

1999 ASSEMBLY BILL 314

April 27, 1999 – Introduced by Representatives OTT, AINSWORTH, BRANDEMUEHL, GRONEMUS, HAHN, JOHNSRUD, KREIBICH, MUSSER, OLSEN, PETROWSKI, RHOADES, SYKORA and VRAKAS, cosponsored by Senators CLAUSING and SCHULTZ, by request of Department of Agriculture, Trade and Consumer Protection. Referred to Committee on Agriculture.

1 **AN ACT to repeal and recreate** 95.195 of the statutes; **relating to:** implied
2 warranties concerning disease status of animals and granting rule-making
3 authority.

Analysis by the Legislative Reference Bureau

Under current law, in each contract for the sale of an animal, there is an implied warranty that the animal is not infected with paratuberculosis unless the seller informs the buyer in writing that the animal is not warranted as being uninfected with paratuberculosis or the seller complies with paratuberculosis testing and disclosure requirements established by the department of agriculture, trade and consumer protection (DATCP) by rule. Paratuberculosis is also known as Johne's disease.

Effective July 1, 2000, this bill eliminates the current law concerning the implied warranty that an animal is not infected with paratuberculosis. Under this bill, in a contract for the sale of an animal of a type specified by DATCP by rule, there is generally an implied warranty that the animal is not infected with a covered disease unless the seller discloses in writing the management classification of the animal's herd with respect to the covered disease and discloses that the animal is a reactor to the disease, if that is the case. A reactor is generally an animal that reacts positively to a test for a disease. The implied warranty does not exist if the animal is sold directly to slaughter.

The bill requires DATCP to promulgate rules specifying the diseases covered by the implied warranty and establishing a system for determining management

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classifications for herds, as well as specifying the kinds of animals subject to the implied warranty.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 95.195 of the statutes is repealed and recreated to read:

2 **95.195 Diseases; implied warranty in sale of animals. (1) DEFINITION.**

3 In this section, “covered disease” means a disease that the department specifies
4 under sub. (4) (a) is covered by this section.

5 **(2) WARRANTY.** Except as provided in sub. (3), in every contract for the sale of
6 an animal of a type specified by the department under sub. (4) (b), there is an implied
7 warranty that the animal is not infected with a covered disease unless the seller
8 discloses to the buyer in writing, prior to sale, all of the following:

9 (a) The management classification of the animal’s herd with respect to the
10 covered disease.

11 (b) If the animal is a reactor with respect to the covered disease, that the animal
12 is a reactor.

13 **(3) EXCEPTION.** The warranty under sub. (2) does not apply to an animal sold
14 directly to slaughter.

15 **(4) RULES.** The department shall promulgate rules that do all of the following:

16 (a) Specify covered diseases.

17 (b) Specify types of animals to which this section applies.

18 (c) Prescribe a system for determining management classifications of herds
19 with respect to covered diseases.

20 **SECTION 2. Effective date.**

