

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

**Introduced**

### **Senate Bill 662**

**FISCAL  
NOTE**

BY SENATORS MILLER AND YOST

[Introduced February 20, 2016;

Referred to the Committee on Agriculture and Rural

Development; and then to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §19-36-1, §19-36-2, §19-36-3 and §19-36-4, all relating to creating the Food  
 3 Production Act; making the Department of Agriculture responsible for all food production  
 4 within the state; making findings; defining a term; and providing rule-making authority.

*Be it enacted by the Legislature of West Virginia:*

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
 2 article, designated §19-36-1, §19-36-2, §19-36-3 and §19-36-4, all to read as follows:

**ARTICLE 36. THE FOOD PRODUCTION ACT.**

**§19-36-1. Short title.**

1 This article may be cited as The Food Production Act.

**§19-36-2. Findings; purpose; preemption.**

1 The Legislature finds that food production safety in the state is of paramount importance.  
 2 The public will be best served if our citizens are assured that the food they purchase and consume  
 3 is safe for themselves and their families. Additionally, the food production industry will be best  
 4 served if there is one central set of standards and a single state department that is responsible  
 5 for food production safety. As such, the Legislature determines that the Department of Agriculture  
 6 is best suited to set those standards and be responsible for food production safety in the state,  
 7 Therefore, notwithstanding any other provision of this code to the contrary all food production  
 8 within the state is under the jurisdiction of the Department of Agriculture.

**§19-36-3. Definition.**

1 For the purposes of this article:

2 “Food production” means any process which takes fruits, vegetables and grains in their  
 3 harvested forms as well as meat directly after the butchering process and processes these into  
 4 the types of food products that are available for sale in supermarkets and other commercial  
 5 establishments for the ultimate consumption or sale to the public. Food production ranges from  
 6 minimal processing, such as cleaning and packaging, to complicated processes involving lots of

7 additives and ingredients. Food production processes generally create products with longer shelf  
8 lives than the raw food ingredients they contain.

**§19-36-4. Legislative rules.**

1 (a) The Department of Agriculture shall propose rules for legislative approval in  
2 accordance with the provisions of article three, chapter twenty-nine-a of this code for the purposes  
3 of implementing this article.

4 (b) In promulgating those rules the department shall, at a minimum:

5 (1) Review, consider and, to the extent necessary, adopt the appropriate regulations of  
6 the U.S. Department of Agriculture;

7 (2) Adopt and apply the Hazard Critical Control Point Concept (HACCP) which shall, at a  
8 minimum, include:

9 (A) Analyzing the hazards and potential hazards associated with a food and implement  
10 measures to control identified hazards;

11 (B) Identifying critical control points in the food chain at which the potential hazard can be  
12 controlled or eliminated;

13 (C) Establishing preventive measures with critical limits for each control point for a cooked  
14 food. For example, this might include setting the minimum cooking temperature and time required  
15 to ensure the elimination of any microbes;

16 (D) Establishing procedures to monitor the critical control points;

17 (E) Establishing corrective actions to be taken when monitoring shows that a critical limit  
18 has not been met;

19 (F) Establishing procedures to verify that the system is working properly; and

20 (G) Establishing effective record keeping to document the HACCP system, including  
21 records of hazards and their control methods, the monitoring of safety requirements, and action  
22 taken to correct potential problems; and

23 (3) Consult with other state agencies and departments as necessary.

NOTE: The purpose of this bill is to create The Food Production Act. The bill makes the Department of Agriculture responsible for all food production within the state. The bill makes findings, defines a term and provides rule-making authority.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.