WEST VIRGINIA CODE CHAPTER 19 ARTICLE 2

WV Legislature

§19-2-1. Definitions.

For the purpose of this article the following definitions shall prevail:

(a) Person includes individual, partnership, corporation and association.

(b) Agricultural products include livestock and livestock products, poultry and poultry products, fruits and fruit products, vegetables and vegetable products, grains and hays and the products derived therefrom, tobacco, syrups, honey, and other products derived from the business of farming; including such other products as may be manufactured, derived, or prepared from agricultural products, raw or processed, which are used as food for man or other animals.

(c) Commissioner means the "commissioner of agriculture" of the State of West Virginia.

(d) Commission merchant means any person, firm, corporation, association, or partnership engaged in the business of receiving agricultural products on consignment and selling or distributing the same for a commission.

WV Legislature

§19-2-2. Duties and powers of commissioner.

In order to develop and encourage home industry and to protect and promote the interests of producers and provide consumers with food products of uniform grade and quality at fair and reasonable prices, it shall be the duty of the commissioner and he shall have authority to promote, regulate, coordinate, establish and conduct a system of marketing agricultural products in the State of West Virginia. He shall assist producers and handlers in the grading, classification and standardization of agricultural products at public markets, concentration points, packing, grading and processing plants and other places where agricultural products are assembled for distribution.

WV Legislature

§19-2-3. Commissioner to cooperate with federal Department of Agriculture.

In carrying out the provisions of this article the commissioner shall cooperate with the United States Department of Agriculture and its several bureaus and divisions and the departments of the several states. The commissioner shall investigate the methods employed by the United States Department of Agriculture for the promotion of economical and efficient marketing of agricultural products and he shall have authority to establish and publish weights, grades, standards, classifications, and rules and regulations for the production, handling, and distribution of agricultural products in this state, and he shall, so far as the same are applicable and practicable, utilize and apply the rules, regulations, classifications, standards and grades, and official methods of examinations and analysis of the United States Department of Agriculture and its several bureaus and divisions.

WV Legislature

§19-2-4. Quarantines.

For the purpose of protecting the health of the state and to prevent the infection, contamination or reduction in the standards of products produced within the state, the commissioner of agriculture may, acting within the police power of the state, inspect and establish quarantines over all agricultural products and the means of their importation. In the establishment of such quarantine or inspection the commissioner shall give notice in writing of such quarantine or inspection area, specify its boundaries, the duration of the inspection, and the purpose thereof, and provide for notification of the proper authorities and the posting of the area.

WV Legislature

§19-2-5. Inspection and grading of agricultural products; charges.

The commissioner may comply with the request of any person for official inspection of agricultural products and he or his agents shall have authority to inspect and determine the grade and quality of agricultural products at public markets, concentration points, packing, grading, and processing plants and other places where agricultural products are assembled for distribution; the commissioner shall establish and publish a schedule of charges for such inspection and grading service; and it shall be his duty and he shall have authority to collect such charges for such inspection and grading services, which moneys shall be paid into the state Treasury and reappropriated to the Department of Agriculture for the administration of this article.

WV Legislature

§19-2-6. Inspection and quarantine powers of commissioner.

The commissioner or his agents shall during business hours have access to any place, premises, or conveyances where agricultural products are produced, handled, stored, transported, distributed, or sold, and to examine the books and records of any person affected by the provisions of this article. They shall have the power and authority to detain, embargo, or quarantine agricultural products when suspected of or found to be in violation of the provisions of this article, by affixing thereto a tag or other appropriate marking and giving notice thereof in writing. It shall be unlawful for any person to remove or dispose of such detained, embargoed, or quarantined agricultural product by sale or otherwise without the permission of the commissioner or his agent or the courts. When an agricultural product detained, embargoed, or quarantined, as aforesaid, has been found by such agent to be in violation of the provisions of this article, he shall petition any court of competent jurisdiction, for the condemnation or disposal of such product.

WV Legislature

§19-2-7. Prohibited sales.

It shall be unlawful for any person to sell, offer, or expose for sale, or exchange or have in his possession with intent to sell, offer or expose for sale or exchange any agricultural product in this state which is:

(1) Infected with any contagious or communicable disease; or

(2) Which consists in whole or in part of any filthy, putrid or decomposed substance; or

(3) Which has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated or rendered injurious to health; or

(4) If it or its container is composed in whole or in part, of any poisonous or deleterious substance injurious to health; or

(5) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or

(6) If any substance has been substituted wholly or in part therefor; or

(7) If damage or inferiority has been concealed in any manner; or

(8) If its labeling is false or misleading; or

(9) If it is offered for sale under the name of another food; or

(10) If it is an imitation of another food, unless its label bears in prominent type the word "imitation"; or

(11) If its container is so made, formed, or filled as to be misleading; or

(12) If the labeling thereon does not identify the producer, manufacturer or handler thereof, and an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; or

(13) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

Nothing herein contained shall prohibit the sale of livestock for immediate slaughter in accordance with the meat inspection regulations of the United States Department of Agriculture.

WV Legislature

§19-2-8. Market bulletins.

It shall be the duty of the commissioner to publish bulletins setting forth the quotations for agricultural products sold in the principal markets of the state. The bulletins shall also contain information concerning the available surplus of the principal agricultural products and the demand for such products in the markets of the state, and other markets where agricultural products are customarily sold. The commissioner may periodically prepare and distribute bulletins containing:

(1) The official grades, classifications and standards for agricultural products;

(2) The methods for marking, advertising, and using such grades, classifications, and standards;

(3) Lists of the principal markets in the state and the principal markets outside of the state where agricultural products are sold or distributed;

(4) Such other information which may be of value or assistance in the production, handling, and marketing of agricultural products.

WV Legislature

§19-2-9. Inspectors, graders and assistants.

The commissioner may employ and he shall have authority to certify such inspectors, graders, and assistants as are necessary to enforce the provisions of this article. He shall prescribe their duties and fix their salaries. It shall be unlawful for any person to represent that he is an inspector, grader, or agent of the commissioner unless he is certified by the commissioner.

WV Legislature

§19-2-10. Commissioner to enforce article.

The commissioner of agriculture shall be charged with the enforcement of this article and shall have authority to make and enforce rules and regulations for the administration of this article.

WV Legislature

§19-2-11. Penalties.

Any person who shall violate any of the provisions of this article, or who shall obstruct or hinder the commissioner or any officer or employee, in the performance of his duties under this article, shall be guilty of a misdemeanor, and, upon conviction thereof, shall, for the first offense, be fined not more than $100, and upon conviction for each subsequent offense be fined not more than $500, and in addition to such fine may be confined in the county jail for not more than ninety days.

WV Legislature

§19-2-12. Agriculture Development Fund; administration; purpose; funding.

(a) There is hereby created in the State Treasury a special revenue account to be known as the Agriculture Development Fund. The fund shall be administered by the Department of Agriculture. The fund shall consist of all moneys deposited into the fund pursuant to §60-8A-3 of this code; any moneys that may be designated for deposit in this fund by an act of the Legislature; any moneys appropriated and designated for the fund by the Legislature; any moneys able to be transferred into the fund by authority of the commissioner from other funds; and gifts, donations, and interest or other returns earned from investment of the fund.

(b) Expenditures from the fund shall be for the purpose of fostering and supporting the development of agricultural sectors, such as hard cider, within the state, and are not authorized from collections, but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon the fulfillment of the provisions set forth in §11B-2-1 *et seq*. of this code. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund, but shall remain in the fund and be expended as provided by this section.

WV Legislature

§19-2-13. Hard cider development program; purpose; funding.

The commissioner shall establish a program to foster the development and growth of the hard cider industry in the state. The purpose of the program shall be to assist in the development of fruit inputs necessary for the production of hard cider in the state. The program shall be funded using moneys deposited within the Agriculture Development Fund created pursuant to §19-2-12 of this code.

WV Legislature