



STATE OF WEST VIRGINIA
DEPARTMENT OF AGRICULTURE
CHARLESTON 25305

GUS R. DOUGLASS
COMMISSIONER

WILLIAM H GILLESPIE
ADMINISTRATIVE ASSISTANT

NOTICE OF AGENCY APPROVAL

LEGISLATIVE RULE: Regulations for Governing Livestock Dealers

The attached legislative rule constitutes the official rule approved by the West Virginia Department of Agriculture on January 13, 1986, and filed pursuant to law with the West Virginia Secretary of State and the Legislative Rule-Making Review Committee.

Gus R. Douglass
Agriculture Committee

DEPARTMENT OF AGRICULTURE

1986 JAN 13 PM 3 41

FILED

63

APPENDIX B

FILED

FISCAL NOTE FOR PROPOSED RULES

1965 NOV -4 PM 2:41

Rule Title: Regulations Governing Livestock Dealers

GENERAL & STATE

Type of Rule: Legislative Interpretive Procedural

Agency West Virginia Department of Agriculture Address Capitol Building
Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 25,000	\$	\$ 125,000	\$ * 25,000	\$ 25,000*
Personal Services	20,000		10,000	20,000	20,000
Current Expense	4,000		2,000	4,000	4,000
Repairs and Alterations	--		--	--	--
Equipment	--		--	--	--
Other	1,000		500	1,000	1,000

*Not adjusted for salary increases or inflation

2. Explanation of above estimates.
The administrative requirements of the law, licensing, bonding and enforcement will require the equivalent of one full-time person and considerable travel expense, especially in the peak marketing seasons. One person working in the field virtually full-time would be required for the initial implementation. Afterwards, field work could be shared by this person and others with investigative and enforcement responsibilities such as those responsible for Public Market (19-2A) and Beef Check-Off (19-2F) laws and regulations.

3. Objectives of these rules:
To assure that the West Virginia livestock industry is adequately protected in all marketing transactions involving livestock dealers. To assure that persons doing business as livestock dealers are properly licensed and bonded and maintain accurate and proper records of all transactions.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None other than fees collected from licenses and monies spent for administration.

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

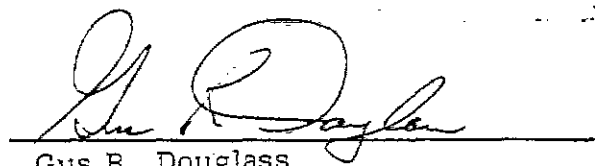
Could significantly impact on all livestock marketing agencies, collection points and individual buyer/seller of livestock. Provisions of the law provide financial protection to these if a transaction with a livestock dealer results in non-payment or partial payment for livestock sold. This protection is presently available only on those transactions with a "dealer" as defined and licensed by the USDA Packers & Stockyards Administration.

C. Economic Impact on Citizens/Public at Large. See B above. Cash sales from livestock (beef cattle, dairy cattle, sheep, hogs, horses, goats, etc.) generate more than 40% of West Virginia's total income from agriculture each year. Total livestock sales annually top \$80 million. The nature of livestock transactions (possession : changes "on the spot" on credit or at least before payment by check clears the bank) create numerous opportunities for dealers to obtain large numbers of animals (with a sizable cash value) for only a verbal or written commitment to pay. This makes it possible for even the best intentions to do so to be overcome by a "failure to pay" somewhere along the way. Thus, it is the initial producer or market agency that usually is required to take any losses that occur. Such losses are seemingly more frequent now. The provisions of this law and regulations would provide a significant

Date November 4, 1985

/amount of protection to persons or firms in
/West Virginia who do business with
/"Livestock Dealers".

Signature of Agency Head or Authorized Representative



Gus R. Douglass
Agriculture Commissioner

/One of the most important
/aspects of disease control and
/eradication is an available means
/to perform tracebacks of the trans-
/actions of livestock, especially
/cattle. This is important when a
/diseased animal is found. This will
/define the source, as well as pos-
/sible exposed animals. The federal
/government holds this principle in
/the highest regard when classifying
/a state. It becomes necessary that
/we have available to us.

WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE DEPARTMENT OF AGRICULTURE
Chapter 19-10b

GENERAL INDEX

FOR

SERIES XIh

TITLE: Regulations Governing Livestock Dealers

Section 1 - General

Section 2 - Definitions

Section 3 - Regulations

1935 JUN 13 PM 3:41
F. W. F. W.
U. S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C.

WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE DEPARTMENT OF AGRICULTURE
Chapter 19-10b
SERIES XIh

FILED

1986 JAN 13 PM 3:41

TITLE: Regulations Governing Livestock Dealers

Section 1. General

1.1 Scope - These legislative regulations establish general procedures for the licensing of livestock dealers.

1.2 Authority - W. Va. Code 19-10b.

1.3 Filing Date - January 13, 1986.

1.4 Effective Date -

Section 2. Definitions

2.1 Livestock Producer - Means a person selling livestock which he has raised or others which he has additionally purchased and summered or wintered for sixty (60) days or more.

Section 3. Regulations

3.1 Applicant to Furnish Surety Bond - All corporate surety bonds shall be executed by a company authorized to do business in the State of West Virginia.

3.2 Record of Transactions; Contents; When Entries Are To Be Made; Manner In Which Records Are To Be Kept; Surrender of Records - Each license holder will be furnished an official record book by the Department of Agriculture. It shall be the responsibility of each license holder to request additional record books when needed. Each West Virginia Department of Agriculture record book is and shall remain the property of the West Virginia Department of Agriculture and the delivery of such book shall be in the nature of a loan for his/her convenience. License holders will be expected to use reasonable care and diligence to preserve and protect the assigned record book.

3.2.1 The record book shall include:

- 3.2.1.1 All ear tag numbers, identification tatoos excepting vaccination tatoos, registration numbers of purebreds carried by the animal at the time of sale or slaughter;
- 3.2.1.2 The name and address of the person from whom purchased, or if purchased at a livestock auction market, the name and address of the market;
- 3.2.1.3 The name of the person to whom sold or exchanged;
- 3.2.1.4 The date the animal was purchased and the date the animal was sold, and
- 3.2.1.5 The breed and sex of each animal purchased.

- 3.2.2 When any livestock is purchased or exchanged, the required information relating to such transaction shall be recorded immediately upon completion of the transaction. When the animal is sold, the required information relating to the sale or exchange shall be recorded immediately upon completion of the transaction.
- 3.2.3 The records required by these regulations shall be recorded and kept in a Department of Agriculture livestock record book except that upon receipt of a license holder the Commissioner may authorize the license holder to use another type of record book or ledger provided that the other type of record book or ledger will permit the recording of information relating to livestock transactions in a manner that will, in the opinion of the Commissioner, accomplish the purpose and objectives of these regulations. Information relative to a livestock transaction which is entered in a record book shall be accurate and legible in each detail and it shall not be altered, obliterated, defaced or erased. If, after information relative to a livestock transaction has been entered in a livestock record book, it is found that the information so recorded is in some part in error, the correct information relative to that particular transaction shall be re-entered in the next available space in the record book without altering or changing the original entry except to note that the record is corrected by a later entry.
- 3.2.4 The records of livestock sales and purchases required by these regulations shall be kept and retained in possession of the license holder only during such period as he holds the required license. Failure to renew the license by July 1 each year shall require the return of such record books to the Department of Agriculture. The same requirement shall also apply to those persons whose license has been suspended or revoked.

3.3 Claims Against Bonds - Any person claiming to be damaged by any breach of conditions of a bond given by a licensee may enter complaint thereof to the Commissioner, this complaint shall be a written statement of the facts constituting the complaint, accompanied by documentary proof of his/her claim against the licensee.

3.4 In case of default by the licensee, the Commissioner shall hear the matter as a contested case pursuant to proceedings as outlined in Chapter 29a of the Code. No hearing shall be required if all affected parties to a bond claim preceeding waiver their right to a hearing and agree to accept the Commissioner's determination as to the validity of the claim and the allocation of the proceeds of the bond.



STATE OF WEST VIRGINIA
DEPARTMENT OF AGRICULTURE
CHARLESTON
25305

Gus R. Douglass
Commissioner

DECEMBER 4, 1985 (HEARING)
REGULATIONS GOVERNING LIVESTOCK DEALERS

The following persons were in attendance at the hearing today:

- 1) Owen R. French (Ripley, West Virginia)
- 2) Howard C. Fisher (Ripley, West Virginia)
- 3) Sam Morgan (Ronceverte, West Virginia)
- 4) Jane Morgan (Ronceverte, West Virginia)
- 5) Bill Irons (Lewisburg, West Virginia)
- 6) Jane Helmick (Buckhannon, West Virginia)
- 7) Rhonda Marple (Buckhannon, West Virginia)
- 8) Commissioner Gus Douglass (WVDA - Charleston, West Virginia)
- 9) Earl K. Kelley (WVDA - Charleston, West Virginia)
- 10) Noah Perry (WVDA - Charleston, West Virginia)
- 11) Dr. Lewis Thomas (WVDA - Charleston, West Virginia)
- 12) Dwaynè O'Dell (WVDA - Charleston, West Virginia)
- 13) Doug Hudson (WVDA - Charleston, West Virginia)
- 14) Television Station (Charleston, West Virginia)

HEARING: December 4, 1985 - 10:31 a.m.

GRD: I will call to order this hearing for the purpose of initiating the Livestock Dealers Registration Law as recently passed by the Legislature which has become a part of Chapter 19, Article 10b . Let the record indicate that due notice of this hearing was circulated to known interested parties as well as a press release to newspapers of general circulation in the State of West Virginia that this notice was given as required by the Code of West Virginia dealing with regulations and let the record indicate that I have received some letters relative to the initiation and placing into effect the proposed laws and and the regulations. These letters that have come to my attention at this time and those that may be in transet or in the mails will be come a part of this record as well. I do have a letter from Mr. Alvie Ratliff, Orlando, West Virginia. This letter was received by this Department on December 4, 1985 and in opposition to the regulations also I have a letter from J. Herman Isner, Karens, WV indicating his opposition to the regulations and more particularly, I guess each of them would be in reference to the law. The procedures in this hearing will be that I will ask Mr. Kelley to read the regulations by Section and then anyone that desires to comment I would like to have ~~their comment and input into the regulations as proposed by me and then we will go to the next section and read it and if there is any changes, corrections or comments why again I will welcome those comments as well.~~ their comment and input into the regulations as proposed by me and then we will go to the next section and read it and if there is any changes, corrections or comments why again I will welcome those comments as well. So, Mr. Kelley, if you will, at this time, start with the proposed regulations governing livestock dealers under Chapter 19, Article 10b Section I.

Mr. Kelley: Allright Sir. These regulations are proposed regulations for the implementation of Senate Bill Number 344 known as the Livestock Dealers licensing Act. Section I is more or less requirement of the legislature, its the general

Page Two

Mr. Kelley: (Cont.)

in scope and its just procedural process which its necessary to go through to have the regulations implemented. So I will go down to Section II regulations and start from there. 2.1 Applicant to furnish surety bond - All corporate surety bonds shall be executed by a company authorized to do business in the State of West Virginia. Any comments in regard to that?

GRD: Any comments?

Mr. K: Now, the law requires that each dealer be bonded. This only states that those bonds or the people that sell these bonds must be licensed to do business in the State of West Virginia. Thats what the regulations say.

GRD: If you would identify yourself and for the record.

BILL IRONS: The only thing is , if we get into these surety bonds within the markets we had talked about rather than a surety bond if we had an irrevokable letter of credit. You know other states will accept an irrevokable letter of credit in place of a surety bond.

Mr. K: No sir, Mr. Irons the law says the bonds may be a written instrument issued or executed by a surety company. So, therefore, that negates the possibility of a cash bond or a letter of credit or whatnot. The law says surety bonds so there is no where to go but a surety bond.

GRD: Yes.

JANE MORGAN: This also says two requirements of the Federal Packers and Stockyards Act. The Federal Packers and Stockyards Act will accept a letter of credit.

Mr. K: Well, they will accept a letter even in relative to livestock auction markets, but our State law says you must have a surety bond, therefore our law will prevail in that regard.

GRD: I cannot change the law. The regulations are to implement the law.

JANE MORGAN: Well, the way I was reading this or understood it to be was that if you were bonded under Federal Packers and Stockyards that you would accept what they accept.

Mr. K: If you are bonded as a Livestock dealer under the Packers and Stockyards Administration that bond will be acceptable; however, attain it.

JANE MORGAN: Allright.

Mr. K: If you are a bonded livestock dealer under the P & S stockyards at the present time; your bond is sufficient and the only thing you would be required to do is buy a license. You would not have to get another bond unless the commission determines that your bond should be higher than what you now have.

JANE MORGAN: So whatever the packers and stockyards act accepted, you will also.

Mr. K: What I'm saying is that if you are bonded presently under the packers and stockyards act, you're exempt from any other bond. That bond is sufficient.

GRD: Unless its only a \$5,000 bond -- I will require a \$10,000 bond minimum.

Mr. K: Commissioner, I think their minimum anymore is \$10,000.

GRD: Its \$10,000? Mr. K: Yes GRD: OK

BILL IRONS: But thats not what we're saying here though, is it? Under the regulations - applicant to furnish surety bond.

Mr. K: The only thing we're saying under the Regulations, the law says you must have a bond, the only thing we're saying under the regulations is that whoever you secure that bond from must be licensed to do business in the State of West Virginia. We don't care where you get your bond as long as their licensed to do business in the State. The law says you must have the bond. The regulations say that whoever you get the bond from must be licensed to do business in the State of West Virginia. That's all it says.

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BILL IRONS: But yet you're saying that if you have a bond thats acceptable to the P & S that you're going to take that but yet in the regulations you're saying a letter of credit won't be acceptable but yet if its OK with the P & S you're going to accept it.

GRD: No. The law comes first and then when we come here and the reason this is in here. I cannot take action in another state against a bond, so that individual has to be registered in the State of West Virginia to do business here and if he is not registered in the State of West Virginia I won't accept the P & S bond. Then you would have to come back and get your surety within the State of West Virginia. So in the event that I would have to move on your bond, I can move on that bond in the State. Now if you get a bond from a company doing, well lets say you have a private bonding company in the State of Virginia and there not licensed to do business here. You went over there and got your bond, really that bond is worthless in this State, because I cannot go over there and take action as a State Official against a business in another state but if he is licensed and registered in this State I can take action against him. And this is what that's saying, Bill, all we're saying there is that he has to be authorized to do business in this State, but this will be the only problem you might get into in a P & S bond. P & S are Federal Inity, it makes no difference, they can take action against inter-state commerce. I can only act within inrocity commerce.

BILL IRONS: So in other words what you're saying is that if they are licensed through the State then you have the right to go somewhere else.

GRD: Well if there registered with the Secretary of State or with the Insurance Commissioner really is who they have to be licensed with. Although they could be licensed with the State Auditor, one or the other. But if they're licensed to do business in this State why then I have no problem with them. This prevails.

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GRD: - Any other questions? Do you understand and are you clear on it?

GRD: I can't really take action against you if you lived in Virginia and run back and forth across the border unless I require you to have a license to do business in this State. And basically this is what this law does. Anyone doing business in the State in livestock will have to come in under this law and so you could have someone that lived in (we'll use Virginia again as an example) Virginia coming back and forth across the border I have no control and he might get a bond in the State of Virginia and would have no effect in the State of West Virginia. Even though he was bonded, I could not act against his bond in case there was a default somewhere.

BILL IRONS: Say he is licensed how much teeth will you have to go against his bond then.

GRD: I can go against his bond if he has a legal bond in the State of West Virginia. I can go against him as an individual too because he is licensed to do business in the State of West Virginia to buy livestock in under this law. I have no problem with orders then. YES.

JANE MORGAN: \$10,000 doesn't go very far. A \$10,000 bond if someone buys a trailer load of cattle doesn't pay for them that wouldn't pay for 1/3 of it.

GRD: Well there is latitude provided here and so this is ah.

Mr. K: It says it has to be a minimum of \$10,000 and whatever the Commissioner would desire. If he thinks you ought to have a \$50,000 bond he can require you to get a \$50,000.

JANE MORGAN: What is he going to base that on?

Mr. K: Well he can base it on your sales. You're going to have a record somewhere of your sales.

Page 5

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JANE MORGAN: I'm talking about these people that he has no record on what-so-ever. That will be issuing new license to.

GRD: Well we'll get a year in under our belt and come back and look and make a determination on how we can adjust these bonds. I can come back and put a sliding scale on it a little later, but I don't know how far down you have read but the record keeping required is pretty definite its very through.

JANE MORGAN: Yes, but thats down the road. I'm talking about now. Something could happen that you could be licensed today and take someone tomorrow and \$10,000 is not going to go very far.

GRD: I don't have a basis at the moment, I will have to build a basis of determining that bond. That's what I'm saying. We have to get the law into effect and operational and then I would anticipate in about a year you will see another hearing. Yes.

SAM MORGAN: What if a farmer came from Pennsylvania and just went to an individuals farm and bought his load of cattle. How are you going to control that?

GRD: They are qualified here within the law if he would qualify as a dealer he would have to be licensed to work in this State.

SAM MORGAN: How are you going to find him.

GRD: Oh, we get complaints. That's how we find everything else. Someone will complain or one of the field men will come across and note their buying. I'm sure that I never have any lack of information, thats my problem. Sometimes I have too much.

SAM MORGAN: So your field men are the ones that bring these outsiders in.

GRD: Well, they will be covered. This is the only thing I can say is that if they are identified they will be informed of the requirements to do business in the State of West Virginia.

SAM MORGAN: Well, when the Federal P & S can't control it how can you control it. And its not being controlled by the P & S.

Mr.K: I think we're getting off the subject here. We're commenting on the bond right now. We'll give you later at the end of the hearing to make any comment you may need to make but lets go through the regulations and get along with them.

GRD: Any other comments on 2.1? If not, we'll go on to 2.2.

Mr. K: OK. Record of Transactions; contents; when entries are to be made; manner in which records are to be kept, surrender of records, so forth. Each license holder will be furnished an official record book by the Department of Agriculture. It shall be the responsibility of each license holder to request additional record books when needed. Each West Virginia Department of Agriculture record book is and shall remain the property of the West Virginia Department of Agriculture and the delivery of such a book shall be in the nature of a loan for his or her convenience. License holders will be expected to use reasonable care and diligence to preserve and protect the assigned record book. Any comment now on the record book?

GRD: Yes Sam.

SAM MORGAN: Ah, on your record book, I would for instance give you a list of what I bought and who I sold to in Indiana, Illinois, Pennsylvania, wherever, for something I've worked for for fourteen years, I turn them over to you for any review or Bill Osborne or Bill Clark or individuals to get information for them to call. It will never work that way.

GRD: No. This list is confidential but I can call it for investigation or I can call it for composite information. But again to devulge, and we enter into this quite frequently, to devulge your contacts for your business. No. And that is not available to extension service or to any other unit. It would only be

GRD: (Cont.)

available to a court if they were to subpoena.

SAM MORGAN: Why would you need it?

GRD: Well, ah, if there is a complaint filed against you or if I needed to determine the bottom line that you were giving me, why that is where it would be used or if animals were moved without a health certificate or some other violation, your records could be called for that purpose. But, if you're thinking I'm going to ask you to send those all in here, No.

JANE MORGAN: We are going to be retaining them.

GRD: Yes you will be retaining them.

SAM MORGAN: Well we do that anyway.

GRD: Yes, you retain them.

JANE MORGAN: We retain them and the only way that you'll get access to them is by court order. Is that what you're saying?

GRD: No, I can call them in at any time. But the only time an individual other than myself can get them would be a court order.

Mr. K: See, we have the same authority now with your livestock auction markets. Anytime we want to go and check the records of a livestock auction market all we have to do is go during reasonable hours and ask to see them and they're required by law to do that. This same thing would prevail in your case, if we had a complaint in regard to your operation we would come to your place and ask to see your records with regard to that transaction and you would be required to show us. If you denied that privilege then we would go to court and get a court order to do it. That's.

JANE MORGAN: In other words you will come to our premises to see the records.

Mr. K: Well, Commissioner could call you in or he could come to your premises. Its whatever he would desire to do.

JANE MORGAN: But the records have to be kept according to your regulations or in other words if you have another system of record keeping we'll have to keep two sets of books. One for you and one for the way you're set up at the present time.

MR. K: I think the Law says the Commissioner can determine if you keep other records that satisfy him then he can allow you to do it.

JANE MORGAN: When would he look at them to see if they would satisfy him. Is he going to go through the State to everyone that's licensed if they want to keep records on their grounds.

MR. K: Well its very possible that when you renew your license, I might say well before we can renew your license I could require you to show me your record book if the Commissioner had determined it was needed to be. It would be within his authority at any time whenever he would determine that he wanted to see them. For example, if the Commissioner wanted to see the records of the Jackson County Livestock Market, he would go to Mr. Fisher and say we would like to look at your record for so and so day and they would be required to show him that.

JANE MORGAN: I understand that you're required to show him. What I'm trying to get at is the bookkeeping. I've got bookkeeping for the P & S, I've got bookkeeping for the Federal Government Taxes and now I'm going to have bookkeeping for Gus Douglass.

GRD: It might be that you're right.

JANE MORGAN: Do you see what I'm saying. Three sets of books.

MR. K: -- Well it may be that your bookkeeping may suffice and you won't have to change a thing. If you're keeping that type of a record and a record of your sales, I would say that you've got no problem. Because the law gives the Commissioner the authority to determine.

GRD: Really what the law requires is that you keep a record of each individual animal, that you bought it and where you sold it and thats it.

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JANE MORGAN: Right now we keep records on computers and now you're giving me a book that I'm going to have to keep records in also.

GRD: If you're on a computer and that computer printout and you maintain it my first blush is that I would accept that.

JANE MORGAN: Allright. That's what I'm getting at. I keep away from all the bookwork necessary because we've got enough as it as.

GRD: Right. I can understand and tell you that I think. No comment. I cannot make that comment on the record. I will hear your request that I accept your bookkeeping method. If you want to accept what we have available to you, you may. But, if you have your own records, you may request of me and we will write this in. You may request that I accept your record keeping system and if I review it and find it adequate, then I would accept it. I will do that. That's not written there but this will be noted in the regulations as an amendment.

JANE MORGAN: Allright, you said you will review. In what way will you review? Will you come on the premises to look at it or will I send you a sample or what?

GRD: I may request a sample or I may have personnel review it at your establishment or your home, business or whatever and make an evaluation of it to see if it does meet the requirements of the law. And then I would advise you, but you would need to advise me or make the request by letter.

JANE MORGAN: Whenever you apply for license?

GRD: Whenever you apply for license. Yes. That we accept your record keeping system and I would respond by mail either accepting or denying.

MR. K: Any other comments?

_____ : On this it has here the date the animal was purchased and the date the animal was sold. Are we going to go down to individual animals on this thing?

_____ : (Cont.)

I know for ourselves and a lot of other people are the same way. We might buy 20 cattle and mix them in with 100 and sell 10, 5 and there is no way to keep individual animals or individual bunches. I mean are we talking just merely keeping all purchase transactions and all sale transactions separate or are we going to...

_____ : Dealer or livestock?

_____ : Well, under the law it doesn't really make much difference. Because the definition of a dealer is anyone that buys or sells cattle other than if he is going to _____.

GRD: The law says individual as I interpret it. That's what the law says. I can't handle the law Bill. The markets have their records of course your records are sufficient in the method in which you are handling them.

BILL IRONS: Well I'm talking in the Company. You might buy a group of cattle in the company you may have 5 different weights, you might have heifers, you might have steers, you might have big heifers, little heifers, etc. You might go to 4 different fields with these cattle. You might mix them with a half of a dozen other different purchases and keep those records separate. There's no way.

GRD: You're saying one thing. If you buy them and graze them out is one thing, but if you're just holding, you have to keep a record of where those animals are.

BILL IRONS: If you're buying them to turn out.

GRD: If you're buying to sell them. If you're buying them to turn out why then you're in another category. You get into another section where I think determines ownership.

JANE MORGAN: You're saying buying to turn out. What is going to be saying if

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JANE MORGAN (Cont.):

grazing or producing?

GRD: Allright, we'll get to it here. I think thats in there.

MR. K: No sir. That's in the Law.

BILL IRONS: Either Summer or Winter.

MR. K: The law says Summer or Winter.

GRD: OK.

JANE MORGAN: I think, like with P & S you have to hold the cattle 3 days then you are considered the owner. In other words you didn't purchase them to resell you don't have to have a bond if you hold those cattle 3 days before you resell them. In other words if you go to the market and buy cattle, hold them for 3 days you could resell those cattle and not be bonded under P & S regulations.

MR. K; It must be thirty days. In 3 days you wouldn't get from one market to another.

JANE MORGAN: I wasn't sure of the date but there is a number of days there. But here you don't stipulate the number of days of when you are a producer or dealer.

MR. K: I think the original draft of the bill had 60 days in it, but during the legislative process it was changed to summer and winter.

JANE MORGAN: That's not very clear.

GRD: Well, the winter months you would probably be looking at 6 months or close to it.

JANE MORGAN: Well for instance here we just had winter starting December 2. We've had almost considered summer up until then. In other parts of the State its a different story. I think you ought to be more specific.

GRD: Well what do you recommend?

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JANE MORGAN: I don't know but you're writing the laws.

GRD: No, you're writing the regulations. I'm taking your input and recommendations.

JANE MORGAN: I think it ought to be a direct quote otherwise there are going to be too many ways around it.

GRD: Well do you have a perimeter that you would recommend? From May to October, November or what?

JANE MORGAN: No because you're pinning down the farmers to when he can sell and when he cannot sell.

GRD: No.

JANE MORGAN: The farmers want to sell on a high market regardless of when it is whether its in August, September, October or when.

GRD: Well, whatever perimeter I put on thats restricting him.

JANE MORGAN: That's right. What I'm trying to say is: Are you going to put 30 days, 60 days or what are you going to consider a producer and a dealer and holding those cattle.

GRD: I don't know. I need to know what your recommendation is?

JANE MORGAN: Ask some of the others.

GRD: OK. Well I'm giving them the opportunity here if they would like to discuss it. Any point that you would like to bring out in this respect.

BILL IRONS: Well, you know when we get to talking about the difference between producers and dealers, you know I mean I see a world of problems on this thing and I'd like to say something while I'm thinking about it. I was against this law from the start. I had written both the house agriculture committee and the senate financing committee asking for a hearing on this thing and it was

BILL IRONS: (Cont.)

held up in the house but they shuffled it out of the senate finance committee without calling for a hearing and so you know I've been busting this thing from the start. It's full of problems. After I've said that, You have the way its stipulated there is whether you're summer or winter. Well the way the law reads, as it is right now, if a farmer an honest to goodness farmer goes to the stockyards or goes to the country or wherever and buys 30 head of cattle and he only wants to turn out 25 and he sells the other 5 well he is a dealer, under the Law. If he doesn't summer those other five cattle he is a dealer, under the law. Is he not?

GRD: Earl, you got it.

MR. K: Yes, I would say he would be a dealer. He would have to be classified as a dealer.

127: One time, two times if you did it every week. One time I don't think would suffice as a dealer.

MR.K: Well, if you violate the law once is just the same as violating it 2 or 3 times.

JANE MORGAN: You have a large gap here. Theres a big hole.

MR. K: Well you see thats a problem we've got to ponder here with the enforcement of this law. We didn't write the law, the legislature wrote the law and passed it Now we've got to enforce it. That's just some of the problems we've got. You know ordinarily when you're opposed to these things, if you do it during legislative sessions, it maybe never gets out. But once it gets out and signed into a law we don't have anything to do but enforce it.

126: That's not the only problem with this thing. I mean on this one you know. Theres a lot of times well for example we've got a lot of people that

come around the markets that are kind of looked down on at times; but say the poor little ole pen hooker...By golly the little ole pen hooker does us all good at times. Somebody has got to carry on with these little goats, sick calves and everything else. He may buy them at our sale today and take them somewhere else tomorrow, well we're going to require him to have a bond and there is not one of them that is going to be able to get a bond.

MR. K: You see Bill, you're discussing this in the wrong form, we can't help that. That has already happened and the things you're telling us here now should have occurred during the legislative session; we can't do a thing about it now. We may agree with you and we may not agree with you but we can't do anything about it, the Law is Law and we have to implement it. Now, if you desire to change it or amend it you need to go to legislature when they convene in January and go down there and talk to those people and do that then. We can't do anything about it, its already law. There isn't any use for you to tell us that.

BILL IRONS: Well I agree with you 100%. What you're saying is exactly right We need to get together and go down there and get this thing straightened out.

MR.K: We're taking up our time on these regulations with something that should have been debated on earlier. We can't do anything about it now. If we could do something about it, I'm sure we would like to hear it, but we can't do a thing about it not. It's the law and we have got to go.

GRD: Just the record keeping. If I within my authority can accept a recommendation to initiate a section I can hear this, just like we mentioned the record keeping and I see no problem with that and writing that in or with the bonding but when you get to record of transactions you have to go over and read that law. And I don't have much latitude.

MR.K: Whenever the law says shall you have no recourse but to do it.

JANE MORGAN: I thing what Bill is trying to say, you have a big gap here. We are not law keepers, more or less, we do not know exactly what you are meaning here in the words the way you have it worded. What we're asking for is a direct meaning.

GRD: OK. What you're wanting is a further definition of a livestock dealer.

JANE MORGAN: We're wanting further information on a livestock dealer, what is going to break off the dealer, a producer, the number of days he has to hold those cows and that sort of thing.

MR. K: Well I thing the Commissioner would have the authority to establish in the regulations if he summered them, he could say 60 days or if he wintered them he could say 60 days. If you buy an animal today and you keep him 60 days after that 60 day period is up you would be considered a producer, but if you sold him within that 60 day period you would be considered a dealer. Now are you going to recommend to him 30 days or are you going to recommend 60 days. You're talking in circles, give us a figure.

JANE MORGAN: Well I'd say 30 days because a lot of times a farmer will buy cattle, I'm speaking for the farmer and not the dealer right now. The farmers will buy cattle and turn them out and certain cattle will not do good so they will call them. He will call them and sell them before the 60 days are up and he wants to do that if he's going to make any money.

MR.K: Alright, so you would recommend to the Commissioner that he set a time of 30 days within the regulations to determine whether you are a producer or dealer.

JANE MORGAN: Well I'm saying it would help the farmers more if it were 30 days instead of 60 days, because if he sells them under 60 days he is going to be considered a producer. I'm looking it from a farmers end right now and not from the dealers end. In other words if I got cattle in, its not going to hurt me either way because I can operate both. But a farmer cannot. Now if he buys cattle in the Spring and they're not doing good he is going to call them while the prices are still good and he can still ditch them and replace those cattle. If he cannot do that within a 60 day period he is stuck with those cows and he is loosing money. Do you understand what I'm trying to say?

MR.K: I understand very well.

GRD: Yes we understand what you're saying.

MR.K: We've been kicking that thing around for a long time.

GRD: You're saying that a livestock producer would not be bonded if he bought cattle and kept them 60 or 30 days.

JANE MORGAN: I'd say 30 days. It would make it easier on the farmer, because that would give him the opportunity to pull his herd if he wanted to. If he pulls his herd after 60 days..That gives you two ways to look at it, it also gives traders room to hold cattle too. They could hold cattle 30 days, buy them with the intention of just holding them 30 days, buying them with the intention of just holding them 30 days and put a little bit of weight on them and reselling them they would be considered a producer, its two ways to look at it.

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GRD: That's what I'm wondering whether or not it should be 30 or 45 or 50 or something days. Yes.

JANE HELMICK: I don't think 30 days constitutes winter or summer and that's what the law says. I agree with helping the farmer but I also think it helps the dealer.

MR.K: Do you have a number of days?

JANE HELMICK: I think it should be at least 60 days. I don't see how you can say.

MR.K: I would comment and say that the Commissioner will take your recommendations under advisement and whatever he decides to do will then, that's his problem.

GRD: Thank you.

MR.K: Any other questions on this?

GRD: OK. The recommendation is that I do set a period and more clearly define what summer or winter means and let the record indicate that I will take this in under advisement of re-defining 10b 2-F.

MR.K: Any other comments in that regard? Lets go to 2.2.1 The record book shall include. I think we've pretty well discussed that but lets go over it. All ear tag numbers, identification tatoos numbers excepting vaccination tatoos, registration numbers of purebreds carried by the animal at the time of sale or slaughter; the name and address of the person from whom purchased, or if purchased at a livestock auction market, the name and address of the market; the name of the person to whom sold or exchanged, the date the animal was purchased and the date the animal was sold, and the breed and sex of each animal purchased. Now the reason those are in there is thats pretty well taken from the law . It pretty well says in the law that the record shall make and contain those particular items. As we stated previously, the Commissioner will take under advisement your

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MR K: Cont.

system of record keeping and if they suffice as to what he requires then you can maintain that record system. Correct?

GRD: Correct.

JANE MORGAN : What is the purpose of the weight? A lot of times you buy and sell by head.

MR.K: It just happens to be in the law.

JANE MORGAN: Do you know why?

MR.K: No mamm I don't know why.

_____ : Because it was written by lawyers so they could get a case out of it..

GRD: I don't know. That's just the way its in there.

MR.K: The rural people are now well represented in the halls of the legislature.

JANE HELMICK: You can tell by the way they write the laws.

MR.K: Any other comments in regard to this?

JANE HELMICK: Where does it say the weight?

GRD: Line 6, under 5. Its in the law. It says approximate weight. It doesn't say definite weight. Thats the way you buy them out of the field anyway isn't it? By guessing.

JANE HELMICK: I guess so.

MR.K: Any other comments with regard to that part? OK. 2.2.2 When any livestock is purchased or exchanged, the required information relating to such transaction shall be recorded immediately upon completion of the transaction. When the animal is sold, the required information relating to the sale or exchange shall be recorded immediately upon completion of the transaction. That merely says that when-

MR.K: (Cont.)

ever you sell an animal, you shall record it. 2.2.3.

GRD: And that doesn't mean right at the time. I would say within 24 hours your records should be up-to-date.

JANE MORGAN: You've got to be kidding. When you're on the road, I mean if you're out buying, you're lucky if you're home one day a week.

MR.K: You could carry the book with you.

GRD: Yes. You're suppose to have the book with you.

GRD: Come In. Now we have some members of the legislature here. We're moving right along with the hearing on the regulations and again we would be delighted to hear your comments. Maybe the folks will revoice some of their comments relative to this law here in a few minutes, we'd be happy to hear them. OK proceed. We're reading by section by the way.

MR.K: Section 2.2.3. The records required by these regulations shall be recorded and kept in a Department of Agriculture livestock record book except that upon receipt of a license holder the Commissioner may authorize the license holder to use another type of record book or ledger provided that the other type of record book or ledger will permit the recording of information relating to livestock transactions in a manner that will, in the opinion of the Commissioner, accomplish in the purpose and objectives of these regulations. Information relative to a livestock transaction which is entered in a record book shall be accurate and legible in each detail and it shall not be altered, obliterated, defaced or erased. If, after information relative to a livestock transaction has been entered in a livestock record book, it is found that the information so recorded is in some part in error, the correct information relative to that particular transaction shall be re-entered in the next available space in the record book without altering or changing the original entry except to note that the record is

MR.K: (Cont.)

corrected by a later entry. Do you have any comment in regard to that?

JANE MORGAN: This is just cattle purchased in the State of West Virginia. You have no grounds for looking at the records that I keep for the purchase of cattle in other states?

GRD: If they get into any commerce in the State of West Virginia; yes.

JANE MORGAN: They have to be unloaded and then reloaded before they are considered West Virginia cattle. Correct? They have to come off that truck. That truck can run the roads but they have to come off that truck. They have to be unloaded and reloaded regardless if its just for water. Once they are unloaded and reloaded they are considered West Virginia cattle. Otherwise they are still the other States cows. Is that correct?

GRD: You're asking me a legal question that I'm not sure on. If they are in interstate commerce I cannot stop them except under a health situation.

JANE MORGAN: I'm talking about what records are you requiring that I keep just for you.

GRD: I thing you have to keep all the records.

JANE MORGAN: I know. But what do you have access to?

GRD: I think if that animal hits the ground here.

JANE MORGAN: That's what I'm saying. Once he is unloaded but he has to come off that truck first.

GRD: My initial blush would be this but I would have to check legal council on this one before I would definitely say yes.

JANE MORGAN: He should know, shouldn't he? A vet.

GRD: If you want to comment Dr. Thomas?

DR. THOMAS: This comes back to a legal interpretation.

JANE MORGAN: What I'm saying is that I don't have to keep those records of the cattle I'm purchasing in another state other than West Virginia unless those cattle are unloaded here. In other words, you don't have access to the records of cattle that I buy and sell in the State of Virginia, or Ohio or North Carolina or Pennsylvania. I'm saying if I bring them in. I'm saying if I unload them.

GRD: I think if you have a transaction that's holding in the State of Virginia, this is the State we've been using I guess, and are not transported into West Virginia then I think I have no concern with that but if you buy them and bring them back in transit through the state then I think we're in a legal question, we're in a real gray area.

JANE MORGAN: What are you calling transit? Buying on the roads or unloading? You have to move them through West Virginia when you're in Virginia, so that means you have control of those cattle over there. Do you see what I'm trying to say.

GRD: Let's use a dealer in the State of Virginia. I'm not interested in what he's doing in the State of Virginia but when he comes over and buys in the State of West Virginia then he has to keep that record. But if you are a resident business in West Virginia I think those transactions will probably have to be reported. But this will go back to some lawyer's interpretation of what we're talking about but I think you will have to record.

JANE MORGAN: Are those records going to be available for you on your request because those cattle never came into West Virginia. Only on the trucks, on the roads, that's it.

GRD: I think those records, if there was a question of health or a question on the ownership that would be available regardless. This would be the only basis

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GRD: (Cont.)

basically that I would be coming back and looking at your records.

BILL IRONS: I believe that if those cattle were paid for with a check mailed to your house, it would be a West Virginia transaction.

GRD: I think you're locked in to keep the records on your business of all transactions.

JANE MORGAN: But you're not sure.

GRD: I'm not sure. I'm just giving you a curbstone opinion right now and the lawyers will have to give you that.

JANE MORGAN: That's something else that will have to be defined on specifically in these articles.

GRD: I have a sneaking idea of what the answer is, which I have already voiced. I don't think you can get around with not keeping that record book on those animals.

JANE MORGAN: That wasn't the point. I keep the record anyway. What I was getting at is what the State of West Virginia Law has access to if they're called upon.

NOAH PERRY: It would appear to me that any transaction which may intentionally result in a claim with the bond you have filed with the Commissioner as trustee would be covered since you're licensed to do business in West Virginia any and all transactions you entered into that potentially make claim against the bond would appear to me to come under the rules and regulations of the law and therefore would be required to be entered into the record.

JANE MORGAN: But you're not sure.

NOAH PERRY: I say it appears to me. That's the reason we have courts.

GRD: Probably the only way you will get a true interpretation is to go to court to no definitely.

MR.K: Any other comments for the record in regard to this section?

Allright, 2.2.4 The records of livestock sales and purchases required by these regulations shall be kept and retained in possession of the license holder only during such period as he holds the required license. Failure to renew the license by July 1 each year shall require the return of such record books to the Department of Agriculture. The same requirement shall also apply to those persons whose license has been suspended or revoked. Any comments in regard to that?

GRD: You're required for two years. So there would be a two year period in which you they have to maintain or become a record here. If you leave the State or whatever and the records not be available.

MR.K: Any comment? OK. We'll move down to 2.3 Claims against Bonds - Any person claiming to be damaged by any breach of conditions of a bond given by a licensee may enter complaint thereof to the Commissioner, this complaint shall be a written statement of the facts constituting the complaint, accompanied by documentary proof of his/her claim against the licensee. Any questions in regard to that section?

JANE MORGAN: Do you take action against someone that that licensed person has sold cattle too out of the state?

MR. K: The regulations say that any person claiming to be damaged, say you're bonded as a licensed livestock dealer and you're bonded and they have a claim against you for any breach of contract that's where your bond would come into effect.

JANE MORGAN: If you sell your cattle and you're licensed and the person you sell those cattle to out of state and he doesn't get his money would you help that person who is licensed in your State get his money?

NOAH PERRY: We would have no authority in that regard.

JANE MORGAN: P & S won't help you either. So what good is a bond?

NOAH PERRY: You're the person making the transaction with someone.

JANE MORGAN: Right. We're making the transaction with someone else and the only way you will step in is if that person is licensed in the State. That's the only way you'll step in?

GRD: Yes.

JANE MORGAN: So, you will not help us if we are licensed.

GRD: I have no authority with that individual. My only authority is with those that are licensed and bonded.

JANE MORGAN: Then what's going to protect us when we're dealing with someone else from out-of-state. Because P & S sure doesn't.

GRD: Its just about like the auction markets are now. You have taken it on the chin many times in losses.

JANE MORGAN: That's right. Since we have to be covered fully there ought to be something that will protect us too. I mean we're protecting the other guy to the hilt, but then there's nothing there to protect you.

MR. K: The livestock market people aren't protected either.

JANE MORGAN: They've been hurt considerably. What I'm saying is why isn't there something, since we're licensed by the State, set up to help protect us.

GRD: Well that has been looked at and trying to figure out out some way to do that but that falls under the Packers & Stockards.

JANE MORGAN: But we're talking about dealers and its the same situation.

GRD:; Its never been fully initiated there.

JANE MORGAN: What I'm saying is that if you have to be licensed by the State that license should work both ways, for you and against you. Right now all there doing is working against you because they're not helping you.

GRD: I know what you're trying to say. But to an extent this law is a benefit to the livestock auction markets.

JANE MORGAN: But its not any good if a person outside of the State is coming in and buying.

GRD: No not outside of the state.

JANE MORGAN: It looks to me like there should be some kind of protection built in here since we're licensed, that license should help us as well as hinder us.

GRD: Then you have to go to the Federal Law for this.

JANE MORGAN: Why? We're licensed within the State.

GRD: .Because there interstate commerce.

JANE MORGAN: No I'm talking about, we're interstate commerce but yet the State is requiring the license. Interstate commerce looks like we're back on that ground but since we have to be licensed also in the State of West Virginia Federal and State, What's good for the goose should also be good for the gander.

GRD: You've got to talk to the legislatures and the people that initiated the law.

MR. K: You're talking about something like an un-insured motorist law.

JANE MORGAN: We definitely need help and I think if you require a license of someone to operate you also should give him protection.

MR. K: That's what I was telling you a while ago, the form to go to is the legislature to argue that point. We're merely going over the rules and regulations. We have no authority in that regard.

JANE MORGAN: I know that but I want to know whether or not those rules and regulations would cover that. It didn't say that.

MR. K: The law doesn't give us any authority to do that.

JANE MORGAN: It's a sorry Law.

GRD: Any other comments. Every law that I have ever worked with has always needed some cleanup once you get it out here and start trying to put it into effect. Now this is the problem. It's easy to write a law but you get out and try to administer this law and this is where it falls bailwick and I get into a heap of problems.

JANE MORGAN: I just think that a law ought to protect the person both ways instead of being a one way street and so far this law is a one way street.

GRD: I agree with you and I've always felt that at an auction market. Its a one way bond and if you get clipped on the other end and I don't know the method of handling that. Of course years ago the approached recommendation was this law that we're looking here right now as one way of helping. At least you have some idea of the financial stability of the individual out there buying and moving cattle through the auction market. Now, how well this is going to work, I don't know until we get into this.

JANE MORGAN: But the buyer is just as stable as the man he is selling to.

GRD: Well that man can get unstable pretty quick out there too regardless of what kind of bond he has got.

JANE MORGAN: I understand that this is the law and this is what you're going to do but, I'm saying they ought to give a little bit of help to the other person.

GRD: OK. Let the record indicate that I hear your comments and that will be taken into consideration in future laws.

MR.K: OK. 2.4 In case of default by the licensee, the Commissioner shall hear the matter as a contested case pursuant to proceedings as outlined in Chapter 29a of the Code. No hearing shall be required if all affected parties to a bond claim preceeding waiver their right to a hearing and agree to accept the Commissioner's determination as to the validity of the claim and the allocation of the proceeds of the bond.

GRD: Any comment? I should clarify, I think the two gentlemen present are from the television and not the legislature. I do apologize for that.

NOAH PERRY: Ms. Morgan, you understand, I think, that if someone from out-of-state comes into this State and does business as a dealer they are required to be licensed.

JANE MORGAN: I know the requirements.

NOAH PERRY: Then you do understand that part?

JANE MORGAN: Yes.

NOAH PERRY: I just wanted to clarify that. Then your question is that if you sell to someone out of state, then what protection do you have?

JANE MORGAN: Thats right. P & S are suppose to protect you but thats a hoax. Its just like everything else, you get no protection. What I'm trying to say is that if the State requires that license, it looks they would help the person that is licensed as well as help the people that he deals with. I think that ought

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JANE MORGAN: (Cont.)

to work two ways.

GRD: OK. We have completed the proposed regulations as developed by myself and staff. Are there other comments you desire to make or other areas that need to be addressed that I have not addressed?

JANE MORGAN: When is this going to take effect?

GRD: Hopefully July 1 of 1986. There's a process we have to go through.

JANE MORGAN: And you seriously think that you'll have people, outsiders, that will come in and get licensed?

GRD: That's what the law tells me I have to do.

JANE MORGAN: I know what the law tells you to do but do you think..

GRD: I have to try to do it.

JANE MORGAN: Then all you have to go on is what your field representatives tell you? I'm not talking about through the markets or off the farms.

GRD: We will probably inquire of the markets those dealers that deal directly with them. Because we'll have to develop a mailing list to send the applications to. The applications need to go out and if you know of someone they will be included in the list of possible licensees.

JANE MORGAN: There are a lot of farmers who purchase cattle and hold them for reconditioning or whatever and resell them. Are they going to be required to have that license?

GRD: That's the reason I don't think I can go 30 days because conditioning a calf is 30-45 days normally and I think you have to spread beyond that and I'll probably look at the 60 days. If they don't fall within this area, yes, they will

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GRD: (Cont.)

have to be licensed.

JANE MORGAN: Who is going to catch them? That's what I'm saying. Because he is selling to an individual from out of state and they are not going to go through a market.

GRD: Someone will snitch on them.

JANE MORGAN: Not necessarily. There is a lot of cattle that has been sold and the check-off hasn't been off, and no one has snitched.

GRD: Well, if its like every other law I'm enforcing here, there will be somebody snitch. Possibly his competitor. If a man is licensed out here and he is legal and someone is operating illegal; let me assure you I will hear about it. Auctioneers or whatever it might be. Those other laws we enforce here and in the course of auction markets and other sources. There are many sources of information that will come in. When you call with this information then we have to look at it. We will make contact and determine if they do qualify and should be licensed.

JANE MORGAN: Something that you should consider is issuing a card or something to the ones that are licensed and require them not to sell cattle to someone else unless they show that card. I'm saying I don't want competition from out of state.

GRD: Allright, when you request a license they will be issuing a license card. Thats your license. When their is a question, ask to see their license or ask them their number.

BILL IRONS: West Virginia residents are getting shafted from out of state.

GRD: This covers the livestock dealer from out of state if he comes into West Virginia.

BILL IRONS: Yes it says it covers. But, over the long haul, it won't cover. So there is no way you can enforce this on someone who watches my market on a Saturday or Wednesday night at a special sale or someone that walks into my market that afternoon or at 7:00 at night. You can't be everywhere and they are not going to be covered so what this law is doing is hampering the West Virginia resident who is trying to make a living or trying to do business. An example I would like to use is of the market. In Milton, West Virginia there is a retired fellow and his past time, what he likes to do, is to go from sale to sale and trade a sow or a bunch of pigs, goat, cow or something and he'll go to Beckley on Wednesday, maybe Alderson on Friday and my sale on Saturday or Parkersburg and you know the man is as solid as a rock and wouldn't take a dollar from anyone but this is his past time and he knows what he is doing. He would have to know in order to drive that far. But, he under the law is a dealer and theres no way in the world, probably, that he is going to get a surety bond and it is making it hard on the West Virginia residents and it shouldn't. I'd rather do business with someone in West Virginia because I can find out about them, you know.

JANE MORGAN: Your laws are hampering West Virginians to operate in West Virginia. They have to go elsewhere to operate with all the red tape that you're attaching to them.

GRD: What if the State of Virginia had the same law?

JANE MORGAN: They don't. They have the law on the beef check-off.

GRD: We're on another subject here.

JANE MORGAN: They require a bond, yes.

GRD: If you were dealing in those other states and what if you were going to do business in Virginia and they asked, Are you bonded in the State of West Virginia? So you know they do have some financial responsibility.

JANE MORGAN: They have financial responsibility. Everyone does. But, what I'm trying to say is there is so much red tape in West Virginia you're hampering West Virginia promotion. That money is going out of the state. Just like Bill was trying to bring across the point, the farmers are going to be hurt because there is not going to be anyone there to pick up those sorry cattle or whatever. And about the only ones that will handle those is pen-hookers or someone that drives from one sale to another and makes a few bucks but the farmer is still getting a little more from his animal because of that. Now under this new law, you're cutting that man out altogether so the farmer just as well take the animal to the landfill.

GRD: Now I'm getting a different story. I've had request to hold that pen-hooker and now you're saying let all those dealers buy that want to buy outside the market and don't run those cattle through the market.

BILL IRONS: We're not talking about pen-hookers outside the market.

GRD: We're talking about dealers outside.

BILL IRONS: We don't have the pen-hookers like people think we do. You know the buying of cattle outside the market, I mean that doesn't go on anymore. What we're talking about is traders, the buying and selling,...

GRD: I've got a couple of people setting on the back row that I hope comment in a little bit.

JANE MORGAN: What Bill and I are trying to get through is that you're hurting the farmer. What we're calling a pen-hooker is a man who buys cattle, more or less and moves them from sale to sale, a trader. That's all he does, he doesn't go out and buy cattle by the truckloads, or trailerload, more or less a pick-up truck load. But yet he is moving those cattle and is getting more market value than what he would if he had to rely on someone who was buying a tractor-trailer

JANE MORGAN (Cont.)

load. Because sometimes the person with the tractor/trailer load will not buy those animals but your trader will. But if he has to be licensed he is not going to find someone that will bond him.

GRD: Again, I have heard both sides of this story and I catch it both ways, and let me assure you, its going to be a very difficult to initiate and to enforce. I am in a position here that I have taken an oath in office to uphold the laws of the State of West Virginia so this is my responsibility and one that I will attempt.

JANE MORGAN: But, this law is not clear enough. You can look at one statement like the word producer or dealer and he can read it so many different ways. It is not clear.

GRD: Let me assure you that all laws are controversial, thats the reason they have the courts and the reason we have so many lawyers and cases backed up in court. But going back to the situation of the definition of producer.

JANE MORGAN: When will we get this definition?

GRD: You'll have it within 30 days. I'll leave the record open for 10 days and hear any other comments. Then we will close it and write into regulations form. It will go to the Secretary of State and it must be there 30 days then it goes to the legislative committee and after their public hearings they will determine whether my regulations are right or wrong. Again we're only looking at the regulations, then they will either accept it or reject it.

JANE MORGAN: You're talking about February or March?

GRD: Yes, I'm talking May or June.

JANE MORGAN: Allright then you're already into your record keeping for the new year.

GRD: Its effective July 1.

JANE MORGAN: I know but what I'm trying to say is, in other words the records from January 1 through July 1 are not going to be effected.

GRD: We'll be starting out July 1. Thats when the licensing period will begin. I would hope that I can get the applications out in the mail no later than May and get everyone licensed. Dr. Thomas do you have any other comments?

DR. THOMAS: I should like to add this comment to something that you haven't mentioned here that the federal pressure. Again I was told this morning that if we do not soon get a dealers license law here in the State of West Virginia we might be in a B the next time of course with brucellious and of course this will cause undue hardship on the farmers in West Virginia and not only that will curbtail their markets considerably because a lot of states are cutting off the cattle for the C states and may do so for B states and again they want record keeping and if we were to get this we would get our favorite TB status and a lot of the farmers would not have to test their cattle to go interstate for TB and if we could get the B status for brucellious they would not have to test their cattle for brucellious. So what I'm saying is that you are working under pressure from the Federal Government.

MR. K: You're talking Class B status, does that require down the road testing?

DR. THOMAS: It does not require down the road testing but some of them have to test their cattle more than they would otherwise. What I'm saying is that some states have already said they would not accept the cattle from a C state and some of them are not indicating they will not accept cattle from a B state under any circumstances. The Federal Government, I was just talking with Dr. Wheeler this morning and he is very much enthused about this meeting because if we do not do as we're doing here today, we might get a B even though we're thinking we're going to get a 3 status. And if we couldn't get a 3 status there would

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Dr. THOMAS: (Cont.)

some states that would accept our cattle without even a brucellious test and then we would get a bigger TB status and what I'm saying is that I just want to mention here what will happen possibly if this is not implemented. I'm not trying to promote, I'm just telling you as they told me this morning and the Federal man wanted me to deliver this here today.

GRD: OK. We'll include that in the record that this is part of the regulatory program in health as well as that of the financial responsibility.

DR. THOMAS: Federal Government.

GRD: Federal Government. Further comments anyone?

BILL IRONS: One comment and one question. I have heard it said here twice that this law was to benefit the livestock markets. Other than what Dr. Thomas just said, I really can't see that this is going to benefit the livestock markets, speaking on behalf of the livestock markets association. Anytime you limit the number of buyers you have you're not helping and this is going to serve to limit the number of buyers. I can't see how its going to do us... My question is: You stated that this information will be kept in a confidential manner within your office.

GRD: If we request them.

BILL IRONS: Within the Department of Agriculture

GRD: If we request them.

BILL IRONS: OK. Will any information be given to the beef with regards to the numbers?

GRD: Yes. This will go into the Ag-Statistics as the given number for the year. Not individually but as a...

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BILL IRONS: So in other words, you won't be turning over to the Beef Board that Bill Irons bought X number of cattle.

GRD: No. I cannot do that. The only way we can operate and we're operating in under so many laws that I cannot give personal information out not you're annual business in your auction markets; yes, we have to give that by market. But, as far as dealers are concerned here in under this. I agree with it that the only thing we will give is a composite figure and not an individual figure. Just like oh, we just changed on poultry in West Virginia. We only have one major poultry operator in this state that is stationed here and we were giving his figures all the time and all his competitors were looking at it and knew exactly what he was doing and they combined that with Virginia and West Virginia and now you get a combined composite figure for both states and so you are not pinpointing one individual.

MR. K: Well we're doing that on the livestock auction markets now Commissioner. We're putting them all together. It use to be we did it for each market and now the reports you people get is the total sales of all livestock through all the markets in the state. They are not individual.

GRD: OK.

_____ : Your definition of a dealer like a livestock operator should he have a dealer bond? A market operator, if he is doing business outside the stockyard, writing his own checks, he would be a dealer too.

GRD: He would have to be licensed but he could still use his P & S bond. The only thing he would buy is the license. He would just be registered with the State. Any questions or comments? If not I've seem to heard all the comments and at this time let me indicate I will keep the record open for 10 days and at the end of that time I will take under advisement the recommendations

GRD: (Cont.)

I have received both orally and by letter and I will put together a regulation and this regulation will be circulated for 30 days wherein it may be amended and at the end of that 30 day period it will be filed with the recommendation that it be approved by the WV legislature. If there is no further comments this meeting is adjourned.

BILL IRONS: You requested written comments but since you have that we won't have to do that will we?

GRD: This is merely backing me up here. If you want to put it on file or if you have other comments you may go ahead and do it.

BILL IRONS: But you're going to have a transcript of this.

MR. K: This will be the official record here.

GRD: Yes. That is the official record. We're making notes but there is definitely two we will give you consideration on. I know that will be in the regulations. I will look over it again after hearing your comments. Thank you for being here and giving me the benefit of your views.

DEC - 4 1985

December 2, 1985

Rural Resources Division
W. Va. Dept. of Agriculture
Charleston, WV 25305

Re: Public Hearing on Regulations
Governing Livestock Dealers

Dear Sirs:

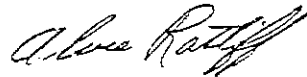
After perusal of the proposed regulations for the licensing and bonding of livestock dealers, as provided for in Chapter 19, Article 10B of the State Code of West Virginia, I find it very detrimental to the farmer which is the backbone of our country.

This regulation would add an additional burden which would serve no beneficial purpose to the farmers except to put us out of business. We operate on a small profit margin and the additional paperwork would reduce our profit even more since we would have to hire one person to keep up with the work.

Over the past couple of years the news programs and letters throughout our country has referred to the Paperwork Reduction Act, I wonder why it is not used.

I hope you will give more serious thought and preparation before passing such a regulation.

Very truly yours,



Alvie Ratliff

J. HERMAN ISNER
KERENS, WEST VIRGINIA 26276

11-20-85

Mr. Eric Douglas
Commissioner of Agriculture
Charleston W. Va.
Dear Sir -

I recd thru the mail what appears to be a proposal to license & bond the Livestock Dealers. This seems to be a repetitious bureaucratic proposition since all dealers are required to be bonded by P+S. and if they are bonafide dealers already are covered as I have been for years. Those that aren't still won't comply. It would only cause trouble for the rest of us. I am opposed to it. If you wish to help - try to find the ones who are operating with out P+S Bonds. W. Va. is a miserab. Cattle state & will continue so especially after the flood in eastern panhandle & our area - I think I am right we have less than 70000 Cattle when I started there were about 3 million. Now Augusta & Rockipon counties in Va have 490000 - ours is a dying industry plunged by less than cost of production and no improvement in sight. Also the ridiculous check off and

their promotion certainly has done
a fine job of bringing the industry to
its knees.

This year after it took effect I
confined my trading to Virginia
just to escape their red tape

I would suggest that you think
it over before adding this final
straw. I shall continue my
RS Bond but won't need a W Va
license and for 4 years I have
hordled 8000 to 10000 per year mostly
in W Va more this year but I didn't
quit just moved East.

Hoping that you will consider
what I have pointed out and
act accordingly I remain,

Sincerely
Hermon Jones.



STATE OF WEST VIRGINIA
DEPARTMENT OF AGRICULTURE
CHARLESTON 25305

GUS R. DOUGLASS
COMMISSIONER

WILLIAM H. GILLESPIE
ADMINISTRATIVE ASSISTANT

REGULATION MODIFIED AS A RESULT OF HEARING

LEGISLATIVE RULE: Regulations for Governing Livestock Dealers

The above titled rule has been modified as a result of comments made in the Public Hearing held on December 4, 1985, and the attached modifications have been incorporated into the above titled regulation. The reason for these amendments is because some farmers felt like they might have to be licensed when they buy cattle for feeding and then resell them after a two or three month period. The new phraseology is to specifically exempt this very common practice.

A handwritten signature in cursive script, reading "Gus R. Douglass", written over a horizontal line.

Gus R. Douglass
Agriculture Commissioner

AMENDMENT TO Regulations Governing Livestock Dealers:

The addition of the following:

Section 2. Definitions

2.1 Livestock Producer - Means a person selling livestock which he has raised or others which he has additionally purchased summered or wintered for sixty (60) days or more.

Also - the numbering series of the next section was changed to Section 3.