

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

Senate Bill 27

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[Originating in the Committee on Agriculture and
Rural Development; reported on March 3, 2017]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §19-35-5, relating to microprocessor permit; establishing permit requirements
3 and limitations; clarifying types of microprocessor kitchens; requiring percentage from
4 garden or farm; requiring recordkeeping and labeling; clarifying foods requiring permit and
5 exempted foods; setting forth permit inspections and fees; allowing suspensions and
6 recalls; and limiting sales.

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 section, designated §19-35-5, to read as follows:

ARTICLE 35. FARMERS MARKETS.

§19-35-5. Microprocessor permit.

1 (a) Notwithstanding any provision of chapter sixteen of this code or any rules promulgated
2 pursuant to that chapter to the contrary, a farmers market vendor may apply for a microprocessor
3 permit to sell certain foods at a farmers market. Online farmers market sales shall be delivered in
4 person and are not permitted to be shipped. A home, farm, community or commercial kitchen may
5 be used by a microprocessor. The microprocessor permit is required in addition to the farmers
6 market vendor permit.

7 (b) A microprocessor must source seventy percent of all produce for its products from his
8 or her farm or garden. The microprocessor is required to keep production and food source
9 records. The food shall be labeled in compliance with the West Virginia Department of Agriculture
10 labeling standards and provide information about its content and sources. The label shall include
11 the words "MADE IN A WV _____ KITCHEN" in capital, bold, 10-point type or larger, with the
12 blank space to state whether the product was made in a home, farm, community or commercial
13 kitchen.

14 (c) A microprocessor permit is required to sell:

15 (1) Canned acidified foods, such as pickled products, sauces and salsas. Acidified foods

16 are low-acid foods to which acid or acid foods are added with a water activity of greater than .085
17 and a finished equilibrium of pH 4.6 or below; and

18 (2) Frozen fruits and vegetables, which are not permitted to be vacuum-sealed.

19 (d) Non-potentially hazardous foods, and those already exempted, do not require a
20 microprocessor permit but require registration with the local health department. These include,
21 but are not limited to: breads, cakes and candies; honey, maple syrup, apple butter and molasses;
22 standardized, nondietary jams and jellies; fermented products; whole or chopped tomatoes,
23 tomato sauce and tomato juice having a finished equilibrium of pH 4.6 or below; exempted
24 condiments; and dehydrated fruits and vegetables.

25 (e) In order to qualify for a microprocessor permit, the applicant must:

26 (1) Successfully complete a microprocessor workshop offered by West Virginia extension
27 services and approved by the West Virginia Department of Agriculture;

28 (2) Pass an annual permit inspection conducted by the local health department at the
29 microprocessor's kitchen. Animals, unless caged at all times, are not allowed in the
30 microprocessor's kitchen at any time. The local health department shall conduct at least one
31 operational inspection during the processing season at the microprocessor's kitchen when
32 warranted. The local health department has the right to suspend operations or recall products for
33 disease outbreaks, or violations of rules or regulations;

34 (3) Possess a valid food handler's permit from the local health department if required;

35 (4) Use a USDA preapproved recipe or have the recipe tested in accordance with the
36 procedures established by the department; and

37 (5) Pay an annual permit fee of \$50 to the local health department issuing the
38 microprocessor permit and any additional fees assessed by the local health department to cover
39 costs for inspections; and

40 (f) Microprocessors shall not sell more than one thousand five hundred units per year in
41 the aggregate.

NOTE: The purpose of this bill is to permit certain microprocessed foods to be sold at farmers markets. The bill establishes permit requirements and limitations, inspection standards and permits fees.

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