

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

House Bill 2354

By Delegates Burkhammer, Masters, Pritt, Worrell,

Hite, Mazzocchi, Brooks, and Horst

[Originating in the Committee on Health and Human

Resources; Reported on February 20, 2025]

1 A BILL to amend and reenact §16-7-2 of the Code of West Virginia, 1931, as amended, relating to
2 prohibiting certain products that are injurious to health.

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; for the purpose of this article:~~

3 (a) In the case of drugs:

4 (1) If, when sold under or by a name recognized in the United States Pharmacopoeia
5 official at that time, it differs from the standard of strength, quality or purity laid down therein;

6 (2) if, when sold under or by a name not recognized in the United States Pharmacopoeia
7 official at the time, but which is found in some other pharmacopoeia or other standard work of
8 materia medica, it differs materially from the standard of strength, quality or purity laid down in
9 such work;

10 (3) if its strength, quality or purity falls below the professed standard under which it is sold;

11 (4) if it be an imitation of, or offered for sale under the name of, another article;

12 (5) if the contents of the package as originally put up shall have been removed in whole or
13 in part, and other contents shall have been placed in such package, or if the package fails to bear a
14 statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine,
15 heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, acetanilide or any
16 derivative or preparation of any such substance contained therein: *Provided*, That nothing in this
17 paragraph shall be construed to apply to the dispensing of prescriptions written by regular licensed
18 practicing physicians, veterinary surgeons or dentists, and kept on file by the dispensing
19 pharmacist, nor to such drugs as are recognized in the United States Pharmacopoeia and the
20 National Formulary, which are sold under the name by which they are recognized;

21 (b) In the case of food, drink, confectionery or condiment:

22 (1) If any substance or substances have been mixed with it, so as to lower or depreciate or
23 injuriously affect its quality, strength or purity;

24 (2) if any inferior or cheaper substance or substances have been substituted wholly or in
25 part for it;

26 (3) if any valuable or necessary constituent or ingredient has been wholly or in part
27 abstracted from it;

28 (4) if it is an imitation of, or is sold under the name of, another article;

29 (5) if it consists wholly or in part of diseased, decomposed, putrid, infected, tainted or rotten
30 animal or vegetable substance, whether manufactured or not, or, in the case of milk, if it is the
31 product of a diseased animal;

32 (6) if it is colored, coated, polished or powdered, whereby damage or inferiority is
33 concealed, or if by any means it is made to appear better or of greater value than it really is;

34 (7) if it contains any added substance or ingredients which are poisonous or injurious to the
35 health, including butylated hydroxyanisole, propylparaben, FD&C Blue No. 1, FD&C Blue No. 2,
36 FD&C Green No. 3, FD&C Red No. 3, FD&C Red No. 40, FD&C Yellow No. 5, and FD&C Yellow
37 No. 6;

38 (8) if it is sold under a coined name and does not contain some ingredient suggested by
39 such name or contains only an inconsiderable quantity;

40 (9) if the package containing it or any label thereon shall bear any statement regarding it or
41 its composition which shall be false or misleading in any particular: *Provided*, That the provisions
42 of this article shall do not apply to mixtures or compounds recognized as ordinary articles or
43 ingredients of articles of food or drink, if each and every package sold or offered for sale is
44 distinctly labeled in words of the English language as mixtures or compounds, with the name and
45 percent of each ingredient therein; the word "compound" or "mixture" shall be printed in type not
46 smaller in either height or width than one half the largest type upon any label on the package, and
47 the formula shall be printed in letters not smaller in either height or width than one fourth the largest

- 48 type upon any label on the package, and said compound or mixture must not contain any
49 ingredients injurious to the health.

NOTE: The purpose of this bill is to prohibit certain products that are injurious to health.

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