

LIVESTOCK SHOW REFORM LAW

As used in sections 901.70 to 901.76 of the Revised Code Sec. 901.70

- (A) "Exhibition" means any of the following:
- (1) A show or sale of livestock at a fair or elsewhere that is sponsored by or under the control of a county or independent agricultural society organized under section 1711.01 or 1711.02 of the Revised Code;
 - (2) A show or sale of livestock at the Ohio state fair;
 - (3) A livestock show at a fair or elsewhere or a livestock sale at or associated with a fair or livestock show that is assembled for any length of time;
 - (4) A livestock show at a fair or elsewhere or a livestock sale at or associated with a fair or livestock show that includes livestock with origins outside Ohio;
 - (5) Any show or sale of livestock at a fair or elsewhere that is specified by rule of the director of agriculture adopted under section 901.72 of the Revised Code.
- (B) "Livestock" means any animal generally used for food or in the production of food, including cattle, sheep, goats, rabbits, poultry, swine, and any other animal included by the director by rules adopted under section 901.72 of the Revised Code.
- (C) "Sponsor" means any of the following:
- (1) A county or independent agricultural society organized under section 1711.01 or 1711.02 of the Revised Code;
 - (2) The Ohio state fair;
 - (3) Any other public or private entity sponsoring an exhibition.

Sec. 901.71.

- (A) There is hereby created the advisory committee on livestock exhibitions consisting of not more than twenty-one members, as follows:
- (1) The director of agriculture, or the director's designee, who may be the chief of the division of fairs;
 - (2) The state veterinarian, or the state veterinarian's designee;

- (3) A representative of the Ohio cattlemen's association, the Ohio purebred dairy cattle association, the Ohio pork producers council, the Ohio poultry association, the Ohio sheep improvement association, the Ohio fair managers association, the Ohio farm bureau federation, the Ohio farmers union, the Ohio department of education's agricultural service, the Ohio state university extension, the national farmers organization, and the Ohio state grange, or their designees. Each of these members shall be chosen by the organization the member represents.
- (4) The chairperson of the Ohio expositions commission, or the chairperson's designee;
- (5) Three persons who shall be appointed by the director, each of whom shall serve as a member of a board of directors of a county or independent agricultural society organized under section 1711.01 or 1711.02 of the Revised Code. Of the initial appointments made by the director, one shall be for a term ending on December 31, 1996; one shall be for a term ending on December 31, 1997; and one shall be for a term ending on December 31, 1998.
- (6) Not more than three additional members appointed at the option of the director. If the director appoints one or more additional members, the first additional appointment shall be for a term ending on December 31, 1996, the second additional appointment shall be for a term ending on December 31, 1997, and the third additional appointment shall be for a term ending on December 31, 1998.

Following the completion of the initial terms of the appointments made by the director, each term of office shall be three years, commencing on the first day of January and ending on the thirty-first day of December. A member appointed by the director shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the unexpired term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of ninety days has elapsed, whichever occurs first.

Members may be removed from the committee only for misfeasance, malfeasance, or nonfeasance. A vacancy on the committee shall not impair the right of the other members to exercise all of the functions of the committee. A simple majority constitutes a quorum for the conduct of business of the committee. On request, each member shall be reimbursed for the actual and necessary expenses incurred in the discharge of the member's duties as a committee member.

- (B) The committee shall be considered a part of the department of agriculture for the administrative purposes required by this section, including the payment of expenses authorized to each member of the committee under this section. The director or the director's designee shall serve as chairperson of the committee. The director shall designate an employee or official of the department to act as the secretary of the committee. The secretary shall keep the minutes of the committee's meetings and a permanent journal of all meetings, proceedings, findings, determinations, and recommendations of the committee, including an itemized statement of the

expenses allowed to each member of the committee under this section. The committee may request from the director, and the director shall provide, meeting space, assistance, services, and information to enable the committee to carry out its duties.

- (C) The committee shall meet at least once annually after the fifteenth day of October and before the first day of December. The committee may meet at other times as the chairperson or a majority of the committee members considers appropriate, provided the chairperson gives members written notice of any meeting at least seven days prior to the meeting.
- (D) The committee may propose rules and may advise and counsel the director on all matters relating to the administration of exhibitions and any other matters that the committee and the director consider appropriate in carrying out sections 901.71 to 901.76 of the Revised Code.

Sec. 901.72.

- (A) The director of agriculture, in accordance with Chapter 119. of the Revised Code, may adopt rules for the governance and administration of exhibitions, and to provide for related food safety and the health, safety, and welfare of livestock, and may adopt by reference rules adopted by other public or private agencies such as the Ohio farm animal care commission. Rules of the director may specify those grooming, commercial, or medical practices that are generally accepted within the community of persons exhibiting livestock and may specify false, deceptive, misleading, unethical, or unprofessional practices that constitute grounds for disciplinary action under section 901.74 of the Revised Code.
- (B) Rules of the director that apply to exhibition-related food safety and the health, safety, and welfare of livestock shall apply to every exhibition operated within this state and to every sponsor. A sponsor may exempt itself from any other rules adopted by the director under this section that do not apply to food safety or the health, safety, or welfare of livestock, including, without limitation, rules for the governance and administration of exhibitions, by, not later than thirty days before the commencement of its exhibition, filing with the director, on a form prescribed and provided by the director, a list of the rules that shall not apply to its exhibition.
- (C) The director may provide mediation, dispute resolution, and arbitration services in any dispute involving an alleged violation of a rule adopted under division (A) of this section from which the sponsor could have exempted itself under division (B) of this section, but chose not to.
- (D) Nothing in this section or in sections 901.73 or 901.74 of the Revised Code precludes any sponsor from doing any of the following:
 - (1) Adopting rules or written policies for the governance and administration of its own exhibition, including, without limitation the adoption of any rule by reference to a rule adopted by other public or private agencies;
 - (2) Adopting rules or written policies providing for appeals regarding alleged violations of rules or written policies adopted by the sponsor;

- (3) Taking any disciplinary action established in the rules or written policies adopted by the sponsor in connection with violations of the sponsor's rules or written policies for the governance and administration of its exhibition. Any such disciplinary action taken by a sponsor in regard to its own exhibition is in addition to any disciplinary action taken by the director under section 901.74 of the Revised Code.
- (4) Establishing by rule or written policy criteria and procedures for the reinstatement of any person disqualified from participation in the sponsor's exhibition by a disciplinary action taken by the sponsor and for deciding requests for reinstatement submitted under those rules.

Sec. 901.73.

(A)

- (1) The director of agriculture may inspect and investigate any matter involving livestock that is not present at an exhibition, but is registered or entered in an exhibition, or raised with the apparent intent of being so registered or entered, when the director reasonably suspects any of the following:
 - (a) There has been a violation of section 901.76 or 2925.04 of the Revised Code or a rule adopted under section 901.72 of the Revised Code;
 - (b) The livestock's health, safety, or welfare may be threatened;
 - (c) The livestock constitutes a threat to or may adversely affect food safety.
- (2) The director may conduct random inspections and investigations regarding any matter involving livestock present at an exhibition.
- (3) With the consent of the property owner and the livestock owner, the director or the director's designee may enter at all reasonable times any premises, facility, pen, yard, vehicle, or means of conveyance for the purpose of sampling and testing livestock registered or entered in an exhibition or raised with the apparent intent of being so registered or entered. If the director or the director's designee is denied access to any premises, facility, pen, yard, vehicle, or means of conveyance by the property owner or to livestock by the livestock owner, and if the director reasonably suspects that food safety or the health, safety, or welfare of livestock is threatened, the director may apply to a court of competent jurisdiction in the county where the premises, facility, pen, yard, vehicle, means of conveyance, or livestock are located for a search warrant authorizing access to the premises, facility, pen, yard, vehicle, means of conveyance, or livestock for the purposes of this section. The court shall issue the search warrant for the purposes requested if there is probable cause to believe that livestock is involved that is registered or entered in an exhibition or raised with the apparent intent of being so registered or entered, and that food safety or the health, safety, or welfare of livestock is threatened. The finding of probable cause may be based on hearsay, provided there is a substantial

basis for believing that the source of the hearsay is credible and that there is a factual basis for the information furnished.

The director may designate employees of the department of agriculture, employees of the United States department of agriculture, licensed veterinarians, or employees or students of an approved or accredited veterinary school or college to perform the inspecting, sampling, and testing. The director may contract with laboratories, universities, or other persons or institutions, both public and private, to perform the livestock testing.

- (B) While the director or the director's designee is sampling or testing the livestock, the owner or custodian of the livestock shall render assistance in accordance with sections 941.05 and 941.08 of the Revised Code. Any person who refuses to cooperate with the director or the director's designee in the inspection, sampling, and testing of livestock may be prohibited by the director acting under section 901.74 of the Revised Code from participating in any exhibition.
- (C) A person may register, enter, or exhibit at any exhibition only livestock owned by that person for the length of time specified by rule of the director, unless one of the following applies:
 - (1) The livestock owner suffers from a recognized physical handicap that prevents the owner from showing the livestock;
 - (2) The sponsor provides written permission to someone other than the livestock owner to register, enter, or exhibit the livestock;
 - (3) A rule of the director provides that this division shall not apply to an exhibition.

Sec. 901.74.

- (A) Any person involved in any activity in connection with exhibiting livestock at an exhibition or with raising livestock with the apparent intent that the livestock eventually is to be entered in an exhibition is subject to disciplinary action by the department of agriculture for any of the following reasons:
 - (1) The person has been convicted of or pleaded guilty to a violation of section 901.76 or 2925.04 of the Revised Code, or has been found by the director of agriculture to have tampered with or sabotaged livestock;
 - (2) The director reasonably suspects that the person's conduct in regard to raising or exhibiting the livestock threatens, endangers, or adversely affects food safety or the health, safety, or welfare of livestock;
 - (3) The person has refused to cooperate with the director or the director's designee in the inspection, sampling, and testing of livestock under section 901.73 of the Revised Code, unless the person withheld consent to the inspection, sampling, and testing and no search warrant was issued;

- (4) The person has violated a rule adopted by the director under section 901.72 of the Revised Code from which the sponsor of the exhibition at which the violation occurred could have exempted itself under that section, but chose not to.
- (B) If one or more of the grounds for disciplinary action listed in division (A)(1), (2), or (3) of this section exist, the director, upon the director's own initiative, may conduct an adjudication in accordance with Chapter 119. of the Revised Code and may take any disciplinary action established by the director by rules adopted in accordance with Chapter 119. of the Revised Code. If one or more of the grounds for disciplinary action listed in division (A) of this section exist, the director, upon the request of a sponsor, may conduct an adjudication in accordance with Chapter 119. of the Revised Code and may take any disciplinary action established by the director by rules adopted in accordance with Chapter 119. of the Revised Code. Disciplinary action imposed under this section by the director may include disqualifying the person, the person's family, members of the person's household, or any other person associated with the activity resulting in the disciplinary action from participating in any class or with any species of livestock in any current or future exhibition.
- (C) The director, in accordance with Chapter 119. of the Revised Code, may adopt rules establishing the criteria and procedures for the reinstatement of any person disqualified from participation in an exhibition as a result of disciplinary action taken by the director under this section. Any person disqualified by disciplinary action of the director may file a written request with the director to seek reinstatement after the period of disqualification ends or at any other time established by rule. Upon the written request of the person seeking the reinstatement, the director shall conduct an adjudication in accordance with Chapter 119. of the Revised Code.

Sec. 901.75

No person shall exhibit livestock owned or raised by another person if the person owning or raising the livestock has been disqualified by the director of agriculture under section 901.74 of the Revised Code or has been disqualified from exhibiting livestock by any court having jurisdiction.

Sec. 901.76.

- (A) No person shall tamper with any livestock.
- (B) No person shall sabotage any livestock exhibited at any exhibition.
- (C) In addition to the penalties established in section 901.99 of the Revised Code, whoever violates division (A) or (B) of this section is subject to disciplinary action by the director of agriculture under section 901.74 of the Revised Code.
- (D) This section does not apply to either of the following:
 - (1) Any action taken or activity performed or administered by a licensed veterinarian or in accordance with instructions of a licensed veterinarian in the action or activity was undertaken for accepted medical purposes during the course of a valid veterinarian-

client-patient relationship;

- (2) Accepted grooming, commercial, or medical practices as defined by rules of the director adopted under section 901.72 of the Revised Code.

(E) As used in this section:

- (1) "Tamper" means any of the following:

- (a) Treatment of livestock in such a manner that food derived from the livestock would be considered adulterated as defined in division (A),(B),(C),(D),(E),(H),(I), or (J) of section 3715.59 of the Revised Code;
- (b) The injection, use, or administration of any drug that is prohibited under any federal law or law of this state, or any drug that is used in any manner that is not authorized under any federal law or law of this state. Whenever the commissioner of the United States food and drug administration or the secretary of the United States department of agriculture, pursuant to the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, or the federal "Virus-Serum-Toxin Act," 37 Stat. 832 (1913), 21 U.S.C.A. 151, as amended, approves, disapproves, or modifies the conditions of the approved use of a drug, the approval, disapproval, or modification automatically is effective for the purposes of division (E)(1)(b) of this section, unless the director, in accordance with Chapter 119. of the Revised Code, adopts a rule to alter for the purposes of that division the action taken by the commissioner or secretary. The director may adopt such a rule if the director considers it to be necessary or appropriate for the protection of food safety or the health, safety, or welfare of livestock or to prevent the use of a drug for the purpose of concealing, enhancing, transforming, or changing the true conformation, configuration, or condition of livestock. No such rule shall authorize the use of any drug the use of which is prohibited by, or authorize the use of any drug in a manner not authorized by, the commissioner or secretary under either of those acts.
- (c) The injection, or other internal or external administration of any product or material, whether gas, solid, or liquid, to livestock for the purpose of concealing, enhancing, transforming, or changing the true conformation, configuration, condition, or age of the livestock or making the livestock appear more sound than it actually is;
- (d) The use or administration, for cosmetic purposes, of steroids, growth stimulants, or internal artificial filling, including paraffin, silicone injection, or any other substance;
- (e) The use or administration of any drug or feed additive affecting the central nervous system of the livestock;

- (f) The use or administration of diuretics for cosmetic purposes;
 - (g) The surgical manipulation or removal of tissue so as to change, transform, or enhance the true conformation or configuration of, or to conceal the age of, the livestock.
- (2) "Sabotage" means intentionally tampering with any livestock belonging to or owned by another person that has been registered, entered in, or exhibited in any exhibition, or raised with the apparent intent of being entered in an exhibition.

Sec. 901.99

- (A) Whoever violates section 901.51 of the Revised Code is guilty of a misdemeanor of the fourth degree.
- (B) Whoever violates section 901.75 or division (C) of section 901.73 of the Revised Code is guilty of a misdemeanor of the first degree.
- (C) Whoever violates division (A) of section 901.76 of the Revised Code is guilty of a felony of the fourth degree on a first offense. On each subsequent offense, the offender is guilty of a felony of the third degree.
- (D) Whoever violates division (B) of section 901.76 of the Revised Code is guilty of a felony of the third degree.

Sec. 941.043.

If the owner of the animal or the operator of the vehicle or conveyance is unable or refuses to comply with the permit issued under division (C) of section 941.04 of the Revised Code, or if necessary during a detention or impoundment in accordance with that division, the director of agriculture or the director's authorized representative may order the immediate slaughter of the animal in accordance with division (D)(3) of section 941.10 of the Revised Code and in the manner the director determines is most efficient, or may board or stable the animal at a location that can provide and care for the animal. All costs incurred as the result of a slaughter or boarding under this section shall be assessed against the owner of the animal, and the department of agriculture shall provide written notice to the owner demanding reimbursement for the costs. The owner shall reimburse the department for any such costs it has incurred within seventy-two hours after receiving the notice. The director may retain any proceed from the slaughter of the animal to apply against any costs the department has incurred.

No person taking action as authorized by this section is liable for any losses incurred as the result of that action.

Sec. 2925.04.

- (A) No person shall administer, dispense, distribute, manufacture, possess, sell, or use any drug, other than a controlled substance, that is not approved by the United States food and drug

administration, or the United States department of agriculture, unless one of the following applies:

- (1) The United States food and drug administration has approved an application for investigational use in accordance with the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the drug is used only for the approved investigational use;
- (2) The United States department of agriculture has approved an application for investigational use in accordance with the federal "Virus-Serum-Toxin Act," 37 Stat. 832 (1913), 21 U.S.C.A. As amended, 151, as amended, and the drug is used only for the approved investigational use;
- (3) A practitioner, other than a veterinarian, prescribes or combines two or more drugs as a single product for medical purposes;
- (4) A pharmacist, pursuant to a prescription, compounds and dispenses two or more drugs as a single product for medical purposes.

(B)

- (1) As used in this division, "dangerous drug," "prescription," "sale at retail," "wholesale distributor of dangerous drugs," and "terminal distributor of dangerous drugs," have the meanings set forth in section 4729.02 of the Revised Code.
- (2) Except as provided in division (B)(3) of this section, no person shall administer, dispense, distribute, manufacture, possess, sell, or use any dangerous drug to or for livestock or any animal that is generally used for food or in the production of food, unless the drug is prescribed by a licensed veterinarian by prescription or other written order and the drug is used in accordance with the veterinarian's order or direction.
- (3) Division (B)(2) of this section does not apply to a registered wholesale distributor of dangerous drugs, a licensed terminal distributor of dangerous drugs, or a person who possesses, possesses for sale, or sells, at retail, a drug in accordance with Chapters 3719., 4729., or 4741. of the Revised Code.

(C) Whoever violates division (A) or (B)(2) of this section is guilty of a felony of the fourth degree on a first offense. On each subsequent offense, the offender is guilty of a felony of the third degree.

Section 1.

That sections 901.99 and 941.043 be amended and sections 901.70, 901.71, 901.72, 901.73, 901.74, 901.75, 901.76, and 2925.04 of the Revised Code be enacted as above.

Section 2.

That existing sections 901.99 and 941.043 of the Revised Code are hereby repealed.

Section 3.

This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that livestock exhibitions are seasonal, and are largely held in May through September. For this act to have a uniform application, it must be effective at the commencement of the exhibition season. Therefore, this act shall go into immediate effect.

LIVESTOCK SHOW REFORM LAW

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