

# State of Wisconsin



1995 Assembly Bill 483

Date of enactment: **June 24, 1996**

Date of publication\*: **July 8, 1996**

## 1995 WISCONSIN ACT 450

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

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

**SECTION 1.** 93.07 (24) (a) of the statutes is amended to read:

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

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

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

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

**SECTION 2.** 93.07 (24) (b) of the statutes is repealed.

**SECTION 3.** 95.001 (1) (am) of the statutes, as affected by 1995 Wisconsin Act 79, is amended to read:

95.001 (1) (am) "Net salvage value" means the salvage value of an animal plus any federal indemnity paid for the animal.

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

95.21 (4) (b) *Sacrifice of other animals.* An officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies. If livestock Except as provided in s. 95.36, if an animal of a species raised primarily to produce food for human consumption is killed under this paragraph, the owner is eligible for an indemnity payment in an amount equal to the indemnity provided under this chapter for livestock destroyed because of unknown or unidentified diseases s. 95.31 (3). If the decision is made by an employee of the department, the indemnity shall be paid from the appropriation under s. 20.115 (2) (b). If the decision is made by another officer, the indemnity shall be paid from the dog license fund.

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

\* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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

**SECTION 6.** 95.26 (5m) of the statutes is created to read:

95.26 (5m) (a) The department may obtain blood or tissue samples from swine and farm-raised deer to test for brucellosis.

(b) The department may condemn swine and farm-raised deer that are reactors to the brucellosis test and may quarantine the herd from which the reactors come.

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

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

**SECTION 8.** 95.27 (4) of the statutes is amended to read:

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

**SECTION 9.** 95.31 (2) of the statutes is amended to read:

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

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

**SECTION 10.** 95.31 (3) of the statutes, as affected by 1995 Wisconsin Act 79, is amended to read:

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

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

95.31 (4) In the event of a major or serious outbreak of dangerous diseases affecting the health of domestic animals requiring special control measures, the department may request the joint committee on finance to release funds appropriated under s. 20.115 (2) (b) as needed to conduct emergency control programs independently or in cooperation with federal or local units of government and, ~~subject to s. 95.36,~~ to pay indemnities on animals of species raised primarily to produce food for human consumption, including farm-raised deer, condemned and slaughtered or destroyed under the emergency control programs. For all indemnities paid under this subsection, the state shall pay two-thirds of the difference between the net salvage value and the appraised value of an animal, except that no payment may exceed ~~the maximum amount prescribed by the department for the species type of the destroyed animal~~ \$1,500 for an animal.

**SECTION 12.** 95.32 of the statutes is repealed and recreated to read:

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

(2) Except as provided in sub. (3), the appraised value for an animal that is of an animal type that is frequently sold at public auction shall equal the average price paid for a commercial grade animal of the same animal type

at public auction sales during a period specified by the department.

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

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

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

(b) The department shall promulgate rules specifying the period of public auction sales that will be used in the appraisal of each animal type to which sub. (2) applies. The period may not begin more than 6 months before the date on which the department makes the appraisal.

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

**SECTION 13.** 95.35 (1) and (2) of the statutes are repealed.

**SECTION 14.** 95.35 (3) of the statutes is amended to read:

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

**SECTION 15.** 95.35 (4) of the statutes is repealed.

**SECTION 16.** 95.35 (5) of the statutes is repealed.

**SECTION 17.** 95.37 (1) of the statutes is amended to read:

95.37 (1) Claims against the state arising from the condemnation of animals shall be made by delivering to the department, to be forwarded to the department of administration, ~~a copy of the condemnation notice, and of the notice to the circuit court and return of the appraisers certified by the court request,~~ giving the name and place

of residence of the owner, the date on which such ~~the~~ animals were condemned and the tag number of each animal, and also a statement of the salvage received and of the sum due from the state and any additional information as ~~that~~ the department requires. ~~If the value was fixed by agreement the claim shall be made by delivering to the department to be forwarded to the department of administration the agreement or a sworn copy thereof and a statement of the salvage received and of the amount due from the state and any additional information demanded.~~ The department shall promptly transmit all claims to the department of administration and accompany the same with a report of the sum due from the state and thereupon the claims may be audited and paid.

**SECTION 18.** 95.64 of the statutes is repealed.

**SECTION 19.** 95.65 of the statutes is repealed.

**SECTION 20.** 95.66 of the statutes is repealed.

**SECTION 21.** 95.99 (3) of the statutes is created to read:

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

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

(1) ANIMAL DISEASE INDEMNITY. The treatment of sections 95.001 (1) (am), 95.21 (4) (b), 95.25 (5), 95.26 (5m) and (7), 95.27 (4), 95.31 (2), (3) and (4), 95.32, 95.35 (1), (2), (3), (4) and (5) and 95.37 (1) of the statutes first applies to animals for which a condemnation order is issued on the effective date of this subsection.

**SECTION 23. Effective dates; agriculture, trade and consumer protection.**

(1) ANIMAL DISEASE INDEMNITY. The treatment of sections 95.001 (1) (am), 95.21 (4) (b), 95.25 (5), 95.26 (5m) and (7), 95.27 (4), 95.31 (2), (3) and (4), 95.32, 95.35 (1), (2), (3), (4) and (5) and 95.37 (1) of the statutes and SECTION 22 (1) of this act take effect on the first day of the 16th month beginning after publication.