WEST VIRGINIA CODE: §19-35-6

§19-35-6. Nonpotentially hazardous foods.

(a) The production and sale of nonpotentially hazardous foods, when done in conformity with this section and the accompanying legislative rules, are exempt from licensing, permitting, inspection, packaging, and labeling laws of this state.

(b) The following conditions apply to the sale and delivery of nonpotentially hazardous foods:

(1) The nonpotentially hazardous food item must be sold by the producer to the consumer, whether in person or remotely, or by an agent of the producer or a third-party vendor; and

(2) The nonpotentially hazardous food items must be delivered to the consumer by the producer, an agent of the producer, a third-party vendor, or a third-party carrier.

(c) All nonpotentially hazardous foods shall be labeled in compliance with the department's labeling standards and provide information about their content and sources.

(d) A home, farm, community, or commercial kitchen may be used by a nonpotentially hazardous foods vendor, as determined by the department.

(e) This section shall not be construed to:

(1) Impede the authority of a local health department or the department to investigate or cease the production or sale of food items reported to have caused a foodborne illness;

(2) Preclude the department from providing assistance, consultation, or inspection at the request of the producer of a nonpotentially hazardous food item;

(3) Preclude the production or sale of food items otherwise allowed by law;

(4) Exempt a producer, seller, third-party vendor, or third-party agent from any applicable tax law;

(5) Exempt producers or sellers of nonpotentially hazardous food items from any law that requires the producer, seller, third-party vendor, or third-party agent to register its business name, address, and other identification information with the state;

(6) Exempt producers or sellers of nonpotentially hazardous food items from any applicable law of the federal government, including any federal law prohibiting the sale of certain food items in interstate commerce; or

(7) Exempt producers or sellers of nonpotentially hazardous food items from any applicable law of another state.

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(f) This section preempts county, municipal, and other political jurisdictions from prohibiting and regulating the production and sale of nonpotentially hazardous food items: *Provided*, That such preemption shall not include space rentals at government-owned or operated facilities, government-sanctioned or operated events, or product placement agreements with government-owned facilities, as well as temporary events 14 days or less in duration.

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