WEST VIRGINIA CODE: §19-11B-2

§19-11B-2. Definitions.

(a) "Adulterated" means frozen desserts or imitation frozen desserts meeting one or several of the conditions listed in section five of this article.

(b) "Approved laboratory" means a laboratory approved by the commissioner under section nine of this article.

(c) "Clean" means the condition where no residue remains on a surface that will, or is likely to, cause adulteration.

(d) "Commissioner" means the commissioner of agriculture of the State of West Virginia or his or her duly authorized agent.

(e) "Distributor" means any person who distributes frozen desserts or imitation frozen desserts. The term does not include persons who are exclusively retailers and who are not engaged in the transportation of frozen desserts or imitation frozen desserts.

(f) "Distribute" means the act of transporting, holding for sale, offering for sale, selling, bartering, parceling out, giving or otherwise disposing of frozen desserts or imitation frozen desserts.

(g) "Embargo" means an order to withdraw a frozen dessert or imitation frozen dessert from distribution or to stop a manufacturing operation as provided in section ten of this article.

(h) "Freezer" means mechanical equipment used to lower the temperature of a mix, with or without incorporating air into the mix during the freezing process. Freezers may operate on a continuous or batch basis.

(i) "Frozen dessert" means ice cream, frozen custard, French ice cream, French custard ice cream, ice milk, goat's milk ice cream, goat's milk ice milk, fruit sherbet, nonfruit sherbets, frozen dietary dessert, frozen yogurt, frozen lowfat yogurt, milkshakes, any mix used to make such frozen desserts whether quiescently frozen or frozen while mixed and such other products as established by rule as a frozen dessert whether made with milk products from a cow or goat.

(j) "Imitation frozen desserts" means products that are manufactured, packaged or labeled so as to resemble the composition, physical and sensory properties of frozen desserts which contain milk products or milk-derived ingredients whether from a cow or a goat and which are intended to be used as a substitute for a frozen dessert. This term includes any mix used to manufacture imitation frozen desserts.

(k) "Label" means the display of written, printed or graphic matter upon or affixed to the

WV Legislature

package in which the frozen dessert or imitation frozen dessert is distributed.

(l) "Labeling" means all representations disseminated in any manner or by any means other than by the label which induce or which are likely or intended to induce the purchase or use of frozen desserts or imitation frozen desserts.

(m) "Manufacture" means pasteurizing, ultrapasteurizing, formulating, compounding, freezing, processing or packaging a mix into a frozen dessert or imitation frozen dessert.

(n) "Manufacturer" means any person who manufactures frozen desserts or imitation frozen desserts.

(o) "Milk-derived ingredients" means whey, modified whey products, casein, caseinates, lactose, lactalbumins and lactoglobulins used in fluid, concentrated or dry form and other ingredients as established by rule as a milk-derived ingredient.

(p) "Milk products" means milk, acidified milk, cultured milk, concentrated milk, sweetened condensed milk, sweetened condensed skim milk, lowfat dry milk, nonfat dry milk, nonfat dry milk fortified with vitamins A and D, evaporated milk, evaporated skim milk, lowfat milk, acidified lowfat milk, cultured lowfat milk, skim milk, acidified skim milk, cultured skim milk, dry whole milk, cream, dry cream, heavy cream, light cream, light whipping cream, sour cream, acidified sour cream, eggnog, half-and-half, sour half-and-half, acidified sour half-and-half, butter, yogurt, lowfat yogurt, nonfat yogurt and such other products as established by rule as a milk product whether made with milk products from a cow or goat.

(q) "Milk fat" means fat in frozen desserts or imitation frozen desserts.

(r) "Misbranded" means frozen desserts or imitation frozen desserts meeting one or several of the conditions listed in section six of this article.

(s) "Mix" means the product made from wholesome ingredients that when frozen shall produce a frozen dessert or imitation frozen dessert.

(t) "Official sample" means any sample taken in accordance with the provisions of this article.

(u) "Package" means any container holding frozen desserts or imitation frozen desserts.

(v) "Pasteurized" means the process of uniformly heating every particle of a mix, holding in the heated state and cooling it, in equipment under conditions of temperature and time that is established in Grade "A" Pasteurized Milk Ordinance, 1989 revision, published by the United States department of health and human services: Provided, That nothing contained in this definition may be construed as barring any other process which may be approved by the commissioner or the state director of health that results in products that are free from pathogens.

WV Legislature

(w) "Person" means any individual, partnership, association, fiduciary, firm, company, corporation or any organized group of persons whether incorporated or not. The term "person" extends to the agents, servants, officers and employees of the person.

(x) "Rerun" means a frozen dessert or imitation frozen dessert that is removed from a freezer and is intended to be reprocessed.

(y) "Retailer" means the person who sells frozen desserts or imitation frozen desserts to the ultimate consumer and who does not transport frozen desserts or imitation frozen desserts to or from the location of the freezer.

(z) "Sanitization" means the application of any effective method or substance to a clean surface for the destruction of pathogens, and other organisms as far as practicable. Such treatment shall not adversely affect the equipment, the dairy product or the health of the consumers consuming the products manufactured in the equipment and shall be a method acceptable to the commissioner.

(aa) "Transport" means the movement from one facility to another in a manner that maintains adequate temperatures and protects the product from freezing temperatures, exposure to the sun and from sources of contamination.

(bb) "Ultrapasteurized" means the process of heating every particle of a dairy product or mix at or above two hundred eighty degrees Fahrenheit for at least two seconds either before or after packaging so as to produce a product which has an extended shelf life under refrigerated conditions.

WV Legislature