

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1965



ENROLLED

HOUSE BILL No. 625

(By Mr. Speaker, Mr. White)



PASSED March 13, 1965

In Effect ninety days from Passage



FILED IN THE OFFICE OF  
JOE F. CONBET  
SECRETARY OF STATE  
TUES. DATE 3-19-65

#625

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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:

**Article 10-a. Marketing of Eggs.**

**Section 1. Short Title; Purpose.**—This article shall be  
2 known and may be cited as the egg marketing law and

3 is designed to regulate the commercial processing, sale  
4 and distribution of eggs in this state.

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

5 (a) “Authorized representative” means the commis-  
6 sioner or any duly authorized agent or employee who is  
7 assigned to carry out the provisions of this article.

8 (b) “Candling and grading” means selecting eggs as  
9 to their conformity to the standards of quality and size  
10 or weight class preparatory to marketing them as a spe-  
11 cific grade and size or weight class.

12 (c) “Commissioner” means the commissioner of ag-  
13 riculture.

14 (d) “Container” means any box, case, basket, carton,  
15 sack, bag or other receptacle containing eggs.

16 (e) “Consumer” means any person who purchases  
17 eggs for his or her own family use or consumption and  
18 not for resale.

19 (f) "Department of Agriculture" or "department"  
20 means the department of agriculture of West Virginia.

21 (g) "Distributor" means any person, firm or corpora-  
22 tion offering for sale or distributing eggs in the state to a  
23 retailer, cafe, restaurant or any other establishment offer-  
24 ing for sale to consumers, or to an institutional user; and  
25 shall include any person, firm or corporation distributing  
26 eggs to his or its own retail outlets or stores but shall not  
27 include any person, producer, firm or corporation engaged  
28 only to haul or transport eggs nor retailers selling at re-  
29 tail eggs purchased from producers.

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

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

34 (j) "Grades" means and includes specifications de-  
35 fining the limit of variation in quality of two or more eggs.

36 (k) "Institutional consumer" means a restaurant,  
37 hotel, licensed boarding house, commercial bakery or any  
38 other institution in which eggs are prepared as food for  
39 use by its patrons, residents or patients.

40 (l) "Lot" means a physical grouping of eggs or con-  
41 tainers with eggs therein, as determined by an authorized  
42 representative of the department of agriculture.

43 (m) "Marketing of eggs" or "market" means the sale,  
44 offer for sale, gift, barter, exchange, advertising, brand-  
45 ing, marking, labeling, grading or other preparatory op-  
46 eration or distribution in any manner of eggs or con-  
47 tainers of eggs as defined in this article.

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

51 (o) "Person" means and includes any individual, firm,  
52 partnership, exchange, association, trustee, receiver, cor-  
53 poration, or any other business organization and any  
54 member, officer, or employee thereof.

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

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

59 (r) "Size or weight class" means a classification of  
60 eggs based on weight at the rate per dozen.

61 (s) "Standards for quality" means specifications of  
62 the physical characteristics of any or all of the component  
63 parts of the individual egg.

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

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

**Sec. 4. Exemption.**—A producer or distributor market-  
2 ing one hundred fifty dozen or less per week of his own

3 production shall be exempt from the provisions of this  
4 article.

**Sec. 5. Consumer Grade and Size or Weight Class to  
2 Be Shown on Container.**—No distributor shall market to  
3 consumers, institutional users or retailers or expose for  
4 that purpose any eggs unless there is clearly designated  
5 therewith on the container the consumer grade and size  
6 or weight class established in accordance with the pro-  
7 visions of this article and such eggs shall conform to the  
8 designated grade and size or weight class, except when  
9 sold on contract to an agency of the United States gov-  
10 ernment.

**Sec. 6. Standards, Grades and Weight Classes.**—The  
2 specifications for consumer grades and weight classes and  
3 the standards for quality of individual eggs shall be  
4 those promulgated by the United States department of  
5 agriculture as set forth in the regulations governing the  
6 grading of shell eggs and United States standards, grades  
7 and weight classes for shell eggs as amended from time  
8 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.

14 Any person intending to reuse a container shall obscure  
15 any inappropriate labeling thereon and relabel the con-  
16 tainer in accordance with this section prior to refilling  
17 the container with eggs. In any event, the address of  
18 the packer or distributor shall be clearly legible. No  
19 descriptive term other than the applicable grade and size  
20 may be used except that the term "fresh" may only be  
21 applied to eggs conforming to the specifications for Grade  
22 A or better.

**Sec. 9. Invoice to Be Furnished Purchaser; Seller and  
2 Purchaser to Keep Invoice on File for Thirty Days.—**

3 Any distributor, when marketing eggs to a retailer, insti-  
4 tutional user, or to any other person shall furnish to the  
5 purchaser at the time of delivery an invoice showing  
6 date of sale, name and address of seller, name of pur-  
7 chaser, quantity, grade and size, and weight classification.

8 A copy of such invoice shall be kept on file by both  
9 the person selling and the purchaser at their respective  
10 places of business for a period of at least thirty days.

**Sec. 10. Advertising.—**No person shall advertise eggs  
2 for sale at a given price unless the unabbreviated grade

3 or quality and size-weight are conspicuously designated.)

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

**Sec. 12. Egg Handling Facilities; Temperature and Humidity; Sanitation and Cleaning.**—Any packer or dis-  
2 **Humidity; Sanitation and Cleaning.**—Any packer or dis-  
3 tributor engaged in the assembling, marketing or the pro-  
4 cessing of eggs for marketing shall, in addition to main-  
5 taining egg handling facilities in a manner commensurate  
6 with laws governing food establishments keep the eggs at  
7 a temperature not higher than sixty degrees Fahrenheit  
8 and in a relative humidity of not less than seventy per  
9 cent. In addition, any container, including the packaging  
10 material therein, when used for the marketing of eggs  
11 shall be clean, unbroken and free from foreign odor. In  
12 all instances eggs shall, so far as possible and by use of all  
13 reasonable means, be protected from being soiled or  
14 dirtied by foreign matter. When cleaning is necessary, an

15 acceptable sanitary method shall be employed: *Provided*,  
16 That any producer selling eggs of his own production is  
17 exempt from the temperature and humidity provisions of  
18 this section, if his production is not in excess of one hun-  
19 dred and fifty dozen per week.

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

**Sec. 14. Penalty for Violation of Article or Rules and**  
2 **Regulations; Injunction; Duty of Prosecuting Attorney.**—  
3 Any person who violates any of the provisions of this  
4 article or of the rules or regulations adopted pursuant to  
5 the provisions thereof, shall be guilty of a misdemeanor,  
6 and, upon conviction thereof, shall be fined not less than  
7 fifty dollars nor more than two hundred dollars. In  
8 addition to the penalties provided for in this article, the  
9 commissioner is hereby authorized to apply for and the

10 court to grant a temporary or permanent injunction re-  
11 straining any person from violating or continuing to  
12 violate any of the provisions of this article or any rules  
13 or regulations promulgated under this article notwith-  
14 standing the existence of other remedies at law. Said  
15 injunction shall be issued without bond.

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

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

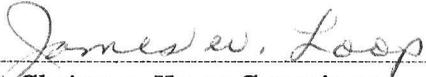
5 (b) Whoever causes an act to be done which if directly  
6 performed by him or another would be a violation of the

7 provisions of this article, is punishable as a principal.

**Sec. 16. Separability.**—If any of the provisions of this  
2 article shall be held invalid or unconstitutional, such in-  
3 validity or unconstitutionality shall not affect other pro-  
4 visions of the article, and to these ends the provisions of  
5 this article are declared to be severable.

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

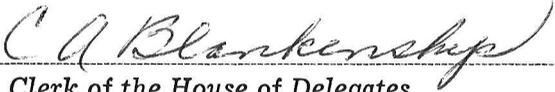
  
 Chairman Senate Committee

  
 Chairman House Committee

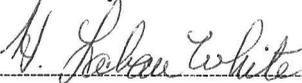
Originated in the House.

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 19  
 day of March, 1965.

  
 Governor



Presented to the Governor's Office

March 19, 1965

4:10 P. M.