WEST VIRGINIA CODE: §19-11B-7

§19-11B-7. Prohibited acts.

(a) No person may distribute, sell, offer for sale, hold for sale or have in his possession with the intent to sell any frozen dessert or imitation frozen dessert which is adulterated or misbranded within the meaning of this article.

(b) No person may interfere with or prohibit the commissioner from performing the duties of his office.

(c) No person may fail to comply with the provisions of an embargo order issued under section ten of this article.

(d) No person may fail to comply with the provisions of a revocation, suspension or denial order issued under section eleven of this article.

(e) No person who in any official capacity obtains any information under the provisions of this article that would be considered trade secrets regarding the quality, source and disposition of frozen desserts or imitation frozen desserts may use this information to his or her own personal gain.

(f) No person may dispense or manufacture frozen desserts or imitation frozen desserts without a valid frozen desserts manufacturer permit.

(g) No person may distribute, sell, offer for sale, hold for sale or have in their possession with intent to sell, a frozen dessert or imitation frozen dessert in a container if the whole or any part of the items required by this article to be on the label have been altered, mutilated, destroyed, obliterated, removed, concealed, replaced or otherwise falsely represented.

(h) No person may alter or deface any items required by this article to be on the label after packaging.

(i) No person may offer for sale, transport, or distribution, frozen desserts or imitation frozen desserts subsequent to their packaging that have been allowed to exceed a temperature of forty-five degrees Fahrenheit for refrigerated noncultured products or zero degrees Fahrenheit for frozen products, except that mixes containing active cultures shall not be allowed to exceed a temperature of fifty degrees Fahrenheit. Mixes that have been sterilized and hermetically sealed and dry mixes are exempted from this provision.

(j) No person may haul frozen desserts or imitation frozen desserts in a vehicle that has previously been used to haul a chemical or foreign substance unless such vehicle has been cleaned according to the rules promulgated by the commissioner prior to the hauling of such frozen dessert or imitation frozen dessert.

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(k) No person may sell or reprocess frozen desserts or imitation frozen desserts for human consumption that are in or have been in broken or opened retail packages. Nothing in this provision may prohibit the return of these containers to the manufacturer or distributor for inspection purposes only.

(l) No person may distribute or use for human consumption products manufactured from returned packaged frozen desserts or imitation frozen desserts.

(m) No person may distribute or use mix that has been repasteurized subsequent to transportation in bulk, except for products that have been handled in a sanitary manner and maintained at forty-five degrees Fahrenheit or less prior to repasteurization.

(n) No person may sell, offer for sale or expose for sale any product containing milk products or milk-derived products that are from a herd that does not meet the requirements for animal health as required by rules promulgated under this article.

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