

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 27

**FISCAL
NOTE**

BY SENATORS KARNES, TRUMP, RUCKER AND SYPOLT

[Introduced February 8, 2017; referred to the
Committee on Agriculture and Rural Development;
and then to the Committee on Health and Human Resources]

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 permitting sale of home-based, micro-processed foods at
 3 farmers’ markets; requiring seventy percent from vendor’s garden or farm; requiring
 4 recordkeeping and labeling; clarifying foods requiring permit and exempted foods;
 5 establishing permit requirements and limitations; setting forth permit inspections and fees;
 6 and limiting sales to seven hundred fifty units per year.

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. Home-based, micro-processing 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 kitchen in a private home or community kitchen where
 3 home-based, micro-processed foods are prepared for sale by a vendor at a farmers market is
 4 permitted if the vendor has a micro-processing permit in compliance with this article.

5 (b) A farmers market vendor may apply for a home-based, micro-processing permit to sell
 6 home-based, micro-processed foods at a farmers market. Online farmers market sales shall be
 7 delivered in person and are not permitted to be shipped. The home-based, micro-processing
 8 permit is required in addition to any other permits that are required by a local health department.

9 (c) Foods qualifying for sale under the home-based, micro-processing permit must source
 10 seventy percent of any produce for a recipe from the vendor’s own farm or garden. The vendor is
 11 required to keep production and food source records. The food shall be labeled in compliance
 12 with the West Virginia Department of Agriculture labeling standards and provide information about
 13 the contents and sources of the produce. The label shall include the words “MADE IN A FARM
 14 HOME KITCHEN” in capital, bold, 10-point type or larger.

15 (d) A home-based, micro-processing permit is required to sell:

16 (1) Canned acidified foods, such as pickled products, sauces and salsas. Acidified foods
17 are low acid foods to which acid or acid foods are added with a water activity of greater than .085
18 and a finished equilibrium of pH 4.6 or below; and

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

20 (e) Nonpotentially hazardous foods, and those already exempted, do not require a home-
21 based, micro-processing permit but require registration with the local health department. These
22 include honey, maple syrup, apple butter and molasses; standardized, nondietary jams and jellies;
23 fermented products; whole or chopped tomatoes, tomato sauce and tomato juice having a finished
24 equilibrium pH of less than 4.7; exempted condiments; and dehydrated fruits and vegetables.

25 (f) In order to qualify for a home-based, micro-processing permit, the applicant must:

26 (1) Attend the Better Process Control School or an equivalent program;

27 (2) Pass a preopening inspection conducted by the local health department at the home
28 kitchen or community kitchen where the home-based, micro-processing is occurring. The local
29 health department may also conduct at least one operational inspection during the canning
30 season at the home kitchen or community kitchen when warranted;

31 (3) Possess a valid food handler's permit from the local health department, if applicable;

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

34 (5) Pay a fee of \$50 to the local health department issuing the home-based, micro-
35 processing permit and any additional fees assessed by the local health department to cover costs
36 for inspections; and

37 (g) Home-based, micro-processing vendors shall not sell more than seven hundred and
38 fifty units per year in the aggregate.

NOTE: The purpose of this bill is to permit home-based, micro-processing 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.