

1 1 **H. B. 3035**

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3 (By Delegate Skinner)

4 [Introduced March 21, 2013; referred to the
5 Committee on Agriculture then the Judiciary.]

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10 A BILL to amend and reenact §19-2B-11 of the Code of West Virginia,
11 1931, as amended, relating to providing a civil penalty of not
12 more than \$10,000 per each unit of a meat or poultry product
13 knowingly sold, or offered for sale or distribution, with
14 product labeling that incorrectly identifies the source animal
15 or animals from which the product is derived.

16 *Be it enacted by the Legislature of West Virginia:*

17 That §19-2B-11 of the Code of West Virginia, 1931, as amended,
18 be amended and reenacted to read as follows:

19 **ARTICLE 2B. INSPECTION OF MEAT AND POULTRY.**

20 **§19-2B-11. Criminal penalties; civil penalties.**

21 (a) Criminal penalties.

22 (1) Any person who violates any of the provisions of this
23 article is guilty of a misdemeanor and, upon conviction thereof,

1 shall for the first offense be fined not less than \$200 nor more
2 than \$1,000 and upon conviction of each subsequent offense shall be
3 fined not less than \$400 nor more than \$2,000.

4 (2) If a person knowingly sells, offers for sale or
5 distribution, or attempts to sell, offers for sale or distribution
6 of a carcass, meat product or poultry product that is contaminated
7 with pathogenic microorganisms or otherwise adulterated, the person
8 is guilty of a misdemeanor and, upon conviction thereof, shall be
9 fined not less than \$5,000 nor more than \$10,000 upon conviction of
10 each offense.

11 (b) Civil penalties.

12 (1) Any slaughterer, processor or distributor who violates any
13 of the provisions of this article or regulations adopted hereunder
14 may be assessed a civil penalty by the commissioner. In
15 determining the amount of any civil penalty, the commissioner shall
16 give due consideration to the history of previous violations; the
17 seriousness of the violation, including any hazards to the health
18 and safety of the public; and the demonstrated good faith efforts
19 by the charged party to ensure that similar violations do not
20 recur.

21 (2) The commissioner may assess a penalty of not more than
22 \$500 for a first violation and not more than \$1,000 for each
23 subsequent violation.

24 (3) The civil penalty is payable to the State of West Virginia

1 and may be collected in any manner for collection of debt to the
2 state. If a person assessed a civil penalty pursuant to this
3 subsection neglects or refuses to pay, the amount of that penalty,
4 together with interest calculated at ten percent per annum, may be
5 filed as a lien in favor of the state upon any and all property of
6 the person, both real and personal. The lien shall be recorded in
7 the records kept in the office of the county clerk in the county
8 wherein the violation occurred. The county clerk in the recording
9 county shall enter the same to record without requiring payment of
10 recording fees as a condition precedent to the recording. A notice
11 of the lien shall be mailed or delivered to the person against
12 whose property the lien has been placed. All penalties, together
13 with any interest, collected by the state, pursuant to this
14 subsection, shall be deposited in the General Revenue Fund.

15 (4) Notwithstanding any other provision of the law to the
16 contrary, the commissioner may enter into consent agreements or
17 negotiated settlement agreements for the civil penalties assessed
18 pursuant to this subsection.

19 (5) No state court may allow the recovery of damages for
20 administrative action taken by the commissioner if the court finds,
21 as a matter of law, that there was probable cause for such action.

22 (6) Any person who knowingly sells, or offers for sale or
23 distribution, a meat product or poultry product with product
24 labeling that incorrectly identifies the source animal or animals

1 from which the product is derived shall be assessed a civil penalty
2 of not more than \$10,000 per each unit of the product that is sold
3 or offered for sale or distribution.

NOTE: The purpose of this bill is to provide a civil penalty of not more than \$10,000 per each unit of a meat or poultry product knowingly sold, or offered for sale or distribution, with product labeling that incorrectly identifies the source animal or animals from which the product is derived.

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