
WEST VIRGINIA CODE CHAPTER 19
ARTICLE 11D

WV Legislature

§19-11D-1. Legislative findings.

The Legislature finds that local production and sale of locally manufactured cheese products is a culturally significant tradition and that the preservation of historic methods of cheese production is in the public interest; that local cheese production is an important part of the economic livelihood of many families and small businesses in this state; and that the unique quality of home and farm-based cheese products cannot be duplicated using manufacturing and food production requirements enforced by local boards of health. Therefore, the Legislature finds that it is in the public interest to exempt certain local cheese production and local cheese products from regulations of the division of health related to food sanitation enforced by local boards of health, and to place the production of certain home and farm-based cheese products under the jurisdiction of the Department of Agriculture.

§19-11D-2. Application of article.

(a) In order for cheese production to fall within the exemption created in section two of this article, all of the following criteria must apply:

(1) The cheese must be manufactured at a home or farm-based site using either raw milk from West Virginia cows, production of which is regulated by the Department of Agriculture, or commercially pasteurized cow's milk;

(2) The cheese products must be aged at least sixty days;

(3) The cheese products must be sold directly to the consumer at the production site or marketed in local restaurants or local small businesses not engaged in interstate commerce: Provided, That for the purposes of this article, acceptance of a national credit card shall not be construed as engaging in interstate commerce.

(b) The exemptions contained in this article are not applicable to:

(1) Persons and businesses manufacturing more than five thousand pounds of cheese products per year;

(2) Cheese products sold to the ultimate consumer outside the borders of the state;

(3) Cheese products marketed by mail or on the Internet; or

(4) Cheese products the sale or manufacture of which is governed by applicable federal law.

§19-11D-3. Exemption from regulatory control; authorizing rules by the commissioner of agriculture.

The manufacture of cheese products described in section two of this article is exempt from: (a) Pasteurization, packaging, labeling and all other health related requirements established in this code or rules promulgated by the division of health; and (b) regulatory control by the division of health and county or local health departments or sanitarians. Powers of the commissioner of agriculture set forth in section ten, article eleven-a of this chapter are applicable to the manufacturing of home and farm-based cheese products described in section two of this article. The commissioner of agriculture is authorized to promulgate rules pursuant to article three, chapter twenty-nine-a of this code, considering and promoting traditional methods of cheese production, while providing minimum health and sanitation standards necessary for the protection of the public, including standards for cleanliness, handling, and protection from contamination. Emergency rules for this purpose are authorized.