

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



93 3-7

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(BY MESSRS. ALLEN AND YOUNG)

[Passed March 3, 1945; in effect ninety days from passage.]

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, un-

2 less the context otherwise requires:

3 (a) “Flour” includes and shall be limited to the foods

4 commonly known in the milling and baking industries as

5 (1) white flour, also known as wheat flour or plain flour;

6 (2) bromated flour; (3) self-rising flour, also known as

7 self-rising white flour or self-rising wheat flour, and (4)

8 phosphated flour, also known as phosphated white flour

9 or phosphated wheat flour, but excludes whole wheat

10 flour and also excludes special flours not used for bread,

11 roll, bun or biscuit baking, such as specialty cake, pan-

12 cake and pastry flours.

13 (b) “White bread” means any bread made with flour

14 as defined in paragraph (a) whether baked in a pan or on

15 a hearth or screen, which is commonly known or usually

16 represented and sold as white bread, including Vienna

17 bread, French bread, and Italian bread.

18 (c) “Rolls” includes plain white rolls and buns of the

19 semi-bread dough type, namely: soft rolls, such as ham-

20 burger rolls, hot dog rolls, Parker House rolls, and hard

21 rolls, such as Vienna rolls, Kaiser rolls, but shall not in-
22 clude yeast-raised sweet rolls or sweet buns made with
23 fillings or coatings, such as cinnamon rolls or buns and
24 butterfly rolls.

25 (d) "Commissioner" means the commissioner of agri-
26 culture.

27 (e) "Person" means an individual, a corporation, a
28 partnership, an association, a joint stock company, a trust,
29 or any group of persons whether incorporated or not, en-
30 gaged in the commercial manufacture or sale of flour,
31 white bread or rolls.

Sec. 2. *Enrichment of Flour Required; Exceptions as to*
2 *Flour Sold to Distributors, Bakers or other Processors.*—
3 It shall be unlawful for any person to manufacture, mix,
4 compound, sell or offer for sale, for human consumption in
5 this state, flour as defined in section one of this article,
6 unless the following vitamins and minerals are contained
7 in each pound of such flour: not less than two (2) and
8 not more than two and five-tenths (2.5) milligrams of
9 thiamine; not less than one and two-tenths (1.2) and not
10 more than one and five-tenths (1.5) milligrams of ribo-

11 flavin; not less than sixteen (16) and not more than
12 twenty (20) milligrams of niacin or niacin-amide; not
13 less than thirteen (13) and not more than sixteen and
14 five-tenths (16.5) milligrams of iron (Fe); except in the
15 case of self-rising flour which in addition to the above
16 ingredients shall contain not less than five hundred (500)
17 and not more than fifteen hundred (1500) milligrams of
18 calcium (Ca): *Provided, however,* That the provisions
19 of this section shall not apply to flour sold to distributors,
20 bakers or other processors, if the purchaser furnishes to
21 the seller a certificate in such form as the commissioner
22 shall by regulation prescribe, certifying that such flour
23 will be (1) resold to a distributor, baker or other pro-
24 cessor, or (2) used in the manufacture, mixing or com-
25 pounding of flour, white bread or rolls enriched to meet
26 the requirements of this article, or (3) used in the manu-
27 facture of products other than flour, white bread or rolls.
28 It shall be unlawful for any such purchaser so furnishing
29 any such certificate to use or resell the flour so purchased
30 in any manner other than as prescribed in this section:
31 *Provided further,* That the provisions of this section shall

32 not apply to non-commercial flour manufactured by small
33 flour mills, located in this state, for persons from wheat
34 harvested in this state, or to any other flour produced and
35 sold at retail by such mills.

Sec. 3. *Vitamin and Mineral Content of White Bread or*
2 *Rolls.*—It shall be unlawful for any person to manufac-
3 ture, bake, sell, or offer for sale, for human consumption
4 in this state, any white bread or rolls, as defined in sec-
5 tion one of this article, unless the following vitamins and
6 minerals are contained in each pound of such bread or
7 rolls: not less than one and one-tenth (1.1) and not more
8 than one and eight-tenths (1.8) milligrams of thiamine;
9 not less than seven-tenths (0.7) and not more than one
10 and six-tenths (1.6) milligrams of riboflavin; not less
11 than ten (10.0) and not more than fifteen (15.0) milli-
12 grams of niacin; and not less than eight (8.0) and not
13 more than twelve and five-tenths (12.5) milligrams of
14 iron (Fe).

Sec. 4. *Enforcement of Article; Powers of Commis-*
2 *sioner; Rules and Regulations.*—(a) The commissioner
3 is hereby charged with the duty of enforcing the pro-

4 visions of this article and he is hereby authorized and
5 directed to make, amend or rescind rules, regulations and
6 orders for the efficient enforcement of this article.

7 (b) Whenever the vitamin and mineral requirements
8 set forth in sections two and three of this article are no
9 longer in conformity with the legally established stand-
10 ards governing the interstate shipment of enriched flour
11 and enriched white bread or enriched rolls, the commis-
12 sioner, in order to maintain uniformity between the in-
13 trastate and interstate vitamin and mineral requirements
14 for the foods within the provisions of this article, and to
15 maintain and protect the health of the citizens of this
16 state, is authorized and directed to modify or revise such
17 requirements to conform with amended standards govern-
18 ing interstate shipments, and there shall be a presumption
19 that the amended standards governing interstate ship-
20 ments do actually represent the standards which will pro-
21 mote the health and well-being of such citizens.

22 (c) In the event of findings by the commissioner that
23 there is an existing or imminent shortage of any in-
24 gredient required by sections two or three of this article,

25 and that because of such shortage the sale and distribu-
26 tion of flour or white bread or rolls may be impeded by
27 the enforcement of this article, the commissioner shall is-
28 sue an order, to be effective immediately upon issuance,
29 permitting the omission of such ingredient from flour or
30 white bread or rolls; and if he finds it necessary or ap-
31 propriate, excepting such foods from labeling require-
32 ments until the further order of the commissioner. Any
33 such findings may be made without hearing, on the basis
34 of an order or of factual information supplied by the
35 appropriate federal agency or officer. In the absence of
36 any such order of the appropriate federal agency or
37 factual information supplied by it, the commissioner on
38 his motion may, and upon receiving the sworn statement
39 of ten or more persons subject to this article that they be-
40 lieve such a shortage exists or is imminent shall, within
41 twenty days thereafter hold a public hearing with re-
42 spect thereto at which any interested person may present
43 evidence; and shall make findings based upon the evi-
44 dence presented.

45 Whenever the commissioner has reason to believe that
46 such shortage no longer exists, he shall hold a public
47 hearing, at which any interested person may present evi-
48 dence, and he shall make findings based upon the evi-
49 dence so presented. If his findings be that such shortage
50 no longer exists, he shall issue an order to become effec-
51 tive not less than thirty days after date of issuance, re-
52 voking such previous order: *Provided, however,* That un-
53 disposed floor stocks of flour on hand at the effective date
54 of such revocation order, or flour manufactured prior to
55 such effective date, for sale in this state may thereafter
56 be lawfully sold or disposed of.

57 (d) All orders, rules and regulations adopted by the
58 commissioner pursuant to this article, and, within the
59 limits specified by this article, shall become effective upon
60 such date as the commissioner shall fix.

61 (e) It shall be the duty of the commissioner to furnish
62 to any person or organization, filing a written request for
63 such information, a copy of any and all orders, rules or
64 regulations, adopted pursuant to this article, at least ten
65 days prior to the effective date of such orders, rules or

66 regulations, and to make copies of same available to the
67 press. In case any interested person files written ob-
68 jections to any proposed order, rule or regulation, the
69 commissioner shall give an opportunity for a public hear-
70 ing upon such order, rule or regulation before the same
71 shall become effective.

72 (f) For the purpose of this article, the commissioner,
73 or such officers or employees under his supervision as he
74 may designate, is authorized to take samples for analysis
75 and to conduct examinations and investigations, and to
76 enter, at reasonable times, any factory, mill, bakery, ware-
77 house, shop or establishment where flour, white bread or
78 rolls are manufactured, processed, packed, sold or held,
79 or any vehicle being used for the transportation thereof,
80 and to inspect any such place or vehicle and any flour,
81 white bread or rolls therein, and all pertinent equipment,
82 materials, containers and labeling.

· Sec. 5. *Penalties for Violation of Article; Inconsistent*
2 *Acts Repealed; Provisions Severable.*—Any person who
3 violates any of the provisions of this article or the orders,
4 rules or regulations promulgated by the commissioner

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

15 All acts and parts of acts inconsistent with the pro-
16 visions of this article are hereby repealed to the extent of
17 such inconsistency.

18 If any part of this article is declared unconstitutional
19 by a court of competent jurisdiction, its decision shall not
20 affect any portion of the article which remains, but the
21 remaining portions of the article shall be in full force
22 and effect as if the portions declared unconstitutional had
23 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

Alde Goyette Jr.
Chairman House Committee

Originated in the Senate

Takes effect 90 days from passage

Howard Hughes
Clerk of the Senate

Bluff
Clerk of the House of Delegates

Donald M. Tucker
President of the Senate

John E. Amos
Speaker House of Delegates

The within Approved this the 8th
day of March, 1945.

Robert Hodges
Governor.

Filed in the office of the Secretary of State
of West Virginia **MAR 8 1945**
Wm. S. O'BRIEN,
Secretary of State

