



1995 SENATE BILL 237

June 1, 1995 - Introduced by Senators LEEAN, ELLIS and RUDE, by request of Governor Tommy G. Thompson. Referred to Committee on Transportation, Agriculture and Local Affairs.

1 **AN ACT to repeal** 93.07 (24) (b), 95.35 (4), 95.35 (5), 95.64, 95.65 and 95.66; **to**
2 **amend** 93.07 (24) (a), 95.001 (1) (a), 95.21 (4) (b), 95.25 (5), 95.25 (5m), 95.26
3 (7), 95.27 (4), 95.31 (2), 95.31 (3), 95.31 (4), 95.35 (1), 95.35 (3) and 95.37 (1); **to**
4 **repeal and recreate** 95.32; and **to create** 95.26 (5m) and 95.99 (3) of the
5 statutes; **relating to:** appraisal of and payment for animals that are destroyed
6 because of infectious diseases, livestock remedies, violations of animal health
7 laws, granting rule-making authority and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill makes changes in the law relating to compensating the owners of animals that are ordered to be destroyed because the animals are diseased or have been exposed to infectious diseases. The programs providing for these payments are sometimes called animal disease indemnity programs.

Current law provides for payments to be made by this state to the owners of certain animals that are ordered by the department of agriculture, trade and consumer protection (DATCP) to be destroyed because of exposure to or infection with rabies, tuberculosis, brucellosis, pseudorabies and scrapie. In addition, DATCP is required to make payments for livestock destroyed because of unidentified diseases and for animals destroyed under emergency programs necessary to control major or serious outbreaks of dangerous diseases affecting domestic animals. This bill retains the provisions for payments under emergency programs and for specific diseases, except for scrapie. This bill replaces the provision for payment in cases of unidentified diseases with a provision for payment for livestock destroyed because of other diseases if the destruction is necessary to protect public health or the livestock industry.

Under current law, the amount of an animal disease indemnity payment varies depending on the disease involved. For example, the payment for tuberculosis equals two-thirds of the difference between the appraised value of the animal and the sum of any federal indemnity plus any payment the owner received from selling the slaughtered animal, but not more than \$600, and the payment for pseudorabies equals the difference between the appraised value of the animal and the sum of any federal indemnity plus any payment the owner received from selling the slaughtered animal.

Under this bill, an animal disease indemnity payment, for any disease except pseudorabies, equals two-thirds of the difference between the appraised value of the animal and the sum of any federal indemnity plus any payment the owner received from selling the slaughtered animal, but not more than \$1,500 per animal. For pseudorabies, the payment equals the difference between the appraised value of the animal and the sum of any federal indemnity plus any payment the owner received from selling the slaughtered animal, but not more than \$1,500 per animal.

Under current law, the value of an animal may be determined by agreement between the owner and DATCP. If there is no agreement, the animal is appraised by 3 persons familiar with the value of livestock, appointed by the circuit court. Under this bill, DATCP determines the appraised value of animals. For an animal that is of a type that is frequently sold at public auction, the appraised value is the average price paid for a commercial grade animal of the same type during a period specified by DATCP, except that the appraised value of a registered purebred animal is 125% of that amount. DATCP is required to develop a method to determine the appraised value of an animal that is not of a type that is frequently sold at public auction.

This bill specifies that indemnities for rabies, brucellosis and tuberculosis and those that are not limited to specific diseases are paid only for animals of species raised primarily to produce food for human consumption.

This bill authorizes DATCP to test swine and commercially raised deer for brucellosis, to order the destruction of animals that react to the test and to quarantine herds from which reactors come.

Under current law, violations of most laws concerning animal health are punishable by criminal penalties. This bill establishes civil penalties, which may be imposed in lieu of the criminal penalties, for violations of most animal health laws.

This bill also repeals current laws relating to the sale and registration of livestock remedies.

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.** 93.07 (24) (a) of the statutes is amended to read:

1 93.07 (24) (a) To enforce the laws regarding the production, manufacture and
2 sale, offering or exposing for sale or having in possession with intent to sell, of any
3 dairy, food or drug product,

4 (b) To enforce the laws regarding the adulteration or misbranding of any
5 articles of food or drink, or condiment or drug ~~and to~~.

6 (c) To inspect any milk, butter, cheese, lard, syrup, coffee, tea or other article
7 of food, drink or condiment or drug made or offered for sale within this state which
8 it may suspect or have reason to believe to be impure, unhealthful, misbranded,
9 adulterated or counterfeit, or in any way unlawful, ~~and to~~.

10 (d) To prosecute or cause to be prosecuted any person engaged in the
11 manufacture or sale, offering or exposing for sale or having in possession with intent
12 to sell, of any adulterated dairy product or of any adulterated, misbranded,
13 counterfeit, or otherwise unlawful article or articles of food, drink, condiment or
14 drug.

15 **SECTION 2.** 93.07 (24) (b) of the statutes is repealed.

16 **SECTION 3.** 95.001 (1) (a) of the statutes is amended to read:

17 95.001 (1) (a) “Net salvage value” means the salvage value of an animal plus
18 any federal indemnity paid for the animal.

19 **SECTION 4.** 95.21 (4) (b) of the statutes is amended to read:

20 95.21 (4) (b) *Sacrifice of other animals.* An officer may order killed or may kill
21 an animal other than a dog or cat if the officer has reason to believe that the animal
22 bit a person or is infected with rabies. ~~If livestock~~ Except as provided in s. 95.36, if
23 an animal of a species raised primarily to produce food for human consumption is
24 killed under this paragraph, the owner is eligible for an indemnity payment in an
25 amount equal to the indemnity provided under ~~this chapter for livestock destroyed~~

1 ~~because of unknown or unidentified diseases s. 95.31 (3).~~ If the decision is made by
2 an employe of the department, the indemnity shall be paid from the appropriation
3 under s. 20.115 (2) (b). If the decision is made by another officer, the indemnity shall
4 be paid from the dog license fund.

5 **SECTION 5.** 95.25 (5) of the statutes is amended to read:

6 95.25 (5) For each animal of a species raised primarily to produce food for
7 human consumption, including commercially raised deer, condemned and
8 slaughtered, ~~unless otherwise provided by law except as provided in s. 95.36,~~ the
9 owner shall receive and, upon certificate of the department, the state shall pay
10 two-thirds of the difference between the net salvage value and the appraised ~~or~~
11 ~~agreed~~ value of the animal, but ~~such~~ the payment may not exceed \$600 \$1,500 for an
12 animal.

13 **SECTION 6.** 95.25 (5m) of the statutes is amended to read:

14 95.25 (5m) In this ~~subsection~~ section, “commercially raised deer” means an
15 animal that is a member of the family cervidae and of the genus cervus or the genus
16 dama and that is commercially raised for breeding or for use as food by humans.

17 **SECTION 7.** 95.26 (5m) of the statutes is created to read:

18 95.26 (5m) (a) In this subsection, “commercially raised deer” has the meaning
19 given in s. 95.25 (5m).

20 (b) The department may obtain blood or tissue samples from swine and
21 commercially raised deer to test for brucellosis.

22 (c) The department may condemn swine and commercially raised deer that are
23 reactors to the brucellosis test and may quarantine the herd from which the reactors
24 come.

25 **SECTION 8.** 95.26 (7) of the statutes is amended to read:

1 95.26 (7) For each animal of a species raised primarily to produce food for
2 human consumption, including commercially raised deer, as defined in s. 95.25 (5m),
3 condemned and slaughtered, unless otherwise provided by law except as provided in
4 ss. 95.36 and 95.48, the owner shall receive and, upon certificate of the department,
5 the state shall pay two-thirds of the difference between the net salvage value and
6 the appraised ~~or agreed~~ value of the animal, but such the payment shall may not
7 exceed ~~\$300~~ \$1,500 for an animal. With the consent of the owner the department may
8 condemn, in infected herds, animals which have been exposed and which are
9 suspected of being infected, although such the animals have not reacted to the
10 brucellosis tests.

11 **SECTION 9.** 95.27 (4) of the statutes is amended to read:

12 95.27 (4) Subject to sub. (5) and s. 95.36, the department shall indemnify ~~from~~
13 ~~state or federal funds~~ the owner of swine that have been condemned and destroyed
14 under this section. The department shall pay to the owner for each animal destroyed
15 the difference between the net salvage value and the appraised value of the animal,
16 but the payment may not exceed \$1,500 for an animal. State payments shall be made
17 from the appropriation under s. 20.115 (2) (b).

18 **SECTION 10.** 95.31 (2) of the statutes is amended to read:

19 95.31 (2) Whenever the department determines that it is deemed necessary by
20 ~~the department~~ to condemn diseased animals, the department shall, in all cases
21 where the payment of indemnities is authorized under this chapter, appraise the
22 condemned animals ~~and agree in writing with the owner as to the value of the~~
23 ~~animals condemned or destroyed. In the absence of an agreement with the owner,~~
24 ~~written notice of the condemnation shall be given to the owner, his or her agent or~~
25 ~~the person in charge of the animals, and to the circuit court of the county in which~~

1 ~~the animals are located as provided in s. 95.32 and shall notify the owner in writing~~
2 ~~of the appraised value.~~ The notice shall include the number and description of the
3 animals and the name of the owner.

4 **SECTION 11.** 95.31 (3) of the statutes is amended to read:

5 95.31 (3) In addition to the indemnities for specific animal diseases provided
6 under ss. 95.25, 95.26, and 95.27 ~~and 95.35~~ or under special emergency programs and
7 subject to s. 95.36, the department shall pay indemnities on livestock condemned and
8 destroyed because of ~~unknown or unidentified contagions or infections, the cause or~~
9 ~~nature of which cannot be fully determined at the time of condemnation.~~
10 Indemnities for unknown or unidentified diseases shall be equal to other diseases if
11 the condemnation and destruction is necessary to protect public health or the
12 livestock industry. The indemnity under this subsection shall be two-thirds of the
13 difference between net salvage value and appraised or agreed values value, but may
14 not to exceed \$600 \$1,500 for an animal. As used in this subsection, "livestock"
15 means bovines, equines, swine, sheep, goats, poultry and animals of species raised
16 primarily to produce food for human consumption, including commercially raised
17 deer, as defined in s. 95.25 (5m).

18 **SECTION 12.** 95.31 (4) of the statutes is amended to read:

19 95.31 (4) In the event of a major or serious outbreak of dangerous diseases
20 affecting the health of domestic animals requiring special control measures, the
21 department may request the joint committee on finance to release funds
22 appropriated under s. 20.115 (2) (b) as needed to conduct emergency control
23 programs independently or in cooperation with federal or local units of government
24 and, subject to s. 95.36, to pay indemnities on animals of species raised primarily to
25 produce food for human consumption, including commercially raised deer, as defined

1 in s. 95.25 (5m), condemned and slaughtered or destroyed under the emergency
2 control programs. For all indemnities paid under this subsection, the state shall pay
3 two-thirds of the difference between the net salvage value and the appraised value
4 of an animal, except that no payment may exceed ~~the maximum amount prescribed~~
5 ~~by the department for the species type of the destroyed animal~~ \$1,500 for an animal.

6 **SECTION 13.** 95.32 of the statutes is repealed and recreated to read:

7 **95.32 Appraised value. (1)** The department shall determine the appraised
8 value of an animal that is destroyed under s. 95.21 (4) (b), 95.25, 95.26, 95.27 or 95.31
9 (3) or (4) if the animal's owner is eligible for an indemnity.

10 **(2)** Except as provided in sub. (3), the appraised value for an animal that is of
11 an animal type that is frequently sold at public auction shall equal the average price
12 paid for a commercial grade animal of the same animal type at public auction sales
13 during a period specified by the department.

14 **(3)** The appraised value of a registered purebred animal of an animal type that
15 is frequently sold at public auction shall equal 125% of the amount determined under
16 sub. (2) for that animal type.

17 **(4)** Using a method specified under sub. (5) (c), the department shall determine
18 the appraised value of an animal of an animal type that is not frequently sold at
19 public auction.

20 **(5) (a)** The department shall promulgate rules specifying animal types for the
21 purposes of this section. The animal types may be based on characteristics of
22 animals that include species, gender and age. The rules shall specify whether each
23 animal type is frequently sold at public auction.

24 **(b)** The department shall promulgate rules specifying the period of public
25 auction sales that will be used in the appraisal of each animal type to which sub. (2)

1 applies. The period may not begin more than 6 months before the date on which the
2 department makes the appraisal.

3 (c) The department shall promulgate rules specifying methods for determining
4 the appraised value of animals of animal types that are not frequently sold at public
5 auction. The methods shall be as consistent as possible with the method under sub.
6 (2).

7 **SECTION 14.** 95.35 (1) of the statutes is amended to read:

8 95.35 (1) In the eradication and control of scrapie, the department may,
9 whenever such action is necessary to prevent or reduce the spread of the disease,
10 condemn and order the destruction of any sheep or goats which in the opinion of the
11 department are infected with or have been exposed to scrapie and pay indemnities
12 to the owner of the animals under this section.

13 **SECTION 15.** 95.35 (3) of the statutes is amended to read:

14 95.35 (3) The department may enter into cooperative agreements with the
15 federal government or any department or other agency for the control and
16 eradication of scrapie in this state, including the sharing of payments for indemnities
17 authorized by this section.

18 **SECTION 16.** 95.35 (4) of the statutes is repealed.

19 **SECTION 17.** 95.35 (5) of the statutes is repealed.

20 **SECTION 18.** 95.37 (1) of the statutes is amended to read:

21 95.37 (1) Claims against the state arising from the condemnation of animals
22 shall be made by delivering to the department, to be forwarded to the department of
23 administration, a copy of the condemnation notice, and of the notice to the circuit
24 court and return of the appraisers certified by the court a request, giving the name
25 and place of residence of the owner, the date on which such the animals were

1 condemned and the tag number of each animal, and also a statement of the salvage
2 received and of the sum due from the state and any additional information as that
3 the department requires. ~~If the value was fixed by agreement the claim shall be~~
4 ~~made by delivering to the department to be forwarded to the department of~~
5 ~~administration the agreement or a sworn copy thereof and a statement of the salvage~~
6 ~~received and of the amount due from the state and any additional information~~
7 ~~demande~~d. The department shall promptly transmit all claims to the department
8 of administration and accompany the same with a report of the sum due from the
9 state and thereupon the claims may be audited and paid.

10 **SECTION 19.** 95.64 of the statutes is repealed.

11 **SECTION 20.** 95.65 of the statutes is repealed.

12 **SECTION 21.** 95.66 of the statutes is repealed.

13 **SECTION 22.** 95.99 (3) of the statutes is created to read:

14 95.99 (3) A person who violates this chapter or any rule promulgated or order
15 issued under this chapter, for which a specific penalty is not prescribed, may be
16 required to forfeit not less than \$200 nor more than \$5,000 for the first offense and
17 may be required to forfeit not less than \$400 nor more than \$5,000 for the 2nd or
18 subsequent offense committed within 5 years of an offense for which a penalty has
19 been assessed under this section. A forfeiture under this subsection is in lieu of a
20 criminal penalty under sub. (1).

21 **SECTION 23. Initial applicability; agriculture, trade and consumer**
22 **protection.**

23 (1) ANIMAL DISEASE INDEMNITY. The treatment of sections 95.001 (1) (a), 95.21
24 (4) (b), 95.25 (5) and (5m), 95.26 (5m) and (7), 95.27 (4), 95.31 (2), (3) and (4), 95.32,

1 95.35 (1) and (3) to (5) and 95.37 (1) of the statutes first applies to animals for which
2 a condemnation order is issued on the effective date of this subsection.

3 **SECTION 24. Effective dates; agriculture, trade and consumer**
4 **protection.**

5 (1) ANIMAL DISEASE INDEMNITY. The treatment of sections 95.001 (1) (a), 95.21
6 (4) (b), 95.25 (5) and (5m), 95.26 (5m) and (7), 95.27 (4), 95.31 (2), (3) and (4), 95.32,
7 95.35 (1) and (3) to (5) and 95.37 (1) of the statutes and SECTION 23 (1) of this act take
8 effect on the first day of the 16th month beginning after publication.

9 (END)