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Agriculture

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Agriculture

Cover Page Footnote

Indiana Legislation, 1947

AGRICULTURE

Bang's Disease. Chapter 313 prohibits the disposal of cattle infected with Bang's Disease for any purpose other than immediate slaughter.¹

58. See note 36 supra.

59. Ind. Acts 1947, §12.

60. Id. §24.

61. Id. §5.

62. Ibid.

63. Id. §7.

64. Id. §12

65. Id. §29.

66. Id. §21.

67. Id. §8.

68. Id. §26.

69. Id. §28.

70. Id. §5.

1. The previous statute, of which instant act is amendatory, permitted the sale of cattle which had reacted positively to Bang's disease tests if the owner "made the fact clear to the prospective purchaser that the cattle are infected with such disease or diseases." Ind. Acts 1933, c. 246, §4, Ind. Stat. Ann. (Burns, 1933) §16-420. The disposal of the animal after slaughter is governed by the rules and regulations of the Indiana state live stock sanitary board, Ind. Stat. Ann. (Burns, Supp. 1945) §16-441. For similar legislation providing for administrative regulation of the disposal of cattle infected with Bang's disease see Ill. Rev. Stat.

Chapter 342² adopts a procedure for controlling Bang's disease that very closely parallels the procedure now in effect for the control of bovine tuberculosis.³ The validity of the Indiana bovine tuberculosis legislation has not been challenged;⁴ however, the constitutionality of similar legislation has been established in other jurisdictions.⁵ Because of the close relation in subject matter and the similarity of procedure, the reasoning applied in cases concerning bovine tuberculosis should be applicable to the above acts regulating Bang's disease.

Livestock Markets. Chapter 303 eliminates the requirement that an applicant for a license to operate a stockyard or livestock market must show "public convenience and necessity." The Commissioner of Agriculture⁶ must issue the license if he finds the "applicant has never been convicted of a felony, is of good moral character and has a sound financial standing." The issuance of a license may be predicated upon a finding that the applicant has a "sound financial standing."⁷ The delegation of the fact finding power is valid and the licensing regulation is a reasonable exercise of the police power. Therefore, if a person engages in the business without obtaining the license, not only is he subject to the penalties provided in the act,⁸ but also he may be unable to enforce contracts entered into pursuant to the operation of

(Smith Hurd, 1945) c. 8, §§134 to 148a; N.Y. Agriculture and Marketing Law §90; Ohio Gen. Code Ann. (Page, 1937) §§1108-1 to 1108-23.

2. Instant act is part of an integrated program for the control of Bang's disease. Ind. Stat. Ann. (Burns, Supp. 1945) §§16-440 to 16-455.
3. Ind. Stat. Ann. (Burns, 1933) §§16-601 to 16-618.
4. For a discussion of the interpretation and validity of the Indiana bovine tuberculosis regulation, see Ops. Att'y Gen., Ind. (1934) p. 328; Ops. Att'y Gen., Ind. (1937) p. 151.
5. *People v. Anderson*, 355 Ill. 289, 189 N.E. 338 (1934); *People v. Teuscher*, 248 N.Y. 454, 162 N.E. 484 (1928) (Constitutionality of area control plan).
6. Ind. Stat. Ann. (Burns, Supp. 1945) §42-911.
7. *Financial Aid Corp. v. Wallace*, 216 Ind. 114, 23 N.E. (2d) 472 (1939), 125 A.L.R. 736, 743 (1940).
8. A \$500 fine may be imposed for engaging in the business without a license. Ind. Acts 1947, c. 303, §1. Also a \$200 fine may be imposed for each day the provisions of the act are violated and 6 months imprisonment may be added for second offense. Ind. Stat. Ann. (Burns, 1933) §42-920.

the business.⁹ The 1947 Administrative Procedure Act governs the procedure to be followed by an applicant who has been denied a license.¹⁰

Sheep Chasing Dogs. Chapter 266 changes the law applicable to "sheep chasing" dogs. An affidavit to the effect that a person is harboring such dog may be filed with the county sheriff. He must then investigate the facts, and if he finds the allegation is accurate, the owner must kill the dog or the sheriff must direct the owner to confine it at all times. The owner may petition a justice of the peace to set aside the sheriff's order and any person aggrieved may appeal from that judgment. Even after the sheriff has determined that the day has worried sheep, the owner may nevertheless keep the dog. This is in apparent opposition to an act of 1897¹¹ which provides, (a) that any person may kill a dog known to have annoyed livestock, and (b) for the imposition of a fine for harboring such dog. Since the latest declaration of the legislature prevails, the act of 1897 is impliedly repealed to the extent that it applies to "sheepchasing" dogs which the owner has confined.¹²

BANKRUPTCY

Chapter 274 of the Acts of 1947 requires the county recorder to record those certified copies of Bankruptcy papers which Congress has required to be filed in the county where the bankrupt owns land. The place of recordation is the Miscellaneous file. The bankrupt is to be designated as grantor and the trustee or receiver as grantee.

9. Where a business has been subjected to regulation under the police power and penalties have been imposed for non-compliance, the person subject to the regulation must show compliance therewith before he can enforce a right based on the conduct of such business. *Sandage v. Studebaker Bros. Mfg. Co.*, 142 Ind. 148, 41 N.E. 380 (1890); *Wells v. Indianapolis Co.*, 88 Ind. App. 231, 161 N.E. 687 (1928); *Becker v. Peru Trust Co.*, 49 Ind. App. 184, 97 N.E. 23 (1912); See *Maddox v. Yokum*, 109 Ind. App. 416, 422, 31 N.E. (2d) 652, 654 (1941); see notes 30 A.L.R. 834 (1924), 118 A.L.R. 646 (1939). A purchaser who has failed to procure a license cannot assert this fact as a defense against the seller in an action for the purchase price. *Ind. Stat. Ann. (Burns, 1933) §42-101.*
10. *Ind. Acts 1947, c. 365, discussed herein p. 319.*
11. *Ind. Stat. Ann. (Burns, 1933) §16-203.*
12. *Blieden v. Gleason*, 65 N.E. (2d) 245 (Ind., 1946). But cf. *County Dept. of Public Welfare v. Nichols Estate*, 223 Ind. 467, 474, 62 N.E. (2d) 146, 148 (1945); 1 *Sutherland, "Statutory Construction"* (3rd ed. 1943) §§1922, 2012.