

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1937



ENROLLED

HOUSE BILL No. 13

(By Mr. Brotherton)



PASSED March 8, 1937

In Effect ninety days from Passage

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House Bill No. 13
(By MR. BROTHERTON)

[Passed March 8, 1937; in effect ninety days from passage.]

AN ACT to regulate the sale of fresh eggs; prohibit the sale of
inedible eggs; require that cold storage, preserved and incubated eggs be marked; making and filing invoices required by wholesaler and retailer, and prescribing penalties for violation of this act.

Be it enacted by the Legislature of West Virginia:

Section 1. *Sale of Eggs.* No person shall sell, offer for sale
2 or advertise for sale shell eggs as fresh eggs, or under any
3 words or description of similar import such as "new laid
4 eggs," "hennery eggs," "day-old eggs," "good eggs," "select
5 eggs," "strictly fresh eggs" et cetera, or any eggs which
6 are not fresh eggs as determined by the standards of quality
7 for fresh eggs hereinafter set forth and by the regulations

8 of the West Virginia department of agriculture pertaining
9 thereto for fancy grade eggs and grade "A" eggs, with such
10 tolerances as are hereinafter allowed for these grades.

11 Eggs sold, offered, exposed or advertised for sale as West
12 Virginia fancy grade eggs or as West Virginia grade "A"
13 eggs shall in fact be such eggs as have been produced within
14 the state of West Virginia, and shall meet the same standards
15 of quality as required for fancy grade eggs and grade "A"
16 eggs respectively.

17 All eggs not meeting the above requirements but still fit
18 for human food shall be declared and sold simply as eggs.

Sec. 2. *Standards of Interior Quality of Eggs.* These stan-
2 dards of interior quality in the case of fancy grade eggs re-
3 quire that the air cell must not exceed one-eighth inch in
4 depth, localized regular; the yolk may be not more than dimly
5 visible; free from any visible germ development and/or
6 other defects; the white must be firm and clear. In the case
7 of grade "A" eggs the air cell must not exceed two-eighths
8 of an inch in depth, localized regular; the yolk may be vis-
9 ible; the white must be firm and clear; the germ must show
10 no visible development.

Sec. 3. *Tolerance of Ten Per Cent in Grade.* A tolerance
2 of ten per cent net is allowed in each of these grades which
3 must be in the grade next lower, which, in respect to fancy
4 grade is grade "A" and in the grade "A" is as prescribed
5 in the United States Department of Agriculture, grade for
6 "U. S. Standard." In retail lots, at least ten eggs in each
7 dozen shall conform to the requirements set forth for the
8 respective grade, as indicated on the package, and not more
9 than two eggs in any dozen may be in the quality next lower
10 than the grade indicated on the package, in accordance with
11 the grades for eggs promulgated by the West Virginia De-
12 partment of Agriculture, the same being based on the stan-
13 dards for inferior quality as prescribed by the United States
14 Department of Agriculture.

Sec. 4. *Quality to be Determined by Candling.* In all cases
2 the final determination as to the meeting of these grade re-
3 quirements shall be made by candling, inasmuch as this is
4 the only known method of determining quality at the present
5 time.

Sec. 5. *When Eggs Unfit for Food.* For the purpose of this
2 act an egg shall be deemed unfit for human food if it be

3 addled or moldy; if it contains a black rot, a white rot, or a
4 blood ring; if it has an adherent yolk, or a bloody or green
5 white, or if it be incubated beyond the blood-ring stage, or
6 if it consists in whole or in part of a filthy, decomposed or
7 putrid substance, and it shall be unlawful for any person to
8 sell, offer or expose for sale eggs for human consumption
9 which are unfit for human food.

Sec. 6. *Sale of Preserved or Cold Storage Eggs.* No person
2 shall sell or offer for sale any shell eggs which have been
3 preserved by any artificial process, or which have been kept
4 in storage for more than fifteen days in any place where the
5 temperature is reduced by means of artificial refrigeration,
6 or which have been incubated for twenty-four hours or more,
7 without affixing on two sides of the crate or receptacle con-
8 taining such eggs, in black Roman letters on a light-colored
9 ground, not less than one inch high and one-half inch wide,
10 the words "cold storage eggs," "preserved eggs," or "in-
11 cubated eggs," as the case may be. The package or re-
12 ceptacle in which such eggs are displayed for sale, shall bear
13 a sign having on it the words "cold storage eggs," "preserved
14 eggs," or "incubated eggs," as the case may be. Such sign

15 shall be printed in Roman letters not less than one-half inch
16 high and one-fourth inch wide and in a color that contrasts
17 with a light-colored ground. The containers used for deliv-
18 ering such eggs shall have printed thereon, on two sides, the
19 words "cold storage eggs," "preserved eggs," or "incubated
20 eggs," as the case may be. Containers known as "three by
21 four eggs" cartons shall have the designating words printed
22 in color contrasting with the light ground of the container,
23 in Roman letters not less than one-half inch high and three-
24 eighths of an inch wide. The containers known as "two by
25 six eggs" cartons or bags shall have the designating words
26 printed in color contrasting with the light ground of the
27 container, in Roman letters not less than one-half inch high
28 and one-fourth inch wide. Wholesalers shall declare on their
29 invoices whether the eggs sold are "cold storage eggs," "pre-
30 served eggs," or "incubated eggs." No eggs shall be brought
31 into this state that have been held in cold storage or pre-
32 served by any process or incubated, unless the package con-
33 taining such eggs shall be marked or labeled in accordance
34 with the provisions of this section. All markings required
35 by this section shall be done in a manner approved by the

36 commissioner of agriculture.

Sec. 7. *Invoice of Sale to Show Grade of Eggs.* Every person, other than the producer, in selling eggs to a retailer, shall furnish to such retailer an invoice showing the grade, quality, or classification of such eggs according to the standards prescribed in this act. A copy of such invoice shall be kept on file by the person selling and the retailer at their respective places of business for a period of thirty days, and shall be available and open for inspection at all reasonable times by accredited inspectors or representatives of the commissioner of agriculture.

Sec. 8. *Duties of Commissioner of Agriculture as to Enforcement of Acts.* The commissioner of agriculture is charged with the enforcement of the provisions of this act and of the regulations thereunder, and for this purpose is authorized to designate standards relative to exterior quality and egg size or weight; and to make and promulgate such rules and regulations as may be deemed necessary by him in carrying out the provisions of this act.

Sec. 9. *Examination of Eggs.* In carrying out the provisions of this act, the commissioner of agriculture, his em-

3 ployees or agents, are authorized to enter, on any business
4 day, during the usual business hours, any store, market, or
5 other building or place where eggs are sold or offered for
6 sale, and to make such examination as is necessary to de-
7 termine the classification and quality of eggs sold, offered for
8 sale or advertised as defined in this act.

Sec. 10. *Offenses and Penalties.* Any person who violates
2 any provision of this act, or the regulations made under this
3 act for carrying out its provisions, or who fails or refuses to
4 comply with, or who answers or reports falsely in response
5 to any requirements of this act, or who wilfully interferes
6 with the commissioner of agriculture, his employees or agents,
7 in the carrying out of his duties prescribed in this act, shall
8 be guilty of a misdemeanor, and upon conviction thereof,
9 shall for the first offense be fined ten dollars, and in the dis-
10 cretion of the court, confined in the county jail not more
11 than ten days, and for the second or any subsequent offense
12 shall be fined not less than twenty-five dollars nor more than
13 fifty dollars, and in the discretion of the court confined in
14 the county jail not less than ten days nor more than thirty.
15 Each day on which this act is violated shall constitute a

16 separate violation.

Sec. 11. *Provisions Severable.* If any clause, sentence,
2 paragraph or part of this act shall, for any reason, be ad-
3 judged by any court of competent jurisdiction to be invalid
4 such judgment shall not affect, impair or invalidate the re-
5 mainder of this act, but shall be confined in its operation to
6 the clause, sentence, paragraph or any part thereof directly
7 involved in the controversy in which said judgment has been
8 rendered.

Sec. 12. *Inconsistent Acts Repealed.* All previous acts and
2 parts of acts inconsistent with this act are hereby repealed.

I certify that the foregoing act,
having been presented to the Governor for
his approval, and not having been returned
by him to the House of the Legislature in
which it originated within the time pre-
scribed by the constitution of the state, has
become a law without his approval.

This the 19th day of March,

1937.....


SECRETARY OF STATE

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

W. A. B. Salter

 Chairman Senate Committee

W. B. Baker

 Chairman House Committee

Originated in the.....

Takes effect.....passage.

C. W. D. Smith

 Clerk of the Senate

W. A. Hall

 Clerk of the House of Delegates

Chas. E. Hays

 President of the Senate

James Kay Thomas

 Speaker House of Delegates

The within.....this the.....

day of....., 1937.

.....
 Governor.

Filed in the office of the Secretary of State
 of West Virginia. **MAR 19 1937**

Wm. S. O'BRIEN,
 Secretary of State