

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 496**

SENATORS SYPOLT, SMITH, AND MARONEY, *original*

*sponsors*

[Passed March 8, 2019; in effect from passage]



1 AN ACT to repeal §16-7-5a of the Code of West Virginia, 1931, as amended; to amend and  
2 reenact §16-7-5 of said code; and to amend said code by adding thereto a new article,  
3 designated §19-11E-1, §19-11E-2, §19-11E-3, §19-11E-4, §19-11E-5, §19-11E-6, §19-  
4 11E-7, §19-11E-8, §19-11E-9, §19-11E-10, §19-11E-11, §19-11E-12, §19-11E-13, §19-  
5 11E-14, §19-11E-15, §19-11E-16, and §19-11E-17, all relating generally to transferring  
6 authority to regulate milk from the Department of Health and Human Resources to the  
7 Department of Agriculture; transferring authority to regulate milk and milk products  
8 effective July 1, 2019; explaining purpose and scope of article; defining terms; requiring  
9 milk producers and those handling or transporting milk or milk products to have and  
10 maintain permits; establishing procedure for obtaining permits; mandating certified  
11 inspectors of milk production facilities maintain valid licenses; establishing milk and milk  
12 product labeling standards; defining “adulteration”; describing authority and duties of  
13 Commissioner of Department of Agriculture regarding milk and milk products; listing  
14 prohibited acts; establishing grounds and procedure for suspension, revocation, or denial  
15 of permits or licenses; providing for right of hearing and appeal by persons aggrieved by  
16 actions taken pursuant to article; establishing criminal penalties for violation of article or  
17 rules promulgated thereunder; establishing civil penalties for violation of article or rules  
18 promulgated thereunder; allowing commissioner to promulgate rules permitting consent  
19 decrees or negotiated settlements of civil penalties; establishing that fees received  
20 pursuant to article are to be deposited into Department of Agriculture’s fees account;  
21 permitting commissioner to enter into agreements with public or private entities to carry  
22 out provisions of the article; protecting trade secrets from disclosure; providing exception;  
23 establishing orderly transition of milk regulatory operations to Department of Agriculture;  
24 and mandating that Department of Health and Human Resources’ legislative rules  
25 regulating milk remain in effect until July 1, 2020, or until earlier superseded by  
26 Department of Agriculture regulations.

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

## **CHAPTER 16. PUBLIC HEALTH.**

### **ARTICLE 7. PURE FOOD AND DRUGS.**

#### **§16-7-5. Regulations by state Bureau for Public Health as to milk and milk products.**

1           The West Virginia Bureau for Public Health shall adopt regulations to provide clean and  
2 safe milk and fresh milk products and, when promulgated, these regulations shall be the minimum  
3 requirements to be enforced by local health authorities throughout the state: *Provided*, That  
4 except in any case where the milk or milk product involved creates, or appears to create, an  
5 imminent hazard to the public health, or in any case of a willful refusal to permit an authorized  
6 inspection, that any regulations promulgated by the Bureau for Public Health shall provide that  
7 prior to any suspension or revocation of a permit issued to any dairy farm, milk plant, receiving  
8 station, transfer station, and distribution station, the holder of such permit shall be served with a  
9 written notice to suspend or revoke such permit, which notice shall specify with particularity the  
10 violations in question and afford the holder reasonable opportunity to correct such violations:  
11 *Provided, however*, That the proposed order to deny, suspend, or revoke a permit may not be  
12 effective until notice in writing has been delivered to the holder of such permit who shall have 48  
13 hours therefrom in which to make application to the county health officer for a hearing thereon.  
14 The county health officer shall, within 72 hours of receipt of such application, give a notice in  
15 writing to the holder of such permit setting forth the time and place of the hearing and proceed to  
16 a hearing to ascertain the facts of such violation and upon evidence presented at the hearing shall  
17 affirm, modify, or rescind the proposed order to suspend. A copy of the regulations shall be  
18 furnished to the Commissioner of Agriculture for his or her guidance in performing any duties with  
19 relation to milk and milk products imposed on him or her by law.

20 Effective July 1, 2019, the Bureau for Public Health may no longer adopt or enforce  
21 regulations to provide clean and safe milk and fresh milk products. Effective July 1, 2019, all  
22 authority to regulate milk and milk products shall be transferred to the Department of Agriculture.

**§16-7-5a. Joint Task Force on Milk Rules and Regulations.**

1 [Repealed.]

**CHAPTER 19. AGRICULTURE.**

**ARTICLE 11E. MILK AND MILK PRODUCTS.**

**§19-11E-1. Purpose and scope.**

1 In 2018, the Legislature created the Joint Task Force on Milk Rules and Regulations in  
2 response to concerns about current regulation of the dairy industry in West Virginia. The Joint  
3 Task Force heard from, and collected data and other information from, dairy farmers, industry  
4 representatives, and regulators from West Virginia, other states, and the federal government.  
5 Following its review of the collected information, the Joint Task Force concluded that potential  
6 benefits and economies of scale would best be realized by transferring some or all authority to  
7 promulgate milk rules and regulations from the Department of Health and Human Resources to  
8 the Department of Agriculture.

9 It is the purpose of this article to establish the authority of the West Virginia Department  
10 of Agriculture to regulate milk and milk products within the state. It is the further purpose of this  
11 article to ensure that milk and milk products produced, manufactured, or sold in West Virginia are  
12 safe, while also ensuring that regulation is done in such a way as to foster the stability and growth  
13 of the dairy industry in West Virginia.

14 It is the intent of the Legislature that this article regulate the production, transportation,  
15 and sale of milk and milk products; confer powers and impose duties upon the Commissioner of  
16 Agriculture; prescribe penalties; and provide for the enforcement thereof.

17 Furthermore, except where otherwise indicated, it is the intent of the Legislature that this  
18 article substantially conform with the federal regulations promulgated under the authority of the  
19 United States Secretary of Health and Human Services in order to provide for the movement of  
20 milk and milk products in interstate and intrastate commerce with a minimum of economic barriers.

**§19-11E-2. Definitions.**

1 “Adulterated” means milk or the products manufactured from milk meeting one or several  
2 of the conditions listed in §19-11E-7 of this code.

3 “Clean” means the condition where no residue remains on a surface that will, or is likely  
4 to, cause adulteration or other contamination.

5 “Commissioner” means the Commissioner of Agriculture of the State of West Virginia or  
6 his or her duly authorized agent.

7 “Distribute” means the act of transporting, holding for sale, offering for sale, selling,  
8 bartering, parceling out, giving, or otherwise disposing of milk.

9 “Embargo” means an order to withdraw milk from distribution. An embargo shall detain  
10 such milk or milk product and prohibit the transportation or distribution of milk as provided in §19-  
11 11E-8 of this code.

12 “Manufacture” means pasteurizing, ultrapasteurizing, formulating, or compounding milk;  
13 or packaging or preparing said product for distribution; or other methods of preparing milk for  
14 consumption.

15 “Milk” means the lacteal secretion, practically free from colostrum, obtained by the  
16 complete milking of one or more healthy mammals. The term may include the components of milk,  
17 including cream. For purposes of this article, the term “milk” does not include raw milk.

18 “Milk producer” means any person who operates a dairy farm and who provides, sells, or  
19 offers milk for sale.

20 "Person" means any individual, partnership, association, fiduciary, firm, company,  
21 corporation, or any organized group of persons whether incorporated or not. The term "person"  
22 extends to the agents, servants, officers, and employees of the person.

23 "Receiving station" means any place, premises, or establishment where milk in  
24 unpackaged form is received, collected, handled, stored, or cooled and prepared for further  
25 transporting.

26 "Transport" means the movement of milk or milk products from one facility to another in a  
27 manner that maintains adequate temperatures and protects the product from freezing  
28 temperatures, exposure to the sun, and from sources of contamination.

29 "Transfer station" means any place, premises, or establishment where milk is transferred  
30 directly from one transport tank to another.

31 "Transport tank" means any tank which is used for the pickup of milk or the transportation  
32 of milk to or from any milk producer, dairy plant, receiving station, or transfer station.

**§19-11E-3. Department to regulate milk and milk products.**

1 Effective July 1, 2019, the Department of Agriculture shall be responsible for regulating all  
2 matters addressed in the Grade "A" Pasteurized Milk Ordinance issued by the federal Food and  
3 Drug Administration. This includes, but is not limited to, inspection of milk production facilities,  
4 inspection of facilities making single-use containers for dairy products, collection and testing of  
5 milk samples, and training and certification of inspectors.

**§19-11E-4. Milk producer permits.**

1 (a) A person may not sell milk, milk products, or manufactured dairy products within this  
2 state without having a current, valid permit from the Commissioner of Agriculture.

3 (b) A separate permit shall be obtained for each milk plant, milk producer, milk distributor,  
4 receiving station, transfer station, bulk tank unit, and milk tank truck cleaning facility.

5 (c) Permits are not transferable with respect to persons or locations.

6 (d) Permits shall be applied for at least 30 days before the date that the current permit  
7 expires or within 30 days of the date that the person intends to engage in business. Applications  
8 for all permits shall be made on forms supplied by the commissioner and provide such information  
9 as may be considered reasonably necessary by the commissioner. All applications shall be  
10 accompanied by an application fee. A penalty shall be added to all permits that are not applied  
11 for or renewed within the time limits set forth in this subsection.

12 (e) Permits shall be posted prominently at the place of operation.

13 (f) Within 30 days of receiving a complete application for an initial permit, the commissioner  
14 will inspect the applicant's operation to determine whether it meets the standards set forth by this  
15 code and rules promulgated pursuant thereto that would be applicable if the applicant received  
16 the permit applied for. If the applicant satisfies those requirements, the commissioner shall issue  
17 the permit.

18 (g) Permits shall be valid for one year.

**§19-11E-5. Licenses.**

1 (a) Licenses shall be issued by the commissioner to certified inspectors of milk production  
2 facilities. Licenses are not transferable.

3 (b) Applications for licenses shall be made on forms supplied by the commissioner and  
4 shall provide such information as may be considered reasonably necessary by the commissioner  
5 for the administration of this article.

6 (c) Licenses shall expire on June 30 following the date of issue. License renewals shall be  
7 applied for at least 15 days previous to the date when the current license expires. The  
8 commissioner may assess a penalty for licenses that are not applied for or renewed within this  
9 time limit.

**§19-11E-6. Labeling.**



1 (a) All packages of milk or milk products shall have a label upon or affixed to the package.  
2 The label shall be legible and of a print size and style easily readable by the ordinary citizen. The  
3 information required in this section shall be on each label and shall be stated in English.

4 (b) The label shall contain the following information:

5 (1) The name of the product;

6 (2) The quantity of the contents;

7 (3) The name and address of the manufacturer, packer, or distributor: *Provided*, That the  
8 manufacturer's plant code or name and address shall always appear on the label for Grade "A"  
9 products; and

10 (4) Such other information as the commissioner shall require by rule.

**§19-11E-7. Adulteration.**

1 Any milk or any milk products are considered adulterated within the meaning of this article  
2 if:

3 (1) They bear or contain any poisonous or deleterious substance or compound in a  
4 quantity which may render it injurious to health;

5 (2) They bear or contain any added poisonous or deleterious substance for which no safe  
6 tolerance has been established by state or federal law or regulation or which is found in the  
7 product in excess of an established tolerance;

8 (3) They are or have been produced, transported, or held under unsanitary conditions;

9 (4) They contain any substance added thereto so as to make them appear better or of a  
10 greater value than they are; or

11 (5) They meet or have met other conditions of adulteration as established by rule.

**§19-11E-8. Authority and duties of the commissioner.**

1 The commissioner has the power and duty to:

2 (1) Propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code,  
3 including adopting with any necessary modifications the Grade “A” Pasteurized Milk Ordinance  
4 promulgated by the Food and Drug Administration;

5 (2) Adopt, promulgate, and enforce other rules for legislative approval in accordance with  
6 §29A-3-1 *et seq.* of this code as necessary to carry out the purpose of this article;

7 (3) Have access to and enter at all reasonable times all places where frozen desserts or  
8 imitation frozen desserts are manufactured, stored, held, transported, distributed, or used in the  
9 state and where records, papers, or documents relating to these transactions are kept;

10 (4) Inspect and photograph all places where milk is manufactured, packaged, stored, held,  
11 transported, or distributed; inspect, audit, and copy records and papers relating to the  
12 manufacturing, distribution, sampling, testing, and sale of milk; examine measuring and testing  
13 apparatus; and examine equipment used in manufacturing and transportation of milk;

14 (5) Sample milk, including, but not limited to, ingredients and packages that are used in  
15 the manufacture of these products and may open any package containing or believed to contain  
16 any milk or milk product or an ingredient to be used in the manufacture of milk or a milk product  
17 for the purpose of inspecting and sampling;

18 (6) Issue, suspend, revoke, or deny permits;

19 (7) Collect fees and expend moneys under the terms of this article;

20 (8) Collect evidence, including samples, of the condition of equipment, holding tanks,  
21 storage rooms, and vehicles used, or intended to be used, in the processing, packaging,  
22 transporting, or holding of milk or milk products;

23 (9) Examine the labels and labeling of milk and milk products;

24 (10) Issue embargoes for any milk or milk product which is or is believed to be adulterated,  
25 misbranded, or that is not in compliance with this article and to cause the manufacturing and  
26 distributing of same to cease: *Provided*, That nothing in this article may be construed as requiring

27 the commissioner to issue embargoes for minor violations of this article when he or she believes  
28 that a written notice of violation will serve the public interest:

29 (A) When an embargo is issued, the commissioner shall affix to such product or  
30 manufacturing device in an appropriate manner a tag or other marking giving warning that such  
31 product is under embargo;

32 (B) The commissioner shall give written notice to the custodian of the product or process  
33 under embargo describing the violation and stating that the product is prohibited from being sold,  
34 offered for sale, exposed for sale, or distributed and is ordered to be held on the premises and,  
35 further, that all manufacturing processes for this product shall cease until the embargo is released.  
36 This notice shall notify the custodian of the right to request an immediate hearing under the rules  
37 adopted by the commissioner;

38 (C) The commissioner shall take action to seize and condemn any product that cannot be  
39 brought into compliance with this article and the rules issued under same within 90 days of notice  
40 to the custodian of the product;

41 (D) The commissioner may issue an embargo against a perishable product even if the  
42 practical result is to bring about the involuntary disposal of the product. The commissioner shall  
43 exercise this power using all reasonable means to determine if the product is adulterated or  
44 otherwise not in compliance with this article in as short a time frame as possible and shall promptly  
45 lift the embargo order if the product is found to be in compliance with this article;

46 (11) Approve sampling and testing methods, and evaluate and approve official  
47 laboratories;

48 (12) Obtain from any state court an order directing any person to submit to inspection and  
49 sampling subsequent to the refusal of any person to allow inspection and sampling;

50 (13) Conduct hearings as provided by this article; and

51 (14) Assess civil penalties and refer violations to a court of competent jurisdiction:

52 *Provided*, That the commissioner is not required to report for prosecution minor violations of the

53 article when he or she believes that the public interest will be best served by a suitable notice in  
54 writing.

**§19-11E-9. Prohibited acts.**

1 No person may:

2 (1) Have in his or her possession with the intent to sell, transport, or manufacture any milk  
3 which is adulterated within the meaning of this article;

4 (2) Interfere with or prohibit the commissioner from performing the duties of his or her  
5 office;

6 (3) Fail to comply with the provisions of an embargo order issued under this article;

7 (4) Fail to comply with the provisions of a revocation, suspension, or denial order issued  
8 under this article;

9 (5) While operating in any official capacity, obtain any information under the provisions of  
10 this article that would be considered trade secrets regarding the quality, source, and disposition  
11 of milk, and use this information for his or her own personal gain;

12 (6) Sell milk or milk products, where required, without a valid permit as required by the  
13 provisions of this article;

14 (7) Conduct inspections of milk production facilities for the purpose of certifying  
15 compliance with this article without a valid inspector license, and perform those duties in a  
16 dishonest or incompetent manner, or falsify the records thereof;

17 (8) Sell, offer for sale, or expose for sale any milk that is from a herd that does not meet  
18 the requirements for animal health as set by rule under this article;

19 (9) Represent an imitation dairy product to be a milk product;

20 (10) Conduct a test to determine the identity, quality, purity, grade, or quantity of a dairy  
21 product in a manner that is not in accordance with the Pasteurized Milk Ordinance; or

22 (11) Alter or destroy the results of a test conducted to determine the identity, quality, purity,  
23 grade, or quantity of a dairy product.

**§19-11E-10. Suspension, revocation, or denial of permits or licenses.**

1           (a) The commissioner may deny any application for a permit, license, or certificate  
2 whenever the permit, license, or certificate has been applied for fraudulently, the applicant has  
3 grossly interfered with the duties of the commissioner, the applicant is determined to be not in  
4 compliance with or not able to comply with this article, or the applicant has not otherwise satisfied  
5 the requirements of this article.

6           (b) The commissioner may suspend a permit, license, or certificate whenever a health  
7 hazard exists, the permit, license, or certificate has been obtained fraudulently, the holder has  
8 grossly interfered with the duties of the commissioner, or it is determined that the permit, license,  
9 or certificate holder is dishonest, deceitful, incompetent, or not in compliance with, or is unable to  
10 comply, with this article. A person whose permit, license, or certificate has been suspended shall  
11 discontinue operations covered by the permit, license, or certificate during the period of the  
12 suspension. The commissioner may issue a summary suspension in cases where violations of  
13 this article constitute a hazard to the public health, safety, or welfare where the public interest  
14 requires immediate action.

15           (1) Except for summary suspensions, the commissioner or his or her designee shall give  
16 written notice to the person(s) affected by the pending suspension, stating that he or she  
17 contemplates suspension of the permit, license, or certificate and giving reasons therefor. The  
18 suspension notice shall appoint a time and place for hearing and shall be mailed by certified mail  
19 to the business address of the permit, license, or certificate holder at least 10 days before the  
20 date set for the hearing. The commissioner shall review the evidence presented at the hearing  
21 prior to issuing his or her decision.

22           (2) All summary suspensions shall be followed by a notice of suspension, the reasons  
23 therefor, and an opportunity for a hearing in accordance with this article.

24           (3) At the end of the period of suspension, the permit, license, or certificate holder may  
25 resume operations without reapplication for a permit, license, or certificate.

26 (c) The commissioner may revoke any permit, license, or certificate issued under this  
27 article whenever a health hazard exists, the permit, license, or certificate has been obtained  
28 fraudulently, the holder has grossly interfered with the duties of the commissioner, or it is  
29 determined that the holder is dishonest, deceitful, incompetent, or not in compliance with, or is  
30 unable to comply with, this article. Any person whose permit, license, or certificate has been  
31 revoked shall immediately discontinue all operations covered under the permit, license, or  
32 certificate.

33 (1) Before revoking any permit, license, or certificate, the commissioner shall give written  
34 notice to the persons affected, stating that the revocation of the permit, license, or certificate is  
35 being contemplated and giving reasons therefor. The revocation notice shall appoint a time and  
36 place for hearing and shall be mailed by certified mail to the business address of the permit,  
37 license, or certificate holder at least 10 days before the date set for the hearing. The commissioner  
38 shall review the evidence presented at the hearing prior to issuing his decision.

39 (2) At the end of the period of revocation a new permit, license, or certificate may not be  
40 issued without the filing of an application, payment of the required fee, and compliance with all  
41 conditions that the commissioner shall require for the reissuing of such permit, license, or  
42 certificate.

43 (d) Whenever the commissioner suspends or revokes any permit, license, or certificate  
44 based on a health hazard, he or she shall contact the county health officer, the Bureau for Public  
45 Health, and the federal Food and Drug Administration for the county in which the health hazard  
46 exists.

**§19-11E-11. Hearings and appeals.**

1 (a) Any person aggrieved by any action taken under this article shall have the opportunity  
2 for a hearing before the commissioner under the rules promulgated by the commissioner.

3 (b) Hearings shall be conducted according to procedures set forth by rule.

4 (c) All the testimony and evidence at a hearing shall be recorded by mechanical means,  
5 which may include the use of tape recordings. The mechanical record shall be maintained for 90  
6 days from the date of the hearing and a transcript shall be made available to the aggrieved party.

7 (d) Any party who feels aggrieved of the suspension, revocation, or denial order may  
8 appeal within 60 days to the circuit court of the county in which the person's principal place of  
9 business is located.

**§19-11E-12. Criminal penalties; civil penalties; negotiated agreements.**

1 (a) Any person violating any provision of this article or rules adopted hereunder is guilty of  
2 a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than  
3 \$500 for the first offense, and for the second or subsequent offense shall be fined not less than  
4 \$500 nor more than \$1,000, or confined in jail not more than six months, or both fined and  
5 confined. Magistrates have concurrent jurisdiction with circuit courts to enforce the provisions of  
6 this article.

7 (b) Any person violating a provision of this article or rules adopted hereunder may be  
8 assessed a civil penalty by the commissioner. In determining the amount of any civil penalty, the  
9 commissioner shall give due consideration to the history of previous violations of any person, the  
10 seriousness of the violation, including any irreparable harm to the environment, any hazards to  
11 the health and safety of the public, and any economic damages to the public and the  
12 demonstrated good faith of any person charged in attempting to achieve compliance with this  
13 article before and after written notification of the violation.

14 (1) The commissioner may assess a civil penalty of up to \$1,000 for any violation.

15 (2) The civil penalty is payable to the State of West Virginia and is collectible in any manner  
16 now or hereafter provided for collection of debt. If any person liable to pay the civil penalty neglects  
17 or refuses to pay the same, the amount of the civil penalty, together with interest at 10 percent, is  
18 a lien in favor of the State of West Virginia upon the property, both real and personal, of such a  
19 person after the same has been entered and docketed to record in the county where the property

20 is situated. The clerk of the county, upon receipt of the certified copy of the lien, shall enter it to  
21 record without requiring the payment of costs as a condition precedent to recording.

22 (c) Notwithstanding any other provision of law to the contrary, the commissioner may  
23 promulgate and adopt rules which permit consent agreements or negotiated settlements for the  
24 civil penalties assessed as a result of violation of the provisions of this article.

25 (d) Nothing in this article may be construed as requiring the commissioner or his or her  
26 representative to report for prosecution as a result of minor violations of the article when the  
27 commissioner believes that the public interest will be best served by a suitable notice of warning  
28 in writing.

29 (e) Upon application by the commissioner, the circuit court of the county in which the  
30 violation is occurring, has occurred, or is about to occur, as the case may be, may grant a  
31 temporary or permanent injunction restraining any person from violating or continuing to violate  
32 any of the provisions of this article or any rule promulgated under this article, notwithstanding the  
33 existence of other remedies at law. Any such injunction shall be issued without bond.

34 (f) No state court may allow for the recovery of damages for any administrative action  
35 taken, if the court finds that there was a probable cause for the action.

36 (g) The prosecuting attorney of the county in which the violation occurred shall represent  
37 the Department of Agriculture to institute proceedings and to prosecute the person charged with  
38 a violation.

**§19-11E-13. Payment of fees.**

1 All fees, penalties, or other moneys collected by the commissioner under the provisions  
2 of this article shall be paid into the Department of Agriculture's fees account.

**§19-11E-14. Cooperation with other entities.**

1 The commissioner may cooperate with and enter into agreements with governmental  
2 agencies of this state, other states, agencies of the federal government, agencies of foreign  
3 governments, and private entities in order to carry out the purpose and provisions of this article.



**§19-11E-15. Confidentiality of trade secrets.**

1           The commissioner may not make public information which contains or relates to trade  
2 secrets, commercial, or financial information obtained from a person, or privileged or confidential  
3 information: *Provided*, That when revealing the information is necessary to carry out the  
4 provisions of this article, this information may be revealed, subject to a protective order, to any  
5 federal, state, or local agency consultant; or may be revealed, subject to a protective order, at a  
6 closed hearing or in findings of fact issued by the commissioner.

**§19-11E-16. Dairy Advisory Board.**

1           (a) The commissioner shall establish a Dairy Advisory Board within the Department of  
2 Agriculture. The purpose of that board is to advise the commissioner with respect to the status of  
3 the dairy industry in West Virginia, obstacles to manufacture, processing, and sale of milk and  
4 milk products, recommendations with respect to changes in statutes and regulation, changes in  
5 technology and processes utilized by the dairy industry, and other hindrances to growth of the  
6 industry in West Virginia.

7           (b) The commissioner shall, by rule, establish minimum requirements and qualifications  
8 for the members of the advisory board.

**§19-11E-17. Transfer of milk regulation authority from Department of Health and Human  
Resources to Department of Agriculture.**

1           (a) Effective July 1, 2019, authority for the regulation, including enforcement, of Grade “A”  
2 milk is hereby transferred to the commissioner from the Department of Health and Human  
3 Resources.

4           (b) Prior to July 1, 2019, the commissioner and the Department of Health and Human  
5 Resources shall enter into an agreement to provide for the orderly transition of regulatory  
6 operations from the Department of Health and Human Resources to the commissioner. Said  
7 agreement shall provide:

8           (1) For the transfer of records and equipment related to the milk regulation program to the  
9 commissioner;

10           (2) For the continued provision of services by staff of the Department of Health and Human  
11 Resources to the commissioner under the terms of the agreement;

12           (3) For transition, upon notice to Department of Health and Human Resources, of functions  
13 from the Department of Health and Human Resources to the commissioner; and

14           (4) For the completion of the transfer of all responsibilities from the Department of Health  
15 and Human Resources to the commissioner no later than December 31, 2019.

16           (c) During a period from July 1, 2019, to December 31, 2019, the Department of Health  
17 and Human Resources shall cooperate fully with the commissioner to ensure a smooth transition  
18 of authority, knowledge, and resources to guarantee that milk regulation in West Virginia suffers  
19 no gap or failure in regulation.

20           (d) All legislative rules issued by the Department of Health and Human Resources  
21 pursuant to its authority to regulate milk shall remain in effect until superseded by the  
22 commissioner's regulations.

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

.....  
*Chairman, Senate Committee*

.....  
*Chairman, House Committee*

Originated in the Senate.

In effect from passage.

.....  
*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2019.

.....  
*Governor*