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STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1999



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COMMITTEE SUBSTITUTE
FOR
House Bill No. 2972

(By Mr. Speaker, Mr. Kiss, and Delegates Martin,
Proudfoot, Michael, Staton and Trump)



Passed March 12, 1999

In Effect from Passage

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FOR

H. B. 2972

(BY MR. SPEAKER, MR. KISS, AND DELEGATES
MARTIN, PROUDFOOT, MICHAEL, STATON AND TRUMP)

[Passed March 12, 1999; 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 eleven-d, relating to the regulation of traditional milk and cheese production methods; establishing legislative findings; prohibiting the division of health and local health departments from regulating certain cheese manufacturing and distribution; and authorizing rules by the commissioner of agriculture to regulate manufacture of certain cheese production.

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 eleven-d, to read as follows:

ARTICLE 11D. TRADITIONAL CHEESE PRODUCTION.

§19-11D-1. Legislative findings.

1 The Legislature finds that local production and sale of
2 locally manufactured cheese products is a culturally significant
3 tradition and that the preservation of historic methods of cheese
4 production is in the public interest; that local cheese production
5 is an important part of the economic livelihood of many
6 families and small businesses in this state; and that the unique
7 quality of home and farm-based cheese products cannot be
8 duplicated using manufacturing and food production require-
9 ments enforced by local boards of health. Therefore, the
10 Legislature finds that it is in the public interest to exempt
11 certain local cheese production and local cheese products from
12 regulations of the division of health related to food sanitation
13 enforced by local boards of health, and to place the production
14 of certain home and farm-based cheese products under the
15 jurisdiction of the department of agriculture.

§19-11D-2. Application of article

1 (a) In order for cheese production to fall within the exemp-
2 tion created in section two of this article, all of the following
3 criteria must apply:

4 (1) The cheese must be manufactured at a home or farm-
5 based site using either raw milk from West Virginia cows,
6 production of which is regulated by the department of agricul-
7 ture, or commercially pasteurized cow's milk;

8 (2) The cheese products must be aged at least sixty days;

9 (3) The cheese products must be sold directly to the
10 consumer at the production site or marketed in local restaurants
11 or local small businesses not engaged in interstate commerce:
12 *Provided*, That for the purposes of this article, acceptance of a
13 national credit card shall not be construed as engaging in
14 interstate commerce.

15 (b) The exemptions contained in this article are not applica-
16 ble to:

17 (1) Persons and businesses manufacturing more than five
18 thousand pounds of cheese products per year;

19 (2) Cheese products sold to the ultimate consumer outside
20 the borders of the state;

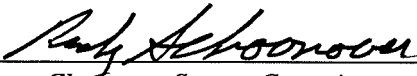
21 (3) Cheese products marketed by mail or on the internet; or

22 (4) Cheese products the sale or manufacture of which is
23 governed by applicable federal law.

**§19-11D-3. Exemption from regulatory control; authorizing rules
by the commissioner of agriculture.**

1 The manufacture of cheese products described in section
2 two of this article is exempt from: (a) pasteurization, packaging,
3 labeling and all other health related requirements established in
4 this code or rules promulgated by the division of health, and
5 (b) regulatory control by the division of health and county or
6 local health departments or sanitarians. Powers of the commis-
7 sioner of agriculture set forth in section ten, article eleven-a of
8 this chapter are applicable to the manufacturing of home and
9 farm-based cheese products described in section two of this
10 article. The commissioner of agriculture is authorized to
11 promulgate rules pursuant to article three, chapter twenty-nine-
12 a of this code, considering and promoting traditional methods
13 of cheese production, while providing minimum health and
14 sanitation standards necessary for the protection of the public,
15 including standards for cleanliness, handling, and protection
16 from contamination. Emergency rules for this purpose are
17 authorized.

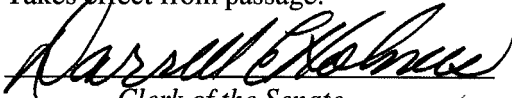
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

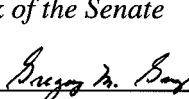

Chairman Senate Committee

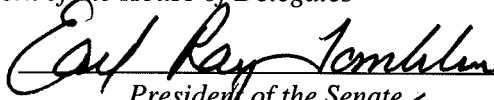

Chairman House Committee

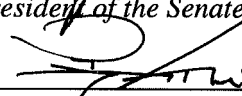
Originating in the House.

Takes effect from passage.

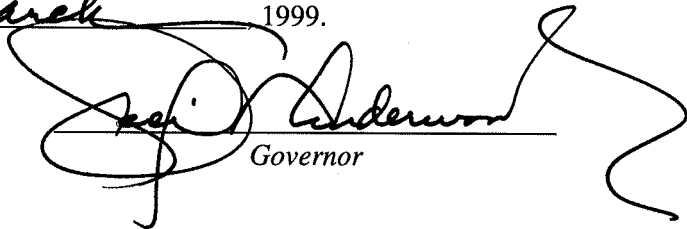

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 24th
day of March 1999.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/22/99

Time 10:53 am