

## LAWS OF NEW YORK STATE

### Agriculture and Markets Law regarding Domestic Animal Health Permit in relation to Diseases of Domestic Animals.

#### Section

- |   |                                      |
|---|--------------------------------------|
| 90-a. Declaration of policy and purposes. | 90-e. Refusing and revoking permits. |
| 90-b. Definitions.                        | 90-f. Proceedings to review.         |
| 90-c. Prohibitions.                       | 90-g. Records.                       |
| 90-d. Application and permit fees.        | 90-h. Violations; remedies.          |

#### **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.**

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 suidoidea, both feral and domestic.
8. The term "cattle" means the entire family of bovidae.
9. The term "deer" means any member of the family 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, horses; swine, camelids, deer 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 or poultry regarding official tests;
3. knowingly sold for purposes other than slaughter cattle, horses, swine, camelids, deer 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 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.

Al 251 - rev. 10/98

### **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.