

FILED

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WEST VIRGINIA LEGISLATURE
EIGHTY-SECOND LEGISLATURE

OFFICE WEST VIRGINIA
SECRETARY OF STATE

REGULAR SESSION, 2015



ENROLLED

Senate Bill No. 304

(BY SENATORS MILLER, WILLIAMS, BEACH,
D. HALL, NOHE, SYPOLT, SNYDER AND STOLLINGS)

[PASSED MARCH 14, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB 304

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[Passed March 14, 2015; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated § 19-35-1, § 19-35-2, § 19-35-3 and § 19-35-4, all relating to farmers markets; stating purpose and definitions; requiring a uniform farmers market vendor permit; establishing annual permit fees; providing exemptions; allowing inspection by local health departments; and requiring rulemaking.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated § 19-35-1, § 19-35-2, § 19-35-3 and § 19-35-4, all to read as follows:

ARTICLE 35. FARMERS MARKETS.

§19-35-1. Legislative findings.

- 1 (a) Farmers markets are critical incubators for small farm
- 2 and food businesses because they offer an inexpensive,
- 3 accessible, entry-level market for reaching consumers

4 directly, though research has shown that the average vendor
5 makes only a nominal dollar amount in sales on any given
6 market day;

7 (b) The number of farmers markets and the variety of
8 products sold at farmers markets has increased significantly
9 in the past ten years, adding millions of dollars to the state's
10 economy;

11 (c) Encouraging locally grown and raised food is
12 important to the health and welfare of the citizens of West
13 Virginia;

14 (d) Permit fees and requirements for farmers market
15 vendors can vary widely from county to county and from one
16 regulatory official to the other. Current food permit categories
17 are not designed for farmers markets and their vendors, but
18 rather for restaurants, grocery stores or concessioners;

19 (e) Food permits required for farmers market vendors are
20 currently not recognized across county lines.

§19-35-2. Definitions.

1 For purposes of this article:

2 (a) "Consignment farmers market" means a farmers
3 market in which two or more vendors deliver their own farm
4 and food products to a common location maintained by a
5 third party that markets the vendors' products and receives a
6 percentage share of the profits from sales, with the individual
7 vendor retaining ownership of the farm and food product
8 until it is sold.

9 (b) "Farm and food product" means any agriculture,
10 horticulture, agroforestry, animal husbandry, dairy, livestock,

11 cottage food, beekeeping or other similar product. Farm and
12 food products are to be properly labeled.

13 (c) "Farmers market" means:

14 (1) A traditional farmers market in which two or more
15 vendors gather to sell farm and food products directly to
16 consumers at a fixed location;

17 (2) An on-farm market or farm stand run by an individual
18 producer that sells farm and food products;

19 (3) An online farmers market in which two or more
20 vendors collectively market farm and food products and
21 retain ownership of those products until they are sold; or

22 (4) A consignment farmers market.

23 (d) "Farmers market vendor" or "vendor" means a person
24 or entity that sells farm and food products at a farmers
25 market.

§19-35-3. Farmers market vendor permit; scope.

1 (a) Vendors at a farmers market selling farm and food
2 products that require a food establishment permit shall apply
3 for a uniform farmers market vendor permit and pay the
4 annual permit fee to the local health department in the
5 jurisdiction in which the farmers market is located. The
6 permit is valid in all counties in this state, and vendors are not
7 required to apply to more than one local health department
8 for a uniform farmers market vendor permit. The uniform
9 farmers market vendor permit shall be required in lieu of the
10 food establishment permit, notwithstanding any other
11 provisions of code or rule that require a food establishment
12 permit or any other permit from a local health department.

13 (b) The application must include any other farmers
14 market locations under the jurisdiction of another local health
15 department that the vendor will sell farm and food products
16 subject to the permit. The local health department which
17 approves the application for the uniform farmers market
18 vendor permit shall provide notice of the approval to any
19 other local health departments that the vendor will be subject
20 to, as indicated on the application.

21 (c) (1) The annual permit fee for the uniform farmers
22 market vendor permit is as follows:

23 (A) For vendors selling farm and food products under the
24 jurisdiction of only one local health department, the annual
25 fee is \$15.

26 (B) For vendors selling farm and food products under the
27 jurisdiction of more than one local health department, the
28 annual fee is \$25.

29 (2) The annual permit fee shall be collected and deposited
30 in accordance with subsection (6), section eleven, article two,
31 chapter sixteen of this code.

32 (d) The following vendors are exempt from the
33 requirements of the uniform farmers market vendor permit:

34 (1) Vendors delivering their products to a consignment
35 farmers market; or

36 (2) Vendors selling fresh, uncut produce or any other
37 farm and food product not subject to a permit by a local
38 health department through rule or regulation.

39 (e) A consignment farmers market shall obtain a food
40 establishment permit issued by the local health department.

41 (f) Every uniform farmers market vendor permit shall be
42 displayed in a conspicuous manner.

43 (g) Notwithstanding the provisions of article two, chapter
44 sixteen of this code, a local health department has the right to
45 inspect and suspend the uniform farmers market vendor
46 permit for violation of rules or the local health department
47 regulations of a vendor at any farmers market in its
48 jurisdiction, or at the vendor's home or business address, if it
49 is in the inspecting local health department's jurisdiction,
50 regardless of what local health department issued the uniform
51 farmers market vendor permit.

52 (h) Nothing in this article eliminates or limits other state
53 and federal rules and regulations that apply to certain farm
54 and food products sold at a farmers market or a consignment
55 farmers market.

§19-35-4. Legislative rules.

1 (a) The West Virginia Department of Health and Human
2 Resources shall propose rules for legislative approval in
3 accordance with the provisions of article three, chapter
4 twenty-nine-a of this code for the purposes of implementing
5 this article.

6 (b) The West Virginia Department of Health and Human
7 Resources shall consult with the West Virginia Department
8 of Agriculture and shall consider the guidelines established
9 in the Farmers Market Vendor Guide and Memorandum F-
10 16, Food Permits at Farmers Markets in promulgating the
11 rules.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker of the House of Delegates

The within *is approved* this the *31st*
March
Day of, 2015.

[Signature]
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 27 2015

Time 3:25 pm