WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1967

ENROLLED

HOUSE BILL No. 792

(By Mr. Stifftt and Mrs. Cothran)

PASSED February 20, 1967

In Effect Passage

FILED IN THE OFFICE
ROBERT D. BAYLEY
SECRETARY OF STATE
THIS DATE 3-2-67
ENROLLED

House Bill No. 792

(By Mr. Steptoe and Mr. Cookman)

[Passed February 20, 1967: In effect from passage.]

AN ACT to amend chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article five-a, relating to controlled atmosphere storage of certain fruits and vegetables; providing for licenses; enforcement; oxygen content; warehouse numbers; conditions; standards; air component determinations; hearings; subpoenas; injunctions; denials; suspension and revocation of licenses and providing remedies and penalties.

Be it enacted by the Legislature of West Virginia:

That chapter nineteen of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article five-a, to read as follows:

**ARTICLE 5A. CONTROLLED ATMOSPHERE STORAGE OF CERTAIN FRUITS AND VEGETABLES; INSPECTION AND LICENSING OF CONTROLLED ATMOSPHERE STORAGE WAREHOUSES.**

§19-5A-1. Purpose and construction.

1 The purpose of this article is to regulate controlled atmosphere storage warehouses, for controlling the condition and maturity of fresh fruits and vegetables, so that upon removal therefrom they may be designated as CA stored.


1 (a) "Department" means the department of agriculture of the state of West Virginia.

2 (b) "Commissioner" means the commissioner of agriculture of the state of West Virginia or his duly authorized representatives.

3 (c) "Controlled atmosphere storage" or "CA" means any storage warehouse consisting of one or more rooms
in any one facility in which atmospheric gases are controlled in their amount and in degrees of temperature for the purpose of controlling the condition and maturity of any fresh fruits and vegetables in order that upon removal therefrom they may be designated as having been exposed to controlled atmosphere.

(d) "Person" means an individual, firm, partnership, corporation, cooperative, company, society or association and each officer, agent or employee thereof and shall import either the singular or plural as the case may be.

§19-5A-3. Commissioner to enforce article; rules and regulations.

(a) The commissioner shall administer and enforce the provisions of this article and for this purpose he is hereby authorized and empowered to promulgate rules and regulations and to employ or contract with such persons as may be appropriate.

(b) The commissioner is hereby authorized and empowered to cooperate with the federal government and any agencies, departments, and instrumentalities thereof, the state of West Virginia and any agencies, departments
or political subdivisions thereof, and any other state or
commonwealth and any agencies, departments or political
subdivisions thereof, in order to carry out the effective
administration of this article.

§19-5A-4. License required for controlled atmosphere storage;
application for such licenses; fees; revocation or suspension; CA storage warehouse number or numbers.

No person shall engage in the business of operating a
controlled atmosphere storage warehouse unless he shall
have first obtained a license from the commissioner so
to do, which license remains unsuspended and unrevoked.
Application for such license shall be made on forms pre-
scribed by the commissioner and shall be accompanied
by a fee required in this section. When a person operates
two or more CA storage warehouses not on the same
premises in this state, a separate license shall be re-
quired for each such storage warehouse. Each license
shall expire on the thirtieth day of June next following
its issuance, and the annual fee for each such license
shall be twenty-five dollars. Before issuing any license
required by the provisions of this section, the commis-
sioner shall inspect the applicant's CA storage ware-
house and if the commissioner is satisfied that the ware-
house is properly equipped and is in conformity with the
provisions of this article and any rules and regulations
promulgated by the commissioner, he shall issue the
license. Each applicant for a license shall specify the
name of the person applying for the license, the principal
business address, name of the person domiciled in this
state authorized to receive and accept service and legal
notices of all kinds, the storage capacity of the controlled
atmosphere storage warehouse by cubic capacity or
volume, kind of fruits or vegetables for which the ap-
plicant intends to provide controlled atmosphere storage,
and any other information prescribed by the commis-
sioner as necessary in carrying out the provisions of this
article.

The commissioner may refuse to grant a license or may
suspend or revoke a license issued under the provisions
of this section whenever he finds that the applicant's or
licensee's CA storage warehouse, as the case may be,
is not properly equipped, or is not in conformity with the
provisions of this article or any rules and regulations
promulgated by the commissioner.

No such revocation or suspension of a license shall be
effective until the licensee has received notice thereof,
which notice shall specify the grounds for such revocation
or suspension.

§19-5A-5. Access to controlled atmosphere storage warehouses,
records, etc.

The commissioner shall have access to and is em-
powered to enter and make inspections during business
hours of all controlled atmosphere storage warehouses
licensed by this state. The licensee shall make available
on demand to the commissioner all records pertaining
to the conduct of said controlled atmosphere storage
warehouses.

§19-5A-6. CA warehouse numbers; issuance and use.

The commissioner when issuing a license shall assign
a warehouse number which shall be preceded by the
letters WV-CA.

No person in this state shall place, stamp, mark or
cause to be placed, stamped or marked the letters “CA”
or a similar designation in conjunction with a number or numbers upon any container or subcontainer of any fruits or vegetables, or imply that such fruits and vegetables have been subjected to controlled atmosphere conditions unless the commissioner has inspected such fruits and vegetables and issued a state lot number in conjunction with a certificate stating their quality and condition, that they were stored in a warehouse licensed under the provisions of this article and met the requirements of the article and regulations promulgated thereunder: Provided, That if such fruits and vegetables are not allowed to enter the channels of commerce within two weeks of such inspection or subsequent similar inspection by the commissioner the letters “CA” and the state lot number shall be eradicated by the licensee.

§19-5A-7. Oxygen content, time and temperature requirements for classification of fruits or vegetables as controlled atmosphere stored.

The Commissioner shall adopt regulations:

(a) Prescribing the maximum amount of oxygen that may be retained in a sealed controlled atmosphere warehouse.
(b) Prescribing the maximum period of time in which
the oxygen content shall be reduced to the amount pre-
scribed under sub-section a of this section.

(c) Prescribing the length of time and degree of
temperature at which any fruits or vegetables shall be
retained in a controlled atmosphere storage warehouse
before they may be classed as having been stored in a
CA storage.

§19-5A-8. Air component determinations; records; forms;
contents.

The licensee shall make air component determinations
as to the percentage of carbon dioxide, oxygen and tem-
perature at least once each day. A record of such deter-
minations shall be kept on a form prescribed by the
commissioner for a period of at least one year and shall
include the following:

(a) Full name and address of licensee.

(b) Number and storage capacity of the warehouse.

(c) Date of sealing of the warehouse.

(d) Date of opening of the warehouse.

(e) A daily record of the date and time of tests in-
cluding the percentage of carbon dioxide, oxygen and the
temperature.

(f) Any records required by the commissioner to ful-
fill the provisions of this article.


The commissioner shall establish minimum condition
and maturity standards for fruits and vegetables which
are to be designated as "CA" stored.

§19-5A-10. Subpoenas; injunction certificates as evidence.

The commissioner shall have subpoena power to com-
pel the attendance of witnesses and/or the production of
books, records or documents anywhere in the State in a
hearing affecting the authority or privilege granted by a
license issued under the provisions of this article and
may bring an action to enjoin the violation or threatened
violation of any provision of this article or of any regu-
lation adopted pursuant to this article in a court of record
in the county in which violation occurs or is about to
occur, notwithstanding the existence of any other remedy
of law. Official inspection certificates issued by the com-
missioner shall be received in all courts of this state as

It shall be unlawful for any person to sell, offer for sale, hold or transport for sale any fruits or vegetables represented as having been exposed to controlled atmosphere storage or to use any terms or form of words or symbols of similar import unless such fruits and vegetables have been stored in a controlled atmosphere storage which meets the requirements of this article and the regulations adopted hereunder. Any person violating the provisions of this article or the regulations adopted hereunder shall be guilty of a misdemeanor and upon conviction thereof, shall for the first offense be fined not less than fifty dollars nor more than two hundred fifty dollars and upon conviction of each subsequent offense shall be fined not less than two hundred fifty dollars nor more than five hundred dollars.

§19-5A-12. Article cumulative and nonexclusive; severability.

The provisions of this article shall be cumulative and nonexclusive and shall not affect any other remedy. If
any section or provision of this article shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the article as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tompoe
Chairman Senate Committee

Clayton C. Davister
Chairman House Committee

Originated in the House.

Takes effect from passage.

J. Howard Neace
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

H. Nelson White
Speaker House of Delegates

The within approved this the 1st

day of March, 1968.

Hulet C. Smith
Governor
PRESENTED TO THE GOVERNOR
Date 2-24-67
Time 1:45 P.M.