# WEST VIRGINIA CODE: §19-2B-2

**§19-2B-2. Definitions.**

Unless the context in which used clearly requires a different meaning, as used in this article:

(a) "Department" means the Department of Agriculture of the State of West Virginia;

(b) "Commissioner" means the commissioner of agriculture of the State of West Virginia and duly authorized representatives;

(c) "Person" means any individual, partnership, corporation, association, or other entity;

(d) "Contract veterinarian" means a graduate of a school of veterinary medicine accredited by the American Veterinary Medical Association who provides services for the department under contract;

(e) "Veterinary supervisor" means a graduate of a school of veterinary medicine accredited by the American Veterinary Medical Association, employed by the department and authorized by the commissioner to perform on his or her behalf any inspection and supervisory functions under this article;

(f) "Inspector" means an individual employed by the department and authorized by the commissioner to perform on his or her behalf any inspection functions under this article;

(g) "State inspection" means inspection services conducted by the department at or in connection with establishments required to be licensed by this article;

(h) "W. Va. condemned," or abbreviation thereof, means the animal or poultry so marked has been inspected and found to be in a dying condition, or to be affected with any other condition or disease that would require condemnation of its carcass;

(i) "W. Va. inspected and condemned," or abbreviation thereof, means that the carcass, meat product or poultry product, so marked or so identified, is adulterated and shall be disposed of in the manner prescribed by the commissioner;

(j) "W. Va. retained" means that the carcass, meat product or poultry product or any ingredient used in processing, or any direct or indirect container used for meat products or poultry products so identified is held for further examination by a veterinary supervisor or contract veterinarian to determine its disposal;

(k) "W. Va. suspect" means that the animal or poultry so marked and identified is suspected of being affected with a disease or condition which may require its condemnation, in whole or in part, when slaughtered, and is subject to further examination by a contract veterinarian or veterinary supervisor to determine its disposal;

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(l) "W. Va. inspected and passed," or abbreviation thereof, means that the carcass, meat product or poultry product so marked or so identified, was at the time it was so marked or so identified found to be wholesome;

(m) "Country" when used in the name of a meat product or poultry product means that such meat product or poultry product was actually prepared on a farm;

(n) "Federal inspection" means the meat and poultry inspection service conducted by the food safety and inspection service of the United States Department of Agriculture;

(o) "Federal Meat Inspection Act" means the act so entitled, approved March 4, 1907, as amended by the Wholesome Meat Act;

(p) "Federal Poultry Products Inspection Act" means the act of Congress approved August 28,1957, as amended;

(q) "Inspection legend" means a mark or a statement on a carcass, meat product or poultry product indicating the same has been inspected and passed in this state under the provisions of this article;

(r) "Label" means a display of written, printed or graphic matter on a container indicating the carcass, meat product or poultry product contained therein has been inspected and passed in this state under the provisions of this article;

(s) "Official inspection mark" means any symbol prescribed by the commissioner for the purpose of identifying the inspection status of any meat product or poultry product so inspected;

(t) "Establishment number" means an official number assigned by the commissioner to each establishment and included on the inspection legend and label to identify all inspected and passed carcasses, meat product or poultry product handled in that establishment;

(u) "Container" and "package" shall include, but not be limited to, any box, can, tin, cloth, plastic or any other receptacle, wrapper or cover;

(v) "Sell" means offer for sale, expose for sale, have in possession for sale, exchange, barter or trade;

(w) "Animals" mean cattle, swine, sheep and goats;

(x) "Carcass" means all or any part of a slaughtered animal or poultry, including viscera, which is capable of being used for human consumption;

(y) "Meat" means the edible part of the muscle of animals which is skeletal or which is found in the tongue, in the diaphragm, in the heart or in the esophagus, with or without the accompanying or overlying fat, and the portions of bone, skin, sinew nerve and blood vessels

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which normally accompany the muscle tissue and which are not separated from it in the process of dressing; it does not include the muscle found in the lips, snout or ears;

(z) "Meat food product" means any article of food for human consumption or any article which enters into the composition of food for human consumption, which is derived or prepared in whole or in part from any portion of any animal except organotherapeutic substances, meat juices, meat extract and the like which are only for medicinal purposes and are advertised only to the medical profession; any edible part of the carcass which has been manufactured, cured, smoked, processed or otherwise treated shall be considered a meat food product;

(aa) "Meat by-product" means any edible part of an animal or poultry other than meat or meat food product;

(bb) "Meat product" means any meat, meat food product, and meat by-product capable of use as human food;

(cc) "Poultry" means any domesticated bird which is used or intended to be used for human consumption;

(dd) "Poultry meat" means the carcass or parts of such carcass of any poultry;

(ee) "Poultry food product" means any product of poultry, other than eggs, capable of use as human food which is made wholly or in part from any poultry meat or other portion of the carcass of poultry;

(ff) "Poultry by-product" means any part or parts of poultry, other than eggs, capable of use as human food, other than poultry carcass which have been derived from one or more birds;

(gg) "Poultry product" means any poultry meat, poultry food product, and poultry by-product capable of use as human food;

(hh) "Process" means to cut up, bone, chop, mix, grind, slice, cook, smoke, cure, salt, marinate, dry, can, or otherwise manufacture, or package any meat product or poultry product;

(ii) "Denature" means the uniform application of sufficient quantities of crude carbolic acid, cresylic disinfectant, or any other agent approved by the commissioner upon and into the freely slashed flesh of any carcass or product condemned;

(jj) "Decharacterization" means the uniform application of sufficient quantities of dye, charcoal, malodorous fish oil, or any other agent approved by the commissioner, upon and into the freely slashed flesh of carcasses or meat not being rendered, so as to unequivocally preclude its use for human food;

(kk) "Inedible" means the carcass, meat product or poultry product derived from 4-D or

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condemned animals or poultry, or meat products or poultry products which have deteriorated or are otherwise unfit for human consumption;

(ll) "4-D animal or 4-D poultry" means an animal or poultry that is dead, dying, down or diseased on arrival at the slaughterhouse;

(mm) "Commercial slaughterer" means a person engaged for profit in this state in the business of slaughtering animals or poultry for human consumption which are to be sold or offered for sale through a commercial outlet or establishment, and shall include a person who in addition to such commercial slaughtering also engages in the business of a custom slaughterer;

(nn) "Custom slaughterer" means a person engaged for profit in this state in the business of slaughtering animals or poultry for human consumption which are not to be sold or offered for sale through a commercial outlet, commercial establishment, distributor, or to an individual, and shall include the boning or cutting up of carcasses of such animals or poultry and the grinding, chopping and mixing of the carcasses thereof;

(oo) "Slaughterhouse" shall include, but not be limited to, all buildings, structures and facilities used in the slaughtering of animals or poultry for human consumption;

(pp) "Distributor" means a person engaged for profit in this state in the business where carcasses, meat products or poultry products are received from state inspected establishments, or establishments inspected by the United States Department of Agriculture and who stores and distributes to commercial outlets, processors or individuals and who conducts no processing;

(qq) "Processor" means a person who engages for profit in this state in the business of processing carcasses, meat products or poultry products for human consumption;

(rr) "Commercial processor" means a processor for commercial outlets or distributors and shall include the business of custom processing;

(ss) "Custom processor" means a processor in which the carcass, meat products or poultry products derived through processing cannot be sold or offered for sale through a commercial outlet, commercial establishment, distributor, or to an individual;

(tt) "Processing plant" shall include, but not be limited to, all buildings, structures, chill rooms, aging rooms, processing rooms, sanitary facilities, other facilities, and utensils, used by or in connection with the operations of a processor;

(uu) "Establishment" means any slaughterhouse, processing plant or distributor in this state;

(vv) "Related industries" means rendering plants, refrigerated meat warehouses, food lockers, meat and poultry wholesalers, brokers, pet food manufacturers, other animal food manufacturers, animal impoundments whose main source of food supply is derived from the

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raw meats, transportation firms and private carriers;

(ww) "Commercial outlet" means a place of business in this state and shall include all retail stores and public eating places in which carcasses, meat products or poultry products are stored, sold or offered for sale for human consumption by the purchaser or other individual consumers;

(xx) "Commercial dealer" means any person who operates one or more commercial outlets and who sells or offers for sale thereat any carcasses, meat products or poultry products for human consumption, and who does not can, cook, cure, dry, smoke or render any carcass, meat products or poultry products at such outlets and who conducts no slaughtering or preparing of carcasses, meat products or poultry products at such outlets other than boning or cutting up of carcasses, and other than grinding, chopping and mixing operations at such outlets with respect to trim or meat derived only from such boning or cutting up operations;

(yy) "Custom slaughtered carcass, meat or poultry" or "custom processed meat products or poultry products" mean, respectively, carcasses, meat products or poultry products which were slaughtered, or processed by a custom slaughterer;

(zz) "Wholesome" means sound, healthful, clean, and otherwise fit for human consumption;

(aaa) "Adulterated" means and shall apply to any carcass, part thereof, meat product or poultry product under one or more of the following circumstances:

(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such carcass, meat product or poultry product shall not be considered adulterated under this clause if the quantity of such substance in or on such carcass, meat product or poultry product does not ordinarily render it injurious to health;

(2) (A) If it bears or contains (by reason of administration of any substance to the live animal or poultry or otherwise) any added poisonous or added deleterious substance (other than one which is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive) which may, in the judgment of the commissioner make such carcass, meat product or poultry product unfit for human food;

(B) If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of the federal Food, Drug and Cosmetic Act;

(C) If it bears or contains any food additive which is unsafe within the meaning of the federal Food, Drug and Cosmetic Act;

(D) If it bears or contains any color additive which is unsafe within the meaning of the federal Food, Drug and Cosmetic Act: Provided, That a carcass, meat product or poultry product which is not adulterated under paragraph (B), (C) or (D) of this subsection, shall



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nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such carcass, meat product or poultry product is prohibited by rules in establishments at which inspection is maintained;

(3) If it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

(4) If it has been processed, packed, or held under insanitary conditions whereby it may have become contaminated with filth or pathogenic microorganisms, or whereby it may have been rendered injurious to health;

(5) If it is, in whole or in part, the product of an animal or poultry which has died otherwise than by slaughter;

(6) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(7) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to the federal Food, Drug and Cosmetic Act;

(8) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or 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;

(bbb) "Antemortem" means before death;

(ccc) "Postmortem" means after death;

(ddd) "Reinspection" means inspection of the processing of carcass, meat products and poultry products, as well as a reexamination of products previously inspected;

(eee) "Licensee" means any person licensed under the provisions of this article;

(fff) "Misbranded" applies to any carcass, meat product or poultry product under one or more of the following circumstances:

(1) If its labeling is false or misleading in any particular;

(2) If it is offered for sale under the name of another meat product or poultry product;

(3) If it is an imitation of another meat product or poultry product; unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter, the name of the meat product or poultry product imitated;

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

(5) Unless it bears a label showing: (A) The name and place of business of the establishment; and (B) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count;

(6) If any word, statement or other information required by or under authority of this article to appear on the label or other labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(7) If it purports to be or is represented as a meat product or poultry product for which a definition and standard of identity or composition has been prescribed by rules promulgated by the commissioner unless: (A) It conforms to such definition and standards; and (B) its label bears the name of the meat product or poultry product specified in the definition and standard of identity and the common names of optional ingredients (other than spices, flavoring and coloring) present in such products;

(8) If it is not subject to the provisions of subsection (7), unless its label bears: (A) The common or usual name of the meat product or poultry product, if any there be, and (B) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings and colorings may be designated as such without naming each;

(9) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral and other dietary properties as the commissioner determines to be necessary in order fully to inform purchasers as to its value for such uses;

(10) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; or

(11) If it fails to bear, directly thereon or on its container, as the commissioner may by rules prescribe, the inspection legend and, unrestricted by any of the foregoing, such other information as the commissioner may require in such rules to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the meat product or poultry product in a wholesome condition.

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