hundred
23 ninety, relating to the commissioner of agriculture (public
24 markets), are authorized.

1 (w) The legislative rules filed in the state register on the
2 nineteenth day of September, one thousand nine hundred ninety,
3 modified by the commissioner of agriculture to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the ninth day of November, one
6 thousand nine hundred ninety, relating to the commissioner of
7 agriculture (animal disease control), are authorized.

8 (x) The legislative rules filed in the state register on the
9 eighth day of August, one thousand nine hundred ninety-one,
10 modified by the commissioner of agriculture to meet the
11 objections of the legislative rule-making review committee and
12 refiled in the state register on the twenty-fourth day of
13 September, one thousand nine hundred ninety-one, relating to the
14 commissioner of agriculture (licensing of livestock dealers) are
15 authorized.

16
17 NOTE: The purpose of this bill is to authorize the
18 Commissioner of Agriculture to promulgate legislative rules
19 relating to the licensing of livestock dealers.

20
21 ~~Strike-throughs indicate language that would be stricken from~~
22 ~~the present law, and underscoring indicates new language that~~
23 ~~would be added.~~



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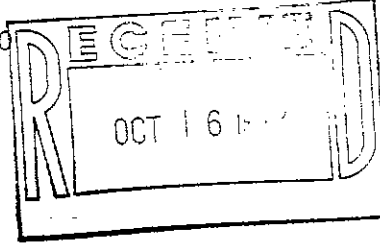
DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
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Charleston, WV 25305-0770



TO: Barbara Smith

AGENCY: Department of Agriculture

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: October 15, 1992

THE ATTACHED RULE RECENTLY FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: LD TITLE: 61 Department of Agriculture

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: Barbara J. Smith

TITLE OF PERSON SIGNING: Director of Compliance

DATE: 11-12-92

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MADE.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.