S T A T E O F N E W Y O R K

1274

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. MARKEY -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to the examination of cattle for bovine spongiform encephalopathy or mad cow disease

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The agriculture and markets law is amended by adding a new section 89-a to read as follows:

S 89-A. EXAMINATION OF CATTLE FOR BOVINE SPONGIFORM ENCEPHALOPATHY DISEASE. 1. THE COMMISSIONER, WITHIN THE AMOUNTS APPROPRIATED FOR SUCH PURPOSE, MAY CAUSE AN APPROPRIATE TEST FOR ASCERTAINING THE PRESENCE OR ABSENCE OF BOVINE SPONGIFORM ENCEPHALOPATHY, COMMONLY KNOWN AS AND HEREAFTER TERMED "MAD COW DISEASE," TO BE MADE BY COMPETENT AND AUTHORIZED VETERINARIANS. IF, FROM SUCH EXAMINATION OR TEST, ANY ANIMAL BE DEEMED BY THE COMMISSIONER TO BE INFECTED WITH MAD COW DISEASE SUCH ANIMAL SHALL BE DISPOSED OF AS THE COMMISSIONER MAY PRESCRIBE.

2. NO ANIMAL SHOWING EVIDENCE OF MAD COW DISEASE AS A RESULT OF THE OFFICIAL TEST SHALL BE SOLD. 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 ARTICLE.

3. IN THE CASE OF A BOVINE ANIMAL KILLED ON ACCOUNT OF POSITIVE REACTION TO MAD COW 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 PERCENT 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 EXCEED-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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ING 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 OR HER DISCRETION AT THE REQUEST OF THE OWNER, ORDER THE SLAUGHTER OF NON-REACTOR ANIMALS IF SUCH COMMISSIONER FINDS THAT THEY HAVE BEEN EXPOSED TO MAD COW 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 OR HER DISCRETION, ORDER THE SLAUGHTER OF ANY ANIMAL, OR OF ALL OR PART OF ANY HERD, WHICH SUCH COMMISSIONER FINDS HAS BEEN EXPOSED TO MAD COW DISEASE BY ASSOCIATION WITH A POSITIVE REACTOR OR BY ANY OTHER MANNER OF EXPOSURE WHICH SUCH COMMISSIONER 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.

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.

4. NO INDEMNITY SHALL BE PAID UNLESS THE ANIMAL SHALL, AT THE TIME ORDERED DESTROYED, HAVE BEEN WITHIN THE STATE FOR AT LEAST THREE MONTHS.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such date.