

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2354

By Delegates Burkhammer, Masters, Pritt, Worrell,

Hite, Mazzocchi, Brooks, and Horst

[Introduced February 13, 2025; referred
to the Committee on Health and Human Resources]

1 A BILL to amend and reenact §16-7-2 of the Code of West Virginia, 1931, as amended, relating to
 2 prohibiting the sale of any food product in the state that includes the dyes Red 3, Red 40,
 3 Yellow 5, Yellow 6, Blue 1, Blue 2 and Green 3.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. PURE FOOD AND DRUGS.
§16-7-2. What constitutes adulteration.

1 Any drug or article of food shall be deemed to be adulterated within the meaning of this
 2 article:

3 (a) In the case of drugs: (1) If, when sold under or by a name recognized in the United
 4 States Pharmacopoeia official at that time, it differs from the standard of strength, quality or purity
 5 laid down therein; (2) if, when sold under or by a name not recognized in the United States
 6 Pharmacopoeia official at the time, but which is found in some other pharmacopoeia or other
 7 standard work of materia medica, it differs materially from the standard of strength, quality or purity
 8 laid down in such work; (3) if its strength, quality or purity falls below the professed standard under
 9 which it is sold; (4) if it be an imitation of, or offered for sale under the name of, another article; (5) if
 10 the contents of the package as originally put up shall have been removed in whole or in part, and
 11 other contents shall have been placed in such package, or if the package fails to bear a statement
 12 on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or
 13 beta eucaine, chloroform, cannabis indica, chloral hydrate, acetanilide or any derivative or
 14 preparation of any such substance contained therein: *Provided*, That nothing in this paragraph
 15 shall be construed to apply to the dispensing of prescriptions written by regular licensed practicing
 16 physicians, veterinary surgeons or dentists, and kept on file by the dispensing pharmacist, nor to
 17 such drugs as are recognized in the United States Pharmacopoeia and the National Formulary,
 18 which are sold under the name by which they are recognized;

19 (b) In the case of food, drink, confectionery or condiment: (1) If any substance or
 20 substances have been mixed with it, so as to lower or depreciate or injuriously affect its quality,

21 strength or purity; (2) if any inferior or cheaper substance or substances have been substituted
22 wholly or in part for it; (3) if any valuable or necessary constituent or ingredient has been wholly or
23 in part abstracted from it; (4) if it is an imitation of, or is sold under the name of, another article; (5) if
24 it consists wholly or in part of diseased, decomposed, putrid, infected, tainted or rotten animal or
25 vegetable substance, whether manufactured or not, or, in the case of milk, if it is the product of a
26 diseased animal; (6) if it is colored, coated, polished or powdered, whereby damage or inferiority is
27 concealed, or if by any means it is made to appear better or of greater value than it really is; (7) if it
28 contains any added substance or ingredients which are poisonous or injurious to the health,
29 including Red Dye 3, Red Dye 40, Yellow Dye 5, Yellow Dye 6, Blue Dye 1, Blue Dye 2, and Green
30 Dye 3; (8) if it is sold under a coined name and does not contain some ingredient suggested by
31 such name or contains only an inconsiderable quantity; (9) if the package containing it or any label
32 thereon shall bear any statement regarding it or its composition which shall be false or misleading
33 in any particular: *Provided*, That the provisions of this article shall not apply to mixtures or
34 compounds recognized as ordinary articles or ingredients of articles of food or drink, if each and
35 every package sold or offered for sale is distinctly labeled in words of the English language as
36 mixtures or compounds, with the name and percent of each ingredient therein; the word
37 "compound" or "mixture" shall be printed in type not smaller in either height or width than one half
38 the largest type upon any label on the package, and the formula shall be printed in letters not
39 smaller in either height or width than one fourth the largest type upon any label on the package,
40 and said compound or mixture must not contain any ingredients injurious to the health.

NOTE: The purpose of this bill is to ban from foods sold in this state the dyes Red 3, Red 40,
Yellow 5, Yellow 6, Blue 1, Blue 2 and Green 3.

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