WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1945

ENROLLED

SENATE BILL No. 93

(By Mr. Allen and Young)

PASSED March 3 1945

In Effect 90 days from Passage

JARRETT PRINTING COMPANY, CHARLESTON, W. VA.
AN ACT to amend chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new article, numbered eleven-a, requiring the enrichment of flour and bread to meet certain standards of vitamin and mineral content, prescribing the method of enrichment, and fixing penalties for violation of the provisions of said article.

Be it enacted by the Legislature of West Virginia:

That chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new article, to be numbered eleven-a, to read as follows:
Article 7-A. Enrichment of Flour and Bread.

Section 1. Definitions.—When used in this article, unless the context otherwise requires:

(a) "Flour" includes and shall be 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" includes plain white rolls and buns of the semi-bread 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 in-
clude 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 agri-
culture.
(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, en-
gaged in the commercial manufacture or sale of flour,
white bread or rolls.

Sec. 2. Enrichment of Flour Required; Exceptions as to

Flour Sold to Distributors, Bakers or other Processors.—

It shall be 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 (2) and
not more than two and five-tenths (2.5) milligrams of
thiamine; not less than one and two-tenths (1.2) and not
more than one and five-tenths (1.5) milligrams of ribo-
flavin; not less than sixteen (16) and not more than
twenty (20) milligrams of niacin or niacin-amide; not
less than thirteen (13) and not more than sixteen and
ten-tenths (16.5) milligrams of iron (Fe); except in the
case of self-rising flour which in addition to the above
ingredients shall contain not less than five hundred (500)
and not more than fifteen hundred (1500) milligrams of
calcium (Ca): Provided, however, That the provisions
of this section shall 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
shall by regulation prescribe, certifying that such flour
will be (1) resold to a distributor, baker or other pro-
cessor, or (2) used in the manufacture, mixing or com-
pounding of flour, white bread or rolls enriched to meet
the requirements of this article, or (3) used in the manu-
ufacture of products other than flour, white bread or rolls.
It shall be unlawful for any such purchaser so furnishing
any such certificate to use or resell the flour so purchased
in any manner other than as prescribed in this section:
Provided further, That the provisions of this section shall
not apply to non-commercial 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.

Sec. 3. Vitamin and Mineral Content of White Bread or Rolls.—It shall be 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 (1.1) and not more than one and eight-tenths (1.8) milligrams of thiamine; not less than seven-tenths (0.7) and not more than one and six-tenths (1.6) milligrams of riboflavin; not less than ten (10.0) and not more than fifteen (15.0) milligrams of niacin; and not less than eight (8.0) and not more than twelve and five-tenths (12.5) milligrams of iron (Fe).

Sec. 4. Enforcement of Article; Powers of Commissioner; Rules and Regulations.—(a) The commissioner is hereby charged with the duty of enforcing the pro-
visions of this article and he is hereby authorized and
directed to make, amend or rescind rules, regulations 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 stand-
ards governing the interstate shipment of enriched flour
and enriched white bread or enriched rolls, the commis-
sioner, in order to maintain uniformity between the in-
trastate 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 govern-
ing interstate shipments, and there shall be a presumption
that the amended standards governing interstate ship-
ments do actually represent the standards which will pro-
mote 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 in-
gredient required by sections 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, however, That undisposed floor 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, rules and regulations adopted by the commissioner pursuant to this article, and, within the limits specified by this article, shall become effective upon such date as the commissioner shall fix.

(e) It shall be 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, rules or regulations, adopted pursuant to this article, at least ten days prior to the effective date of such orders, rules or
regulations, and to make copies of same available to the
press. In case any interested person files written ob-
jections to any proposed order, rule or regulation, the
commissioner shall give an opportunity for a public hear-
ing upon such order, rule or regulation 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, ware-
house, 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,
materials, containers and labeling.

Sec. 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,
rules or regulations promulgated by the commissioner
under authority thereof, shall be guilty of a misdemeanor and upon conviction thereof shall be fined for each and every offense, a sum of not less than twenty-five ($25.00) dollars nor more than two hundred ($200.00) dollars, or imprisoned not to exceed sixty days, or both fined and imprisoned, within the discretion of the court. Justices of the peace shall have jurisdiction to try cases involving violations of any provision of this article, or of the orders, rules and regulations promulgated by the commissioner under authority thereof.

All acts and parts of acts inconsistent with the provisions of this article are hereby repealed to the extent of such inconsistency.

If any part of this article is declared unconstitutional by a court of competent jurisdiction, its decision shall not affect any portion of the article which remains, but the remaining portions of the article shall be in full force and effect as if the portions declared unconstitutional had never been a part of the article.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Charles C. Morris
Chairman Senate Committee

Edward Young
Chairman House Committee

Originated in the Senate

Takes effect 90 days from passage

Thomas Hughes
Clerk of the Senate

The within __________ this the ___ day of __________, 1945.

Governor.

Filed in the office of the Secretary of State
of West Virginia __________

MARCH 8, 1945

Wm. S. O'Brien,
Secretary of State