WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1965

ENROLLED

HOUSE BILL No. 625

(By Mr. Speaker, Mr. Willet)

PASSED March 13, 1965

In Effect ninety days from Passage

FILED IN THE OFFICE OF
JOE R. DURANT
SECRETARY OF STATE
THIS DATE 3-19-65
ENROLLED

House Bill No. 625
(By Mr. Speaker, Mr. White)

[Passed March 13, 1965; in effect ninety days from passage.]

AN ACT to amend and reenact article ten-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the production, processing, sale and distribution of eggs, and providing penalties.

Be it enacted by the Legislature of West Virginia:

That article ten-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:


Section 1. Short Title; Purpose.—This article shall be known and may be cited as the egg marketing law and
is designed to regulate the commercial processing, sale and distribution of eggs in this state.

Sec. 2. Definitions.—As used in this article, or in any rule or regulation authorized by it, unless the context clearly requires otherwise or a different meaning is specifically prescribed:

(a) "Authorized representative" means the commissioner or any duly authorized agent or employee who is assigned to carry out the provisions of this article.

(b) "Candling and grading" means selecting eggs as to their conformity to the standards of quality and size or weight class preparatory to marketing them as a specific grade and size or weight class.

(c) "Commissioner" means the commissioner of agriculture.

(d) "Container" means any box, case, basket, carton, sack, bag or other receptacle containing eggs.

(e) "Consumer" means any person who purchases eggs for his or her own family use or consumption and not for resale.
(f) "Department of Agriculture" or "department" means the department of agriculture of West Virginia.

(g) "Distributor" means any person, firm or corporation offering for sale or distributing eggs in the state to a retailer, cafe, restaurant or any other establishment offering for sale to consumers, or to an institutional user; and shall include any person, firm or corporation distributing eggs to his or its own retail outlets or stores but shall not include any person, producer, firm or corporation engaged only to haul or transport eggs nor retailers selling at retail eggs purchased from producers.

(h) "Eggs" means eggs in the shell that are the product of a domesticated chicken.

(i) "Facilities" means any room, compartment, or refrigerator used in handling eggs in any manner.

(j) "Grades" means and includes specifications defining the limit of variation in quality of two or more eggs.

(k) "Institutional consumer" means a restaurant, hotel, licensed boarding house, commercial bakery or any other institution in which eggs are prepared as food for use by its patrons, residents or patients.
(l) "Lot" means a physical grouping of eggs or containers with eggs therein, as determined by an authorized representative of the department of agriculture.

(m) "Marketing of eggs" or "market" means the sale, offer for sale, gift, barter, exchange, advertising, branding, marking, labeling, grading or other preparatory operation or distribution in any manner of eggs or containers of eggs as defined in this article.

(n) "Packer" means any person, that is engaged in grading, shell treating or packing shell eggs for sale to consumers, direct or through distributors or retailers.

(o) "Person" means and includes any individual, firm, partnership, exchange, association, trustee, receiver, corporation, or any other business organization and any member, officer, or employee thereof.

(p) "Retailer" means any person who markets eggs to consumers.

(q) "Producer" means any person owning laying hens who markets eggs of his own production only.

(r) "Size or weight class" means a classification of eggs based on weight at the rate per dozen.
(s) "Standards for quality" means specifications of
the physical characteristics of any or all of the component
parts of the individual egg.

(t) "Sub-container" means any container used within
another container.

Sec. 3. Distributor Required to Have Certificate of
Authorization; Application; Fee; Terms; Renewal.—Every
distributor as defined by this article shall obtain from
the commissioner of agriculture a certificate authorizing
such distributor to engage in the selling or distributing
of eggs. Application for such certificate shall be accom-
panied by a fee of five dollars to cover cost of recording
such certificate and shall expire on the thirtieth day of
June next succeeding date of issue thereof. Certificates
shall be renewable and shall be posted in a conspicuous
place in holder's place of business. The commissioner
shall have the power to revoke or suspend the certificate
for failure to comply with the provisions of the article
and shall refuse to issue a certificate to wilful violators.

Sec. 4. Exemption.—A producer or distributor market-
ing one hundred fifty dozen or less per week of his own
production shall be exempt from the provisions of this article.

Sec. 5. Consumer Grade and Size or Weight Class to Be Shown on Container.—No distributor shall market to consumers, institutional users or retailers or expose for that purpose any eggs unless there is clearly designated therewith on the container the consumer grade and size or weight class established in accordance with the provisions of this article and such eggs shall conform to the designated grade and size or weight class, except when sold on contract to an agency of the United States government.

Sec. 6. Standards, Grades and Weight Classes.—The specifications for consumer grades and weight classes and the standards for quality of individual eggs shall be those promulgated by the United States department of agriculture as set forth in the regulations governing the grading of shell eggs and United States standards, grades and weight classes for shell eggs as amended from time to time.
Sec. 7. Stop Sale Provisions.—If an authorized representative of the department of agriculture shall determine, after inspection, that any lot of eggs is in violation of this article, he may issue an embargo. An embargo shall specify the reason for its issuance. An embargo shall prohibit the further marketing of the eggs subject to it until such eggs are released by the department of agriculture.

Sec. 8. Labeling Requirements.—Any container or sub-container in which eggs are marketed to consumers shall bear on the outside portion of the container, but not limited to, the following:

(a) The applicable consumer grade or quality by designation provided for in this article.

(b) The applicable size or weight class provided for in this article.

(c) The word, “eggs.”

(d) The name and address of the packer, distributor or retailer.

Words and numerals used to designate the grade and size shall be clearly legible.
Any person intending to reuse a container shall obscure any inappropriate labeling thereon and relabel the container in accordance with this section prior to refilling the container with eggs. In any event, the address of the packer or distributor shall be clearly legible. No descriptive term other than the applicable grade and size may be used except that the term “fresh” may only be applied to eggs conforming to the specifications for Grade A or better.

Sec. 9. Invoice to Be Furnished Purchaser; Seller and Purchaser to Keep Invoice on File for Thirty Days.—Any distributor, when marketing eggs to a retailer, institutional user, or to any other person shall furnish to the purchaser at the time of delivery an invoice showing date of sale, name and address of seller, name of purchaser, quantity, grade and size, and weight classification. A copy of such invoice shall be kept on file by both the person selling and the purchaser at their respective places of business for a period of at least thirty days.

Sec. 10. Advertising.—No person shall advertise eggs for sale at a given price unless the unabbreviated grade
or quality and size-weight are conspicuously designated.

**Sec. 11. Commissioner of Agriculture to Enforce Article.**—The commissioner of agriculture is hereby charged with the enforcement of the provisions of this article and is empowered to prescribe and enforce such rules and regulations as may be necessary to administer and enforce the provisions of this article.

**Sec. 12. Egg Handling Facilities; Temperature and Humidity; Sanitation and Cleaning.**—Any packer or distributor engaged in the assembling, marketing or the processing of eggs for marketing shall, in addition to maintaining egg handling facilities in a manner commensurate with laws governing food establishments keep the eggs at a temperature not higher than sixty degrees Fahrenheit and in a relative humidity of not less than seventy percent. In addition, any container, including the packaging material therein, when used for the marketing of eggs shall be clean, unbroken and free from foreign odor. In all instances eggs shall, so far as possible and by use of all reasonable means, be protected from being soiled or dirtied by foreign matter. When cleaning is necessary, an
acceptable sanitary method shall be employed: Provided,
That any producer selling eggs of his own production is
exempt from the temperature and humidity provisions of
this section, if his production is not in excess of one hun-
dred and fifty dozen per week.

Sec. 13. Access to Premises, Etc.—The commissioner,
or his authorized agents or representatives, shall during
business hours have access to any establishment or facility
where eggs are bought, stored, sold, offered for sale, or
processed in order to inspect and examine eggs, egg con-
tainers, and the premises, and to examine the records
of such establishments or facilities relevant thereto.

Sec. 14. Penalty for Violation of Article or Rules and
Regulations; Injunction; Duty of Prosecuting Attorney.—
Any person who violates any of the provisions of this
article or of the rules or regulations adopted pursuant to
the provisions thereof, shall be guilty of a misdemeanor,
and, upon conviction thereof, shall be fined not less than
fifty dollars nor more than two hundred dollars. In
addition to the penalties provided for in this article, the
commissioner is hereby authorized to apply for and the
court to grant a temporary or permanent injunction re- 
straining any person from violating or continuing to 
violate any of the provisions of this article or any rules 
or regulations promulgated under this article notwith-
standing the existence of other remedies at law. Said 
injunction shall be issued without bond.

Nothing in the article shall be construed as requiring 
the commissioner or his representative to report for 
prosecution minor violations of this article when he be-
lieves that the public interest will be best served by a 
suitable notice of warning in writing. It shall be the duty 
of each prosecuting attorney to whom any violation is 
reported to cause appropriate proceedings to be instituted 
and prosecuted in a court of competent jurisdiction with-
out delay.

Sec. 15. Persons Punishable as Principals.—(a) Who-
ever commits any act prohibited by any section of this 
article or aids, abets, induces, or procures its commission, 
is punishable as a principal.

(b) Whoever causes an act to be done which if directly 
performed by him or another would be a violation of the
provisions of this article, is punishable as a principal.

Sec. 16. Separability.—If any of the provisions of this article shall be held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions of the article, and to these ends the provisions of this article are declared to be severable.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 19th day of March, 1965.

Governor
Presented to the Governor's Office
March 19, 1965
4:10 P.M.