
WEST VIRGINIA CODE CHAPTER 19
ARTICLE 28

WV Legislature

§19-28-1. Definitions.

When used in this article, unless the context otherwise requires:

(a) "Flour" includes, and is limited to, the foods commonly known in the milling and baking industries as: (1) White flour, also known as wheat flour or plain flour; (2) bromated flour; (3) self-rising flour, also known as self-rising white flour or self-rising wheat flour; and (4) phosphated flour, also known as phosphated white flour, or phosphated wheat flour, but excludes whole wheat flour and also excludes special flours not used for bread, roll, bun or biscuit baking, such as specialty cake, pancake and pastry flours.

(b) "White bread" means any bread made with flour as defined in paragraph (a) whether baked in a pan or on a hearth or screen, which is commonly known or usually represented and sold as white bread, including Vienna bread, French bread and Italian bread.

(c) "Rolls" include plain white rolls and buns of the semibread dough type, namely soft rolls, such as hamburger rolls, hot dog rolls, Parker House rolls and hard rolls, such as Vienna rolls, Kaiser rolls, but shall not include yeast-raised sweet rolls or sweet buns made with fillings or coatings, such as cinnamon rolls or buns and butterfly rolls.

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

(e) "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a trust or any group of persons whether incorporated or not, engaged in the commercial manufacture or sale of flour, white bread or rolls.

§19-28-2. Vitamin and mineral requirements for flour; exceptions as to flour sold to distributors, bakers or other processors.

It is unlawful for any person to manufacture, mix, compound, sell or offer for sale, for human consumption in this state, flour as defined in section one of this article, unless the following vitamins and minerals are contained in each pound of such flour: Not less than two and not more than two and five-tenths milligrams of thiamine; not less than one and two-tenths and not more than one and five-tenths milligrams of riboflavin; not less than sixteen and not more than twenty milligrams of niacin or niacinamide; not less than thirteen and not more than sixteen and five-tenths milligrams of iron; except in the case of self-rising flour which in addition to the above ingredients shall contain not less than five hundred and not more than fifteen hundred milligrams of calcium: Provided, That the provisions of this section do not apply to flour sold to distributors, bakers or other processors, if the purchaser furnishes to the seller a certificate in such form as the commissioner has prescribed by rule, certifying that such flour will be: (1) Resold to a distributor, baker or other processor; (2) used in the manufacture, mixing or compounding of flour, white bread or rolls enriched to meet the requirements of this article; or (3) used in the manufacture of products other than flour, white bread or rolls. It is unlawful for any such purchaser furnishing any such certificate to use or resell the flour purchased in any manner other than as prescribed in this section: Provided, however, That the provisions of this section do not apply to noncommercial flour manufactured by small flour mills, located in this state, for persons from wheat harvested in this state or to any other flour produced and sold at retail by such mills.

§19-28-3. Vitamin and mineral requirements for white bread or rolls.

It is unlawful for any person to manufacture, bake, sell or offer for sale, for human consumption in this state, any white bread or rolls, as defined in section one of this article, unless the following vitamins and minerals are contained in each pound of such bread or rolls: Not less than one and one-tenth and not more than one and eight-tenths milligrams of thiamine; not less than seven-tenths and not more than one and six-tenths milligrams of riboflavin; not less than ten and not more than fifteen milligrams of niacin; and not less than eight and not more than twelve and five-tenths milligrams of iron.

§19-28-4. Enforcement of article; authority and duties of commissioner.

(a) The commissioner is hereby charged with the duty of enforcing the provisions of this article and is hereby authorized and directed to make, amend or rescind rules and orders for the efficient enforcement of this article.

(b) Whenever the vitamin and mineral requirements set forth in sections two and three of this article are no longer in conformity with the legally established standards governing the interstate shipment of enriched flour and enriched white bread or enriched rolls, the commissioner, in order to maintain uniformity between the intrastate and interstate vitamin and mineral requirements for the foods within the provisions of this article, and to maintain and protect the health of the citizens of this state, is authorized and directed to modify or revise such requirements to conform with amended standards governing interstate shipments, and there shall be a presumption that the amended standards governing interstate shipments actually represent the standards which will promote the health and well-being of such citizens.

(c) In the event of findings by the commissioner that there is an existing or imminent shortage of any ingredient required by section two or three of this article, and that because of such shortage the sale and distribution of flour or white bread or rolls may be impeded by the enforcement of this article, the commissioner shall issue an order, to be effective immediately upon issuance, permitting the omission of such ingredient from flour or white bread or rolls and, if he finds it necessary or appropriate, excepting such foods from labeling requirements until the further order of the commissioner. Any such findings may be made without hearing, on the basis of an order or of factual information supplied by the appropriate federal agency or officer. In the absence of any such order of the appropriate federal agency or factual information supplied by it, the commissioner on his motion may, and upon receiving the sworn statement of ten or more persons subject to this article that they believe such a shortage exists or is imminent shall, within twenty days thereafter hold a public hearing with respect thereto at which any interested person may present evidence, and shall make findings based upon the evidence presented.

Whenever the commissioner has reason to believe that such shortage no longer exists, he shall hold a public hearing, at which any interested person may present evidence, and he shall make findings based upon the evidence so presented. If his findings be that such shortage no longer exists, he shall issue an order to become effective not less than thirty days after date of issuance, revoking such previous order: Provided, That undisposed flour stocks of flour on hand at the effective date of such revocation order, or flour manufactured prior to such effective date, for sale in this state may thereafter be lawfully sold or disposed of.

(d) All orders and rules adopted by the commissioner pursuant to this article, and within the limits specified by this article, shall become effective upon a date fixed by the commissioner.

(e) It is the duty of the commissioner to furnish to any person or organization, filing a written

request for such information, a copy of any and all orders or rules, adopted pursuant to this article, at least ten days prior to the effective date of such orders or rules, and to make copies of same available to the press. In case any interested person files written objections to any proposed order or rule, the commissioner shall give an opportunity for a public hearing upon such order or rule before the same shall become effective.

(f) For the purpose of this article, the commissioner, or such officers or employees under his supervision as he may designate, is authorized to take samples for analysis and to conduct examinations and investigations, and to enter, at reasonable times, any factory, mill, bakery, warehouse, shop or establishment where flour, white bread or rolls are manufactured, processed, packed, sold or held, or any vehicle being used for the transportation thereof, and to inspect any such place or vehicle and any flour, white bread or rolls therein and all pertinent equipment, material, containers and labeling.

§19-28-5. Penalties for violation of article; inconsistent acts repealed; provisions severable.

Any person who violates any of the provisions of this article or the orders or rules promulgated by the commissioner is guilty of a misdemeanor, and, upon conviction thereof, shall be fined for each offense a sum of not less than \$25 nor more than \$200, or imprisoned in the county jail not to exceed sixty days, or both fined and imprisoned. Magistrates have jurisdiction to try cases involving violations of any provision of this article, or of the orders or rules promulgated by the commissioner.