

1989 Assembly Bill 814

Date of enactment: **April 20, 1990**

Date of publication\*: **May 3, 1990**

## 1989 WISCONSIN ACT 277

AN ACT to repeal 95.16; to renumber 95.001; to amend 402.316 (3); to repeal and recreate 95.19; and to create 95.001 (1) (c), 95.001 (2) and 95.195 of the statutes, relating to: handling diseased animals, an implied warranty that animals are uninfected with paratuberculosis, and granting rule-making authority.

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

**SECTION 1.** 95.001 of the statutes is renumbered 95.001 (1).

**SECTION 2.** 95.001 (1) (c) of the statutes is created to read:

95.001 (1) (c) "Paratuberculosis" means the disease of domestic ruminants, commonly known as Johne's disease, that is caused by mycobacterium paratuberculosis.

**SECTION 3.** 95.001 (2) of the statutes is created to read:

95.001 (2) The department shall promulgate rules defining the term "contagious or infectious diseases" as used in this chapter.

**SECTION 4.** 95.16 of the statutes is repealed.

**SECTION 5.** 95.19 of the statutes is repealed and recreated to read:

**95.19 Diseased animals. (1) DEFINITIONS.** In this section, "knowingly" means that the actor believes that the specified fact exists.

**(2) PROHIBITIONS.** No person may do any of the following:

(a) Import, sell, transport or exhibit an animal that is exposed to a contagious or infectious disease, except as provided in sub. (3) (a).

(b) Import, sell, transport or exhibit an animal that is infected with a contagious or infectious disease, except as provided in sub. (3) (a).

(c) Knowingly conceal that an animal that is imported, sold, transported or exhibited has been

exposed to or infected with a contagious or infectious disease.

(d) Knowingly misrepresent that an animal has not been exposed to or infected with a contagious or infectious disease.

(e) Knowingly permit an animal that has been exposed to or infected with a contagious or infectious disease to commingle with other animals under conditions that may cause the disease to spread to an animal owned by another person.

**(3) RULE MAKING.** The department may promulgate rules:

(a) Authorizing the transport under a department permit of an animal exposed to or infected with a contagious or infectious disease for slaughter or other purposes prescribed by the department.

(b) Specifying those contagious or infectious diseases to which the prohibitions of sub. (2), and the rules promulgated under par. (a), apply.

**(4) DAMAGES.** A person who violates this section is liable to any person injured for damages sustained as a result of the violation.

**SECTION 6.** 95.195 of the statutes is created to read:

**95.195 Paratuberculosis; implied warranty in sale of animals. (1) IMPLIED WARRANTY.** Notwithstanding s. 402.316 (3) (c), 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 does any of the following:

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(a) Notifies the buyer in writing before the sale that the animal is not warranted as being uninfected with paratuberculosis.

(b) Complies with paratuberculosis testing and disclosure requirements established in rules promulgated by the department under sub. (2).

(2) **RULE MAKING.** The department shall promulgate rules prescribing all of the following:

(a) Test procedures to determine whether an animal is infected with paratuberculosis for purposes of sub. (1) (b).

(b) Requirements for disclosure of the results of test procedures under par. (a) to a prospective buyer of an animal.

**SECTION 7.** 402.316 (3) of the statutes is amended to read:

402.316 (3) Notwithstanding sub. (2), all of the following apply:

(a) Unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like “as is”, “with all faults” or other language which in common understanding calls the buyer’s attention to the exclusion

of warranties and makes plain that there is no implied warranty; ~~and,~~

(b) When the buyer before entering into the contract has examined the goods or the sample or model as fully as the buyer desired or has refused to examine the goods there is no implied warranty with regard to defects which an examination ought in the circumstances to have revealed to the buyer; ~~;~~

(c) ~~There~~ Except as provided in s. 95.195, there is no implied warranty that cattle, hogs, sheep or horses are free from sickness or disease at the time a sale is consummated if all state and federal regulations pertaining to animal health are complied with by the seller, unless the seller knows at the time a sale is consummated that the cattle, hogs, sheep or horses were sick or diseased; ~~and,~~

(d) An implied warranty can ~~also~~ be excluded or modified by course of dealing or course of performance or usage of trade.

**SECTION 8. Initial applicability.** The treatment of section 95.195 (1) of the statutes first applies to contracts for the sale of animals entered into on the first day of the 13th month beginning after publication.