WEST VIRGINIA CODE CHAPTER 19 ARTICLE 5

WV Legislature

§19-5-1. Standard grades for closed packages of fruits and vegetables.

The commissioner of agriculture shall establish and promulgate from time to time official standard grades for all closed packages of fruits and vegetables, by which the quantity, quality and size may be determined, and prescribe and promulgate rules and regulations governing the markings which shall be required upon packages of fruits and vegetables for the purpose of showing the name and address of the producer or packer, the variety, quantity, quality and size of the product.

It is the intent of this article that the commissioner of agriculture of West Virginia shall promulgate all United States standard grades for fruits and vegetables, and, after consulting with the president of the state horticultural society and a committee of five fruit and vegetable growers appointed by the president of said society, such committee to be made up of growers from the various fruit and vegetable producing sections of the state, shall, with their advice and consent, establish such other grades within this state as in their judgment may be advisable.

WV Legislature

§19-5-2. Markings on packages.

Whenever such standards for the grade or other classification of fruits and vegetables under this article becomes effective, every closed package containing fruits or vegetables grown and packed in this state and sold, offered or exposed for sale, or packed for sale or transported for sale, by any person, firm, organization or corporation, shall bear conspicuously upon the outside thereof, in plain words and figures, such markings as are prescribed by the commissioner of agriculture of West Virginia under the provisions of this article.

WV Legislature

§19-5-3. Enforcement of article.

The commissioner of agriculture of West Virginia shall be charged with the enforcement of the provisions of this article, and for that purpose shall have power:

(a) To enter and inspect personally, or through any authorized agent, every place within this state where fruits or vegetables are produced, packed, or stored for sale, shipped, delivered for shipment, offered for sale, or sold, and to inspect such places and all fruit or vegetable containers and equipment found in any such place;

(b) To appoint, superintend, control and discharge such inspectors and subordinate inspectors as in his discretion may be deemed to be necessary, for the special purpose of enforcing the terms of this article, to prescribe their duties and fix their compensation;

(c) Personally, or through any authorized agent or any such inspector, to forbid the movement of any closed package or packages of fruits or vegetables found to be in violation of any of the provisions of this article which have not been actually accepted by a common carrier for shipment in interstate traffic, and to require the same to be repacked or remarked. A carload of fruits or vegetables shall not be considered as actually accepted by a common carrier for shipment until the loading is finished, the car sealed and the bill of lading issued;

(d) To cause to be instituted through the prosecuting attorney of any county of this state, in any court of competent jurisdiction or before any justice of the peace of such county, in which fruits or vegetables are packed, shipped, delivered for shipment, offered for sale or sold, or may be found, in violation of any of the provisions of this article, prosecutions for such violations.

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§19-5-4. When fruits or vegetables presumed offered or exposed for sale.

When fruits or vegetables in closed packages are delivered to a railroad station or a common carrier for shipment, or delivered to a storage house for storage, such delivery shall be prima facie evidence that the fruits or vegetables are offered or exposed for sale, except in movement of unpacked and unlabelled fruits or vegetables for the purpose of repacking.

WV Legislature

§19-5-5. Offenses; penalty.

Any person, firm, organization or corporation, who shall violate any of the provisions of this article, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than $25 nor more than $500 for each offense.

WV Legislature

§19-5-6. Exemption from prosecution.

No person, firm, organization or corporation shall be prosecuted under the provisions of this article:

(a) When he or it can establish by satisfactory evidence that he or it was not a party to the packing, grading or marking of such fruits or vegetables;

(b) When he or it can establish that the fruits or vegetables offered for sale have passed inspection by an authorized inspector of this state and bear the official West Virginia inspection stamp, or by an inspector of the United States Department of Agriculture and found to be packed in accordance with the requirements of the commissioner of agriculture of West Virginia.

WV Legislature

§19-5-7. Certificates of inspectors as prima facie evidence.

All certificates issued by inspectors in compliance with the regulations of the secretary of agriculture of the United States governing the inspection of fruits and vegetables pursuant to the act making appropriations for the United States Department of Agriculture, or pursuant to this article, shall be admissible as prima facie evidence in all courts of this state.

WV Legislature

§19-5-8. Provisions of article separable.

If any section, subdivision, sentence, clause or phrase of this article is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this article.

WV Legislature