NYS DEPT. OF AGRICULTURE & MARKETS
Division of Animal Industry
10B Airline Drive
Albany, NY 12235

ARTICLE 5

DISEASES OF DOMESTIC ANIMALS
CALVES AND VEAL
PURE BRED STOCK AND CERTIFICATES OF REGISTRY

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DISEASES OF DOMESTIC ANIMALS;CALVES AND VEAL; PURE BRED STOCK; CERTIFICATES OF REGISTRY.

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§ 72. Control and suppression of disease. 1. The commissioner may cause investigations to be made as to the best method for the control, suppression or

eradication of infectious or communicable disease affecting domestic animals or carried by domestic animals and affecting humans. Whenever any infectious or communicable disease affecting domestic animals or carried by domestic animals and affecting humans shall exist or shall have recently existed outside this state, the commissioner shall take measures to prevent such disease from being brought into the state. Whenever any such disease shall exist or be brought into or break out in this state, the commissioner shall take measures promptly to suppress the same and to prevent such disease from spreading.

2. He may issue and publish a notice stating that a specified infectious or communicable disease exists, may exist or has recently existed in the state, or in any designated county or other geographical district thereof, and warning all persons to seclude, in the premises where they maybe at the time, all animals within this state, or within such county or district, or an adjoining county or district, that are of a kind susceptible to contract such disease; and ordering all persons to take such precautions against the spreading of the disease as the nature thereof may, in his judgment, render necessary or expedient and which he may specify in such notice. Such notice shall be published in such manner as the commissioner may designate. The commissioner may cause such notice to be posted on buildings where animals are harbored which are believed to be diseased or exposed to disease, or on poles, gates or fences within an area in which diseased or exposed animals are harbored or kept. No person shall tear down, mutilate, deface or destroy any such notice or order issued by the commissioner and posted, as provided herein, during the pendency of such notice or order. The commissioner may alter or modify, from time to time, as he may deem expedient, the terms of any notice or order issued or made pursuant to this article and may at any time cancel or withdraw the same.

3. The commissioner may adopt and enforce rules and regulations for the control, suppression or eradication of communicable diseases in domestic animals or for the purpose of preventing the spread of infection and contagion among such animals, or from such animals to humans, and may, in behalf of the state, accept, in whole or in part, rules and regulations adopted by the secretary of agriculture of the United States under any act of congress providing for the control, suppression or eradication of communicable diseases in domestic animals. The commissioner may cooperate with the authorities of the United States government within this state in the carrying out of such rules and regulations and the enforcement of the provisions of any such act so passed which are not in conflict with the statutes of this state. Whenever the commissioner finds that an emergency situation exists in relation to the prevention or control of communicable disease among domestic animals, or from such animals to humans, the commissioner may by regulation require that all domestic animals of any designated species be immunized against any designated disease. Such regulations may specify the immunizing agent to be used and the method of immunization. The regulations may prescribe that such immunization shall be performed by the agents of the department or require that all owners or harborers of the designated species shall cause such immunization to be performed by a licensed veterinarian.

4. Whenever a program for the control, suppression or eradication of a disease of domestic animals has been adopted and instituted by the commissioner pursuant to this article, the owner or harborer of each domestic animal of the species involved shall, on or at the premises where such animal is kept, present and restrain such

animal for tests, examination, immunization, or identification at such times as the commissioner on not less than forty-eight hours notice shall direct.

§ 72-a. Feeding of garbage, offal or carcasses to cattle, swine or poultry prohibited. 1. Garbage fed to cattle, swine or poultry contributes to the spread of vesicular exanthema, cholera, erysipelas, foot and mouth disease, trichinosis and other infectious animal diseases. Meat from animals so afflicted, when consumed by human beings, is a primary source of trichinosis and other human sickness. It is therefore declared to be the public policy of this state to prohibit the feeding of garbage, offal or carcasses to cattle, swine or poultry to assist in the eradication of animal diseases and for the protection of the public health and public welfare.

2. Definitions. When used in this section:

a. "Garbage" means putrescible animal and poultry wastes from the handling, processing, preparation, cooking and consumption of foods.

b. "Offal" means the waste parts of butchered animals or poultry.

c. "Carcasses" means the dead bodies of animals or poultry.

d. "Person" means any individual, firm, partnership, public or private corporation, public or private institution, public authority, municipal corporation and the state.

e. Notwithstanding anything in the preceding paragraphs of this subdivision to the contrary, animal feeds which have been heat rendered by a rendering plant at a temperature sufficient to make the product commercially sterile shall not be considered garbage, offal or carcasses within the meaning of this section.

3. a. It shall be unlawful for any person to feed garbage, offal, or carcasses, whether cooked or uncooked, to cattle, swine or poultry.

b. This section shall not apply to any individual who feeds garbage from his own household only, to cattle, swine or poultry on his own premises.

c. Violation of this section shall constitute a class A misdemeanor.

§ 73. Report of disease. Every person shall immediately report to the commissioner the existence among animals of any infectious or communicable disease coming to his knowledge. Every report shall be in writing and shall include a description of the diseased animal or animals, the location thereof, the name of the disease suspected, and, if known, the name and address of the owner or person in charge of such animal or animals.

§ 73-a. Unlawful sale of tuberculous cattle. A person who knowingly sells, except under the supervision of the commissioner of agriculture and markets, any bovine animal in which tuberculosis shall have been indicated as a result of the tuberculin test, is guilty of a misdemeanor.

§ 73-b. The New York state veterinary diagnostic laboratory. 1. The commissioner is authorized to establish and maintain, by contract or otherwise, a New York state veterinary diagnostic laboratory and to contract for other diagnostic services, as he or she may deem necessary or beneficial, to improve the health of

food and fiber producing animals, companion animals, sport and recreational animals, exotic animals and wildlife.

2. The New York state veterinary diagnostic laboratory shall:

(a) evaluate domestic and wild animal populations for evidence of disease agents that may cause human disease;

(b) maintain capability to respond to disease outbreaks in animals;

(c) establish diagnostic testing capabilities to establish herd health status and evaluation of disease programs;

(d) support disease surveillance and monitoring programs of domestic, zoo and wild animals;

(e) support veterinarians by analyzing and interpreting samples obtained from clinical cases; and

(f) evaluate, adjust and improve New York's ability to recognize diseases that impact animal populations.

3. "The New York state veterinary diagnostic laboratory advisory board" is hereby created. Such board shall be composed of ten members, as follows:

(a) the commissioner or his or her designee;

(b) the commissioner of environmental conservation or his or her designee;

(c) the commissioner of health or his or her designee;

(d) the dean of the New York state college of agriculture and life sciences or his or her designee;

(e) the director of the division of animal industry of the department;

(f) the director of the New York state veterinary diagnostic laboratory, who shall serve as a non-voting member;

(g) one member to be appointed by the governor, upon recommendation by the commissioner, from nominations received from the animal health issues committee;

(h) one member to be appointed by the governor, upon recommendation by the commissioner, from nominations received from a statewide organization representing dairy producers;

(i) one member to be appointed by the governor, upon recommendation by the commissioner, from nominations received from a statewide organization representing veterinarians licensed in this state; and

(j) one member to be appointed by the governor, upon recommendation by the commissioner, from nominations received from a statewide organization representing agricultural interests.

4. The appointed members of the veterinary diagnostic laboratory advisory board shall be appointed for a term of three years and may serve until their successors are chosen provided, however, that of the members first appointed, two shall be appointed for a term of one year, one shall be appointed for a term of two years and one shall be appointed for a term of three years. Members shall serve without salary, but shall be entitled to actual expenses incurred while engaged in performing the duties herein authorized.

5. The advisory board, which shall be chaired by the commissioner, shall:

(a) evaluate and prioritize the veterinary diagnostic laboratory needs of industry, government and consumer entities;

(b) provide advice and recommendations to the dean of the New York state college of veterinary medicine for strategic direction of diagnostic laboratory services;

(c) make recommendations to the dean regarding appointment of the director of the laboratory; and

(d) assess the feasibility of the consolidation, expansion and modernization of the current physical facilities of the laboratory.

6. A New York state animal health issues committee is hereby created. Such committee shall be composed of not more than fifteen members, as follows:

(a) a representative of Cornell cooperative extension;

(b) a representative of the New York state college of agriculture and life sciences;

(c) the federal veterinarian in charge of the New York area;

(d) the director of the division of animal industry of the department;

(e) a representative of the department of environmental conservation;

(f) a representative of the department of health; and

(g) additional members appointed by the governor, upon recommendation by the commissioner, representing groups including, but not limited to: livestock producers, private veterinary practitioners, allied agricultural industries, companion and sport organizations, public health organizations and wildlife/exotic animal organizations.

7. The appointed members of the animal health issues committee shall be appointed for a term of three years and may serve until their successors are chosen provided, however, that of the members first appointed, not more than four shall be appointed for a term of one year, not more than three shall be appointed for a term of two years and not more than three shall be appointed for a term of three years. Members shall serve without salary, but shall be entitled to actual expenses incurred while engaged in performing the duties herein authorized.

8. The chair of the New York state animal health issues committee shall be elected from the committee membership.

9. The New York state animal health issues committee shall provide advice and recommendations to the director of the diagnostic laboratory regarding industry needs and the effectiveness of veterinary diagnostic laboratory services.

10. The director of the New York state veterinary diagnostic laboratory shall be appointed by the dean of the college of veterinary medicine, after consultation with the advisory board. The dean shall provide direction and guidance to the director to ensure that the resources of the college of veterinary medicine are integrated with those of the laboratory to meet current and anticipated industry, state and consumer needs for diagnostic services.

§ 74. Regulations relating to importation. The following regulations shall apply to the importation of domestic or feral animals:

1. No person shall knowingly bring into this state any domestic or feral animal which has an infectious or communicable disease, except in the case of pure bred registered bovine animals which have been removed from this state and have reacted to the tuberculin or other recognized test subsequent to such removal, may be returned to this state upon written permission from the commissioner subject to such rules as he may prescribe in relation thereto.

2. Any person bringing into this state domestic or feral animals for any purpose other than immediate slaughter without taking precaution to ascertain whether such animals have an infectious or communicable disease shall be presumed to have brought them in knowingly in violation of this section, if they are found to have such disease.

3. Animals received from outside the state under the supervision of the United States department of agriculture or the department of agriculture and markets of the state of New York, or for which a permit or certificate shall have been issued by either of such departments, shall be deemed to have been handled with due precaution.

4. Any person importing or bringing into this state meat cattle for dairy or breeding purposes shall report immediately upon bringing such cattle into the state to the department, in writing, stating the number of cattle thus brought in, the places where they were procured, the lines over which they were brought, their destination within the state and when they arrive thereat; and if there be filed with the department at the time of filing such report or within ten days thereafter, a certificate by a duly authorized veterinary practitioner approved by the authorities of the state in which he resides or by an authorized veterinary inspector of the United States bureau of animal industry to the effect that he has duly examined such animals and that they are free from any infectious or communicable disease, the commissioner may issue a permit to such person to remove such cattle immediately. Otherwise such person shall detain such animals at the point of destination for at least twenty days for inspection or examination by the commissioner or his duly authorized agent. The provisions of this subdivision relating to advance reports to the department shall not apply to cattle imported into this state at a point where there is federal inspection.

5. Persons bringing into this state or receiving domestic or feral animals from without the state shall give such other information to the department as it may from time to time request relating to such animals.

6. The commissioner may order all or any animals coming into the state to be detained at any place or places for inspection and examination, and if any of them after due examintion be found affected with any infectious or communicable disease, such animals shall be condemned and slaughtered or held in strict quarantine.

7. Each animal brought into the state in violation of any of the provisions of this article shall constitute a separate and distinct violation.

8. Nothing contained in this section shall be construed to prevent or make unlawful the transportation of domestic or feral animals through this state on railroads or boats.

9. The commissioner is hereby authorized, after public hearing, to adopt and promulgate rules and regulations to implement and give full effect to the provisions of this section, including rules and regulations requiring a permit for the importation of domestic or feral animals into the state.

10. For the purposes of this section, a feral animal shall mean an undomesticated or wild animal.

§ 75. Sanitary regulations. The commissioner may adopt and enforce rules regulating the sanitation and physical requirements of stables, livestock auction buildings or other buildings used for the housing of domestic animals for the purpose of preventing the spread of infection and contagion among such animals and may provide for the inspection and examination of such stables and buildings. The commissioner may adopt and enforce rules concerning the equipment for and the method of the sanitary production of milk and may provide for the examination and scoring of dairies in accordance with such rules. He may also prescribe such rules as may be necessary for disinfecting and cleaning premises, buildings, railway cars,

boats and other objects, from or by means of which infection or contagion of animals may be spread or conveyed. Vehicles used for the transportation of livestock shall be cleaned and disinfected at least weekly, or as otherwise directed by the commissioner, with a disinfectant approved by the commissioner. Vehicles used by a farmer in transporting his own livestock need not be cleaned and disinfected as prescribed by the preceding sentence unless directed by the commissioner.

§ 76. Quarantine on animals or premises. 1. The commissioner, any veterinarian in the employ of the department approved by the commissioner or any veterinarian in the employ of the United States department of agriculture who is working in this state in connection with disease control programs cooperatively conducted by the United States department of agriculture and the department may order any animal to be put in quarantine if such animal (a) is affected with communicable disease, (b) has been exposed to a communicable disease, (c) is believed to be suffering from or exposed to a communicable disease, or (d) is suspected of having biological or chemical residues in its tissues which would cause the carcass or carcasses of such animal, if slaughtered, to be adulterated within the meaning of this chapter, and may order any premises or farm where such disease or condition exists or shall have recently existed to be put in quarantine so that no domestic animal shall be removed from or brought to the premises quarantined during the time of quarantine. The commissioner shall prescribe such regulations affecting animals, persons or property as he may deem necessary or expedient to prevent the dissemination of the disease or condition from the premises so quarantined.

2. Any employee of the department so authorized by the commissioner may impose pursuant to subdivision one hereof a quarantine (a) upon cattle, swine or poultry whenever there is a reasonable cause to believe that such animals have been fed garbage, offal or carcasses in violation of section seventy-two-a of this chapter and (b) upon any horse required to have been tested in accordance with section ninety-five-c of this chapter if the custodian of such animal does not produce for examination a negative test certificate.

3. Whenever the owner of any bovine animal refuses or neglects to have any such animal tuberculin tested or whenever the owner of any domestic animal of a species for which a disease control program has been adopted and instituted by the commissioner pursuant to this article refuses or neglects to subject such animal to such tests or examinations as may have been established under such disease control program, the commissioner may order the premises or farm on which such animal is harbored to be put in quarantine so that no animal of the same species shall be removed from or brought to the premises quarantined, and so that no product of such animals on the premises so quarantined shall be removed from the said premises. Nothing provided in this section shall prevent the addition of new animals to a herd under quarantine or the removal for immediate slaughter of any animals from the premises or herd quarantined if such addition or removal is by written permission of the commissioner and pursuant to rules and regulations adopted by him.

§ 77. Examination by veterinarian prerequisite to destruction of animal. No animal shall be destroyed by the commissioner or by his order unless first examined by a veterinarian in the employ of the department, or whose work is

approved by the commissioner, nor until such veterinarian renders a certificate to the commissioner, to the effect that he has made such examination, that, in his judgment, such animal is infected with a specified infectious or communicable disease, or that its destruction is necessary in order to prevent or suppress, or to aid in preventing or suppressing such disease.

§ 78. Examination of domestic animals. 1. The commissioner shall cause a physical examination and a tuberculin test to be made by competent and authorized veterinarians of all bovine animals, irrespective of age or sex, and cause all such bovine animals to be subjected to periodic retests when deemed necessary by the commissioner. The commissioner may also cause a physical examination and a tuberculin test to be made by competent and authorized veterinarians of any domestic animal or herds of domestic animals, irrespective of age or sex, when deemed necessary in his or her judgment to prevent or suppress disease. If, from such examination or test, any animal be deemed by the commissioner to be infected with tuberculosis or any other communicable disease or its condition be such as to render it undesirable for the production of milk or meat, or a menace to the health of other animals or persons, such animal shall be immediately removed from the herd, slaughtered or otherwise disposed of as the commissioner may prescribe.

2. No person shall possess, maintain, transport, or otherwise handle farmed deer except under conditions by which such animals are biologically segregated from bovine animals in a manner prescribed by the commissioner, provided however that such separation shall not be required with respect to any farmed deer maintained under circumstances where contact with bovine animals would not pose a threat to the state's cattle population as determined by the commissioner pursuant to regulation. For purposes of this subdivision: (a) "farmed deer" shall mean members of family Cervidae which are raised or bred in confinement; and (b) "bovine animals" shall mean cattle and bison. This subdivision shall take effect on the one hundred eightieth day after it shall have become a law.

§ 79. Examination at request of owner; segregation; grading of herds. The owner of a herd of cattle kept for dairy or breeding purposes within the state may apply to the commissioner for examination of his herd by the tuberculin, or other approved tests, subject to the following regulations:

1. The application therefor shall be upon a blank form provided by the commissioner and shall include an agreement on the part of the owner of the herd to improve faulty sanitary conditions, to disinfect his premises if diseased cattle be found, and to follow directions of the commissioner designed to prevent the reinfection of the herd and to suppress the disease and prevent the spread thereof.

2. The commissioner shall cause such cattle to be examined accordingly, subject to the provisions of this article, and if any animal responds to such test, he may cause it to be slaughtered or held in strict quarantine.

3. If after examination an animal be found to be suffering from tuberculosis such animal shall be slaughtered under the provisions of this article, or the commissioner may enter into a written agreement with the owner for keeping such animal in segregation or the commissioner may, if the condition of such animal

warrants it, consign such animal to any one of the experiment stations or farms owned or controlled by the state, or by any county of the state, or to the farms of such public institutions in the state as the commissioner shall approve, or to hospitals, sanitariums or other institutions existing in whole or in part for the purpose of suppressing tuberculosis, there to be kept and used for breeding, dairy or experimental purposes under regulations to be prescribed by the commissioner.

4. Subject to the rules of the commissioner, an animal found to be diseased after such examination may continue to be used for breeding purposes, but the milk from such animal shall not be used for any purpose until pasteurized at such temperature and for such period as the commissioner may prescribe.

5. The young of any such diseased animal shall immediately be separated from its mother and shall not be permitted to receive or be fed the milk from such affected animal until such milk has been pasteurized as provided in subdivision four of this section.

6. The commissioner may make rules for classifying herds tested under this section and for the purpose of giving recognition to herds which are in a healthy condition, he is hereby authorized to issue such certification as he may deem proper in relation to such herds. If such rules and such certification provide for periodical retests of accredited herds, or other herds not yet accredited, the cost of such retests, after January first, nineteen hundred and thirty, shall be borne by the state and there shall be appropriated annually to the department a sum sufficient to defray the expense of the veterinary service for such required retests.

§ 80. Certificate to healthy herds. For the purpose of giving recognition to other than segregated herds which are certified to him, after competent examination satisfactory to him, to be in a healthy condition, the commissioner is hereby authorized to issue such certificates as he may deem proper to the owner of such herd; to use such terms to designate such herds as will harmonize with federal designations of such herds and to adopt such rules as he may deem proper for the tagging, branding or marking of any animal or animals affected or believed to be affected with any communicable disease, or exposed thereto. In the event that such animals are branded it shall not be construed as cruelty to animals within the meaning of article twenty-six of this chapter.

§ 81. Sale, removal or slaughter of animals affected with tuberculosis. No animal showing physical evidence of tuberculosis or in which such disease shall have been indicated as a result of the tuberculin test shall be sold, except under the supervision of the commissioner. No such animal shall be removed from the premises where examined, or from any other premises, except upon the written permission of the commissioner. No such animal shall be slaughtered except under the supervision of a veterinarian designated by the commissioner as provided in section eighty-six of this chapter.

§ 82. Appraisers. The commissioner may employ from time to time appraisers of condemned animals. The chief or any assistant veterinarian shall have all the powers of any appraiser of condemned animals under this article.

§ 83. Appraisal of diseased animals. Each animal directed to be slaughtered shall be appraised at its market value. The appraiser shall make and transmit to the commissioner a certificate of appraisal and shall deliver to the owner a copy of such appraisal certificate. If the owner is dissatisfied with the amount of the appraisal he may, within ten days after the delivery of the copy of appraisal certificate, make written application to the commissioner for a review of the appraisal. Upon receipt of such application, the commissioner shall cause an investigation to be made as to the market value of the animals referred to in the application for a review. Upon completion of such investigation, the commissioner shall render a decision either confirming the appraisal or modifying it by an increase or a decrease of the amount of the appraisal as justice may require, and shall state in his decision the reasons therefor and shall transmit a copy of the decision to the owner. The decision of the commissioner may be reviewed by a proceeding under article eight of the civil practice law and rules.

§ 85. Destruction of animals; disposition of carcasses. The commissioner may prescribe rules for the destruction of animals affected with infectious or communicable disease, and for the proper disposal of their hides and carcasses and all objects which might carry infection or contagion. Whenever in his judgment necessary for the more speedy and economical suppression or prevention of the spread of any such disease he may cause to be slaughtered and afterward disposed of, in such manner as he may deem expedient, any animal or animals which by contact or association with diseased animals or other exposure to infection or contagion may be considered or suspected to be liable to contract or communicate the disease sought to be suppressed or prevented. The commissioner may seize and cause to be destroyed a carcass or any portion thereof affected with any communicable disease.

§ 86. Post-mortem examination of animals. The carcass of every animal duly condemned and killed under the provisions of this article shall be examined by a veterinarian designated by the commissioner for the purpose of determining whether or not disease existed in such animal and the person making the examination shall file promptly with the commissioner a report of the examination, in a form prescribed by the commissioner; but such an examination, and the filing of such a report thereof, by an inspector of the United States government engaged in meat inspection service may be accepted by the commissioner in lieu of an examination and report by a designated veterinarian.

§ 87. Payments for animals killed. The commissioner shall determine all claims which may be presented to him for indemnity to owners of animals killed by the state under the provisions of this article, and shall file in his office a certificate of his determination and, provided the claim is determined complete, shall within five days of having received the claim, issue his order for the amount due to the comptroller for payment. All claims allowed shall bear interest computed as provided in section

one hundred seventy-nine-g of the state finance law. A claim shall be considered an invoice within the meaning of the provisions of article eleven-A of the state finance law. Anyone having a right of reimbursement pursuant to the provisions of this article shall be deemed to be a "contractor" having a "contract" with a "state agency" as such terms are defined in section one hundred seventy-nine-e of the state finance law. The commissioner shall issue his order for the amount due as determined by the certificate, which amount shall be paid from the treasury, on the warrant of the comptroller, out of moneys appropriated therefor.

§ 87-a. Domestic fowl and fertile eggs thereof. Domestic fowl and fertile eggs of domestic fowl are included within the meaning of the words "animal" and "domestic animal" as used in sections seventy-two, seventy-three, seventy-four, seventy-five, seventy-six, seventy-seven, eighty-two, eighty-three, eighty-five, eighty-six and eighty-seven of this article.

§ 88. Indemnity. The following provisions shall govern the payment of indemnity to owners of animals killed pursuant to the provisions of this article:

1. In the case of a bovine animal so killed to prevent the spread of tuberculosis, the owner shall be entitled to receive the net proceeds of the sale of the animal, and in addition thereto shall be paid indemnity in a sum sufficient to secure to the owner the full appraised value of the animal, but not exceeding the sum of six hundred dollars for a registered pure bred animal or for a pure bred animal less than three years of age, not registered but eligible for registry, for which a reasonable time shall be granted for the presentation of registration papers to the department, and not exceeding the sum of five hundred dollars for any other bovine animal. In the case of a pure bred animal three years of age or over not registered at the time of appraisal, such animals shall be appraised at grade value, and in computing indemnity to be paid for such animal any other appraised value shall be excluded. The total amount receivable by the owner from the net proceeds of the sale of the animal and indemnity from the federal government and indemnity from the state shall, in every case except as otherwise specifically limited by this subdivision, equal but not exceed the full appraised value of the animal. If a bovine animal for which indemnity has not been paid is slaughtered at an establishment under state or federal meat inspection and the carcass thereof is found upon post mortem examination and laboratory analysis to contain tubercular lesions and such carcass is condemned and destroyed pursuant to state or federal regulations, the owner thereof shall be entitled to receive as indemnity four hundred dollars for carcasses weighing four hundred pounds or less, and six hundred dollars for carcasses weighing more than four hundred pounds.

2. No indemnity shall be paid to any person who shall have made any false representation, oral or written, in applying to the commissioner for an examination of his or her animals, or who shall have violated any agreement with the state regarding such animals, entered into pursuant to a provision of this chapter, or who shall have failed to comply with any instructions or directions given by the commissioner in respect to the control or eradication of any infectious or communicable diseases among animals, or who shall have failed to comply with any provision of this article or rule or regulation promulgated pursuant to such article, relating to the prevention,

control, suppression or eradication of such disease; provided that indemnity may be allowed when payment is deemed by the commissioner to further the public interest in preventing, controlling, suppressing, or eradicating the disease with respect to which indemnity is sought.

3. If upon post-mortem examination of an equine animal evidence of glanders be found, and such animal shall not have exhibited physical symptoms of such disease, indemnity equal to ninety per centum of the appraisal value, or so much thereof as shall not exceed the sum of one hundred and twenty-five dollars, shall be paid. If the animal shall have exhibited such physical symptoms of glanders, indemnity equal to twenty-five per centum of the appraised value, or so much thereof as shall not exceed the sum of one hundred and twenty-five dollars, shall be paid.

4. No indemnity shall be paid unless the animal, if an equine, shall at the time ordered destroyed, have been within the state of New York for at least twelve months; and if a bovine shall at the time ordered destroyed have been within the state for at least three months, except that in the discretion of the commissioner, indemnity may be paid for a bovine which has not been within the state three months, provided that the animal at the time of entry into the state was accompanied by a tuberculin test chart, authenticated by the chief livestock sanitary official by whatever name known of the state or province from which the animal was brought, showing that the animal had originated in a herd under official supervision, and that such herd, including the animal in question, had been subjected to a tuberculin test under the regulations of the accredited herd plan and had passed such test negatively within one year preceding the order of destruction.

5. If animals are slaughtered or property destroyed by order of the commissioner to control, suppress or eradicate the disease known as aphthous fever, or foot and mouth disease, compensation shall be made to the owners of the animals slaughtered or the property destroyed, but not more than two hundred dollars shall be paid on account of any bovine animal.

6. In the case of any poultry, or all or part of any flock which has been exposed to salmonella enteritidis and which the commissioner has ordered to be slaughtered pursuant to section eighty-five of this chapter, the owner shall be entitled to receive, within the amount appropriated for such purpose, indemnity for each poultry, in a sum equal to the full appraised value of the poultry, or to not more than three dollars per poultry, whichever is less. Final payment of state monies due to the owner of poultry slaughtered as set forth in this subdivision shall be made within sixty calendar days after the order is signed by the commissioner. In the event payment is not made within such period, interest thereafter at the rate of eight per centum per annum on the amount of the said monies owed shall be paid to the owner in a single lump sum calculated from the end of the sixty day period until the final payment is made.

7. In the case of any farmed deer, or all or part of any herd which has been exposed to tuberculosis and which the commissioner has ordered to be slaughtered pursuant to sections eighty-one and eighty-five of this article, the owner shall be entitled to receive the net proceeds of the sale of the animal, and in addition shall be paid indemnity in the sum sufficient to secure to the owner the full appraised value of the animal, but not exceeding the sum of two hundred fifty dollars. The total amount receivable by the owner from the net proceeds of the sale of the animal and indemnity from the federal government and indemnity from the state shall, in every case except as otherwise specifically limited by this subdivision, equal but not exceed

the full appraised value of the animal. Indemnity payments shall be subject to the provisions set forth in section eighty-seven of this article. The amount of indemnity payments made by the state for testing and owner indemnification related to tuberculosis in animals by the department shall be limited to the amount of funds appropriated for such purposes by the legislature, and, notwithstanding any other provision of law to the contrary, shall represent fulfillment of the state's obligation for this program. For purposes of this subdivision, the term "farmed deer" shall mean members of family cervidae which are raised and bred in confinement.

§ 89. Control of vaccines, serums and other preparations. For the purpose of detection, prevention, control or eradication of infectious or contagious diseases of domestic animals and fowls, the commissioner may make such exemptions and promulgate such orders, rules and regulations as he may deem necessary for the proper control, use, and distribution of any and all therapeutic preparations of microbiological origin used in the detection, prevention, control or eradication of such diseases within the state. The following provisions shall govern the disposition and use of such preparations.

(1) Such preparations used, sold, or given away in this state shall be labeled in conformity with the provisions of the federal virus-serum-toxin act of nineteen hundred thirteen, and any act or acts amendatory thereof or supplemental thereto.

(2) No person shall falsely label or mark any package or container of any such preparation, or alter any label or mark on any package or container of such preparation so as to falsify such label or mark.

(3) Such preparations, except those prepared by a federal or a designated state agency, prepared within or brought into the state to be retained, sold or given away within the state, for use in the detection, prevention, control or eradication of infectious or contagious diseases of domestic animals or fowls, or for the administration thereto for whatever purpose, shall be reported to the commissioner unless exempted by him. Such reports shall be made by the individual, firm, corporation or institution preparing or selling such preparations within the state, or receiving such preparations within the state to be retained, sold or given away. The reports shall show the character and purpose of the preparation, the quantity, the name and address of the manufacturer and the name and address of the person or firm to whom the product was sold or given away.

(4) Except by permission of the commissioner, the sale, or gift, or use of such preparations shall be confined to legally qualified veterinarians.

(5) Legally qualified veterinarians using such preparations, except those preparations exempted by the commissioner, in the detection, prevention, control, or eradication of infectious or contagious diseases of domestic animals or fowls shall make a report of such use to the commissioner immediately after the application or administration of such preparation. The report shall include the name and address of the owner or custodian of the animals, the character and purpose of the preparation employed, the amount used, and, if required by the commissioner, the identification of each animal and/or other necessary information.

(6) No person shall treat with or inject into any domestic animal any preparation, material or substance for the purpose of or with the effect of fraudulently interfering in any manner with a normal reaction to an officially prescribed test.

(7) No veterinarian shall certify or make a statement showing or tending to show that any domestic animal has been tested or examined and found free from an infectious or contagious disease, unless such certification shall show the character of the test, and bear a statement that the test was made by an officially accepted method, and that upon such test or examination the animal failed to give evidence of such disease.

§ 90. Examination of cattle for Bang's disease. 1. The commissioner, within the amounts appropriated for such purpose, may cause an appropriate test for ascertaining the presence or absence of bovine infectious abortion, commonly known as and hereafter termed "Bang's disease," to be made by competent and authorized veterinarians and cause such bovine animals to be subjected to periodic retests when deemed necessary by the commissioner. If, from such examination or test, any animal be deemed by the commissioner to be infected with Bang's disease and its condition be such as to render it undesirable for the production of milk or a menace to the health of other animals or persons, such animal may be immediately removed from the herd, slaughtered or otherwise disposed of as the commissioner may prescribe.

2. If after examination an animal be found to be suffering from Bang's disease such animal may be slaughtered under the provisions of this section, or the commissioner may enter into a written agreement with the owner for keeping such animal in segregation, or the commissioner may, if the condition of such animal warrants it, consign such animal to any one of the experiment stations or farms owned or controlled by the state, or by any county of the state, or to the farms of such public institutions in the state as the commissioner shall approve, or to hospitals, sanitariums or other institutions existing in whole or in part for the purpose of suppressing such bovine disease; there to be kept and used for breeding, dairy or experimental purposes under regulations to be prescribed by the commissioner.

3. No animal showing evidence of Bang's disease as a result of the official test shall be sold, except under the supervision of the commissioner. No such animal shall be removed from the premises where examined, or from any other premises, except upon the written permission of the commissioner. No such animal shall be slaughtered except under the supervision of a veterinarian designated by the commissioner as provided in section eighty-six of this chapter.

4. In the case of a bovine animal killed on account of positive reaction to Bang's disease, the owner shall, in the discretion of the commissioner, and within the amount appropriated for such purpose, be entitled to receive indemnity in a sum equal to seventy-five per cent of the difference between the full appraised value of the animal and the total of the amounts received by the owner from the federal government as indemnity and from the sale of the animal as salvage, but not exceeding the sum of one thousand five hundred dollars for a registered pure bred animal and not exceeding the sum of five hundred dollars for any other bovine animal. The commissioner may, in his discretion at the request of the owner, order the slaughter of non-reactor animals if he finds that they have been exposed to Bang's disease as a member of an infected herd and that the entire herd should be depopulated to control the spread of the disease. In such case, the owner shall be entitled to receive, within the amount appropriated for such purpose, indemnity in an amount equal to the difference between the full appraised value of the animal and the

total of the amounts received by the owner from the federal government as indemnity and from the sale of the animal as salvage, but not exceeding the sum of three hundred dollars for a registered pure bred animal or one hundred seventy-five dollars for any other bovine animal. The commissioner may, in his discretion, order the slaughter of any animal, or of all or part of any herd, which he finds has been exposed to Bang's disease by association with a positive reactor or by any other manner of exposure which he finds may make the animal or herd liable to contract or communicate the disease. In such case, the owner shall be entitled to receive, within the amount appropriated for such purpose, indemnity for each reactor animal and for each non-reactor animal as set forth in this subdivision unless the commissioner finds that such owner has failed to comply with any laws, rules or regulations relating to the control or eradication of brucellosis. Final payment of state moneys due the owner of animals slaughtered as set forth in this subdivision shall be made within sixty calendar days after the order is signed by the commissioner. In the event payment is not made within such period, interest thereafter at the rate of eight per centum per annum on the amount of the said moneys owed shall be paid to the owner in a single lump sum calculated from the end of the sixty day period until the final payment is made. For purposes of this section, the term "registered pure bred animal" shall include a pure bred animal less than three years of age, not registered but eligible for registry, for which application for registry has been duly made prior to the appraisal. Pure bred animals three years of age or over, not registered at the time of appraisal, shall be appraised at grade value.

5. No indemnity shall be paid unless the animal shall, at the time ordered destroyed, have been within the state for at least three months, and provided further that the animal came into the state in accordance with the then existing laws and regulations relative to Bang's disease.

6. The commissioner, within the limits of the amount appropriated for such purpose or purposes, may initiate an official program of calfhood vaccination, may cause blood samples to be taken, may have such samples tested, and may make necessary rules and regulations relative thereto, and provide for identifying and recording all vaccinated animals in order that all such animals may be properly and officially supervised. The commissioner may cooperate for such purpose or purposes with federal or county officials upon such terms as he approves.

§ 90-a. Declaration of policy and purposes. Infectious and communicable disease affecting domestic animals continues to exist in this state, and the existence thereof endangers the health and welfare of the people of the state. Despite the moneys spent to control, suppress and eradicate such infection and disease its incidence is the concern of the legislature. The powers of quarantine and condemnation held and exercised by the department of agriculture and markets tend to suppress but do not constitute an adequate control. It is hereby declared to be a matter of legislative determination that a more exacting supervision of those who as a business deal in, handle and transport domestic animals is needed in the public interest and that in the exercise of the police power such persons be required to hold a permit before engaging in such activities.

§ 90-b. Definitions. As used in this article unless otherwise expressly stated:

1. The term "wholesale cattle dealer" means any person who buys or sells cattle as a business enterprise. The term shall not include a person who buys or sells cattle as part of his or her own bona fide breeding, feeding or dairy operation, nor to a person who receives cattle exclusively for slaughter on his or her own premises.

2. The term "auctioneer" means a person who sells, or makes a business of selling cattle, swine or horses, at auction.

3. The term "auction" means a public sale of cattle, swine or horses to the highest bidder.

4. The term "horse" means the entire family of equidae.

5. The term "horse dealer" means any person who buys or sells horses as a business enterprise. This term shall not include a person who buys or sells horses as part of a bona fide breeding, farming or racing operation or for personal use by his or her own family nor to a person who receives horses exclusively for slaughter on his or her own premises.

6. The term "swine dealer" means any person who buys or sells swine as a business enterprise. The term shall not include a person who buys or sells swine as part of a bona fide breeding, feeding or farming operation, nor to a person who receives swine exclusively for slaughter on his or her own premises.

7. The term "swine" means the entire super family of suidoidae, both feral and domestic.

8. The term "cattle" means the entire family of bovidae.

9. The term "deer" means any member of the family of cervidae.

10. The term "deer dealer" means any person who buys and sells deer as a business enterprise. The term shall not include a person who buys and sells deer as part of a bona fide breeding, feeding or farming operation, nor to a person who receives deer exclusively for slaughter on his or her own premises.

11. The term "camelid" means the entire family of camelidae.

12. The term "camelid dealer" means any person who buys and sells camelids as a business enterprise. The term shall not include a person who buys and sells camelids as part of a bona fide breeding, feeding or farming operation, nor to a person who receives camelids exclusively for slaughter on his or her own premises.

13. The term "ear tag" means a unique, tamper-resistant device which, when affixed to the ears of cattle, deer, swine or camelid, identifies and distinguishes such animals.

14. The term "registration number" means the number assigned to and that identifies a particular domestic animal, which number and the identifying characteristics of such domestic animal are set forth in a registry maintained by a breed association recognized by the department.

15. The term "official backtag" means a unique device which, when affixed to cattle, deer, swine or camelid, identifies and distinguishes such animals.

16. The term "poultry" means a domesticated fowl including chickens, turkeys, waterfowl, guinea fowl and game birds commonly used for the production of meat and eggs. It does not include pigeons.

17. The term "poultry dealer" means any person who buys or sells poultry as a business enterprise. The term shall not include a person who buys or sells poultry as part of a bona fide breeding, feeding or farming operation, or a person who receives poultry exclusively for slaughter on his or her own premises.

18. The term "poultry transporter" means any person who transports poultry as a business enterprise. The term shall not include a person who transports poultry as

part of a bona fide breeding, feeding or farming operation, or a person who receives poultry exclusively for slaughter on his or her own premises, provided, however, that the term shall include any person who transports poultry to a live poultry market.

19. The term "live poultry market" means any premises where poultry are assembled and held for sale and slaughter. It does not include livestock auction buildings.

20. The term "goat" means any member of the genus capra.

21. The term "goat dealer" means any person who buys or sells goats as a business enterprise. The term shall not include a person who buys or sells goats as part of a bona fide breeding, feeding or farming operation, or a person who receives goats exclusively for slaughter on his or her own premises.

22. The term "sheep" means any member of the genus ovis.

23. The term "sheep dealer" means any person who buys or sells sheep as a business enterprise. The term shall not include a person who buys or sells sheep as part of a bona fide breeding, feeding or farming operation, or a person who receives sheep exclusively for slaughter on his or her own premises.

§ 90-c. Prohibitions. 1. It shall be unlawful for any person to purchase, or deal in, or sell cattle, swine, horses, deer, camelids, sheep, goats or poultry at wholesale, or for any person to operate or conduct an auction where cattle, swine, horses, deer, camelids, sheep, goats or poultry are sold, or for any person to transport poultry, unless such wholesale cattle, swine, horse, deer, camelids, sheep, goats or poultry dealer or auctioneer or poultry transporter holds a domestic animal health permit granted by the commissioner.

2. No person who holds or is required to hold a domestic animal health permit shall purchase, sell or otherwise deal in cattle, deer, swine, camelids, sheep or goats unless and until an ear tag is securely affixed to the ear of such animal or unless such animal is otherwise identified by a registration number, distinctive tattoo, electronic identification device or other unique permanent mark or, for an animal that is moved directly to slaughter, an official backtag.

3. No person shall deface, obliterate or remove an ear tag or other identification mark affixed to an animal under his or her control, or shall affix an ear tag to the ear of an animal that has previously been affixed to the ear of another animal.

§ 90-d. Application and permit fees. Application for an animal health permit shall be made to the commissioner. The application shall be on a form prescribed by the commissioner and shall be accompanied by an animal health permit fee of fifty dollars. The applicant shall satisfy the commissioner of his character and responsibility and shall set forth such information as the commissioner shall require regarding the past record of infection or contagion among domestic animals dealt in, or handled, or sold by him during the past five years. A permit shall be issued for a two year period and a renewal application shall be submitted to the commissioner on or before the thirtieth day prior to the expiration of the permit.

§ 90-e. Refusing and revoking permits. The commissioner after due notice and opportunity of hearing to the applicant or permittee may deny an application for or

revoke or refuse to renew a permit when he or she is satisfied that the applicant or permittee has:

1. violated the statutes of the state of New York or of the United States or the official regulations of the commissioner governing the interstate or intrastate movement, shipment or transportation of cattle or horses, swine, camelids, deer, sheep, goats or poultry;

2. made false or misleading statements in his or her application for an animal health permit or has made false or misleading statements as to the health or physical condition of cattle, horses, swine, camelids, deer, sheep, goats or poultry; regarding official tests;

3. knowingly sold for purposes other than slaughter cattle, horses, swine, camelids, deer, sheep, goats or poultry which were affected with a communicable disease;

4. failed to observe sanitary measures in barning, stabling premises or vehicles used for the stabling, holding or transportation of cattle, horses, swine, camelids, deer, sheep, goats or poultry;

5. engaged in a course of dealing of such a nature as to satisfy the commissioner of his or her inability or unwillingness properly to conduct the business for which an animal health permit has been issued;

6. been convicted of a felony;

7. had his or her animal health permit terminated or revoked;

8. ceased to operate the business for which the animal health permit was issued; or

9. failed to comply with any of the provisions of this chapter or the rules and regulations promulgated pursuant thereto.

§ 90-f. Proceedings to review. The action of the commissioner in denying an application or revoking an animal health permit may be reviewed in the manner provided by article seventy-eight of the civil practice law and rules and the decision of the commissioner shall be final unless within thirty days from the date of service thereof upon the applicant or permittee affected thereby the court proceeding is instituted to review such action. The pleadings upon which such review proceeding is instituted shall be served upon the commissioner or upon an assistant commissioner, personally, in the manner provided for the personal service of a summons in an action unless a different manner of service is provided in an order to show cause granted by a justice of the supreme court.

§ 90-g. Records. All records as now required by the commissioner respecting the health of domestic animals shall be continued and the commissioner may require such other and further records as from time to time may seem to him to be necessary or desirable in his enforcement of disease control.

§ 90-h. Violations; remedies. The commissioner may institute such action at law or in equity as may appear necessary to enforce compliance with any provision of the statutes, rules and orders committed to his administration in regard to animal health permits and infectious or communicable disease affecting domestic animals, and in addition to any other remedy under article three of this chapter or otherwise may

apply for relief by injunction if necessary to protect the public interest without being compelled to allege or prove that an adequate remedy at law does not exist. Such application may be made to the supreme court in any district or county as provided in the civil practice law and rules, or to the supreme court in the third judicial district.

§ 91. Hog cholera and pseudorabies control; indemnity. 1. The commissioner, to control, suppress or eradicate hog cholera and pseudorabies, may cause to be made appropriate examinations or tests for ascertaining the presence or absence of such diseases in swine. If, from such examinations or tests, any swine be found to be infected with or exposed to hog cholera or pseudorabies and such condition be such as to cause the swine to be a menace to the health of other animals the commissioner may order such swine to be immediately slaughtered or otherwise disposed of as he may prescribe.

2. No swine infected with or exposed to hog cholera or pseudorabies shall be sold or removed from the premises where examined, or from any other premises, except upon written permission of the commissioner. No swine so infected or exposed shall be slaughtered or killed except under the supervision of the commissioner.

3. The commissioner, within the appropriation for such purpose, may cause blood samples of swine to be taken and tested.

4. Swine killed on account of hog cholera or pseudorabies shall be appraised and indemnity shall be paid to the owner as provided in this article, except as otherwise specifically limited by this section. The owner shall be entitled to receive the net proceeds, if any, of the sale of the swine, and in addition thereto, within the appropriation for such purpose, shall be paid indemnity in a sum not exceeding one hundred dollars for a registered purebred, inbred or hybrid swine, and not exceeding forty dollars for any other swine. A purebred swine is any breeding swine upon which a certificate of pure breeding has been issued by a purebred swine association; an inbred or hybrid swine is any breeding swine upon which a certificate or registration has been issued by a recognized inbred or hybrid registry association. Certificates of pure breeding or registration for inbred or hybrid swine shall be presented at the time of appraisal or such swine will be appraised as grades, provided, however, that in the absence of such certificates or registrations the commissioner may grant a reasonable time for the presentation of such certificates or registrations to the appraiser. The total amount receivable by the owner from the net proceeds of the sale of the swine and indemnity from the federal government and indemnity from the state shall, in every case, except as otherwise specifically limited by this section, equal but not exceed the full appraised value of the swine.

5. The commissioner may adopt and enforce rules and regulations, and may cooperate with the authorities of the United States government and with local officials, to implement the provisions of this section.

§ 95. Protecting the breeding of pure bred stock. It shall be unlawful for any person or persons owning or in the possession of any bull of the age of more than six months, any stallion of the age of more than eighteen months, or buck or boar over five months of age, to suffer or permit such animal or animals to go, or range, or run at large on any lands or premises without the consent of the person entitled to the

possession of such land or premises. No right of action shall accrue under this section to any person who, being liable to contribute to the erection or repair of a division fence as required by the town law, shall neglect or refuse to make and maintain his proportion of such fence, or shall permit the same to be out of repair, for damages done by any animal described in this section coming, by reason of such defective fence, from adjoining lands where such animal was lawfully kept.

§ 95-a. Animal ear tags or other identification. A person who without authorization by the commissioner, (a) cuts out, removes, obliterates or destroys a New York state department of agriculture and markets official ear tag or other official New York state identification tag, device or mark on any cattle, camelid, deer, sheep, goats or swine, as defined in this article, other than such identification which may be used for the owner's own records in the state of New York, or (b) inserts or attaches to the ear of any cattle, camelid, deer, sheep, goats or swine, as defined in this article, in the state of New York a New York state department of agriculture and markets official ear tag or inserts in or attaches to any such animal any other official New York state identification tag, device or mark other than such identification which may be used for the owner's own records that has not been duly issued for said animal by the department is guilty of a misdemeanor.

§ 95-b. False pedigree of animals. Every person who by any false pretense shall obtain from any club, association, society or company for improving the breed of cattle, horses, sheep, swine or other domestic animals the registration of any animal in the herd register or other register of any such club, association, society or company or a transfer of any such registration, and every person who shall knowingly give a false pedigree of any animal, shall be deemed guilty of a misdemeanor.

§ 95-c. Examination of horses for equine infectious anemia. 1. The commissioner or his authorized agent may cause to be administered to any horse within the state any test he finds appropriate for ascertaining the presence or absence of equine infectious anemia, also known as "swamp fever." Upon order of the commissioner or his authorized agent, the owner, custodian or harborer of any horse shall confine, present, control and restrain such animal or animals for the examinations, tests and identification procedures the commissioner deems necessary and if exposure to equine infectious anemia is apparent, the commissioner shall order confinement for a period up to sixty days or until a negative test can be obtained. During the period of such test, and until the commissioner or his agent shall otherwise direct, the owner, custodian or harborer of any animal being tested shall keep such animal in segregation or confinement as the commissioner's agent shall direct, and no person shall remove a horse under test from the premises where the test is being conducted, nor remove from the horse, or alter or deface any temporary identification marks or devices affixed for the purpose of the test, except with the written consent of the commissioner's authorized agent.

2. (a) Any horse found by the commissioner after testing to be infected with equine infectious anemia may be freeze branded in a manner prescribed by the commissioner. Upon notification of the results of such test, the owner, custodian or

harborer of any animal found by the commissioner to be infected with equine infectious anemia shall confine, present and restrain such animal for freeze branding by any duly authorized agent of the commissioner at such time as he may direct.

(b) Notwithstanding any other provisions of law, the owner, harborer or custodian of any horse freeze branded pursuant to this section shall not be indemnified for any loss in value of such animal.

(c) The term "horse" as used throughout this section shall apply to the entire family of equidae. The commissioner may by regulation exclude from the provisions of this section horses within defined age categories.

3. No person shall import or bring into the state any horse unless such horse has been tested for equine infectious anemia and reacted negatively within a period prior to entry, and in a manner, prescribed by the commissioner in regulations.

4. No person shall transport on any public highway within this state any horse unless such horse has been tested for equine infectious anemia and reacted negatively within a period prior to such transportation, and in a manner, prescribed by the commissioner in regulations.

5. No person shall sell, exchange, barter or give away any horse unless such horse has been tested for equine infectious anemia and reacted negatively within a period prior to such transfer of ownership, and in a manner, prescribed by the commissioner in regulations.

6. Subdivisions three, four and five of this section shall not apply to horses which are imported, sold, exchanged, bartered, given away or transported under permit from the commissioner or his authorized agent for immediate slaughter, research or such other purposes as the commissioner finds are consistent with the control and eradication of equine infectious anemia, as prescribed by the commissioner in regulations.

§ 96. Certificates of registry of domestic animals. Certificates of registry, and of transfer of domestic animals when issued by and under seal of a duly organized and recognized corporation or association formed for the purpose of registering pure-bred domestic animals, may be received in evidence in any action or proceeding, and shall be presumptive evidence of the facts and circumstances stated therein.