

## West Virginia State Laws Affected by H.R. 4879

- I. Food
  - a. Food Safety
    - i. Date Label Laws
      - 1. These laws require and regulate “sell-by” date labels on food items. They are intended to promote both food quality and safety.
      - 2. W. Va. Code R. 61-7A-6
  - b. Eggs
    - i. Date Labels
      - 1. These laws require egg containers to be marked with a "sell-by" label to indicate the date by which the product should be sold to consumers.
      - 2. W. Va. Code R. 61-7A-6
  - c. Ginseng
    - i. Import Certification Requirements
      - 1. These laws require that ginseng imported from out of state be accompanied by documentation from the state where it was harvested. These laws are intended to prevent trafficking in illegally obtained or poached wild ginseng.
      - 2. WV ST § 19-1A-3a
- II. Alcohol
  - a. None
- III. Drugs
  - a. Recreational
    - i. Salvia
      - 1. Salvia divinorum or “Salvia” is a species of plant whose leaves have psychoactive properties when consumed or inhaled. Some laws criminalize the sale or possession of salvia, while others impose age restrictions for purchase.
      - 2. WV ST § 60A-4-413
  - b. Tobacco
    - i. Fire Safety Standards
      - 1. These state laws require that any cigarettes offered for sale or sold in the state be tested in accordance with specific test methods and meet certain flammability standards. They are intended to reduce the risk of unintended fires caused by discarded cigarettes.
      - 2. W. Va. Code Ann. § 47-25-3
      - 3. W. Va. Code Ann. § 47-25-4
      - 4. W. Va. Code Ann. § 47-25-5
- IV. Fishing
  - a. None
- V. Wood and Lumber

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- a. None
- VI. Home Goods and Products
  - a. Furniture and Bedding
    - i. Label Laws
      - 1. These regulations require the labeling of filler materials used in stuffed items such as mattresses, pillows, comforters, and upholstered furniture. They are intended to increase transparency and restrict the spread of disease by mandating that manufacturers disclose the use of materials that consumers cannot see.
      - 2. W. Va. Code Ann. § 47-1A-3
      - 3. W. Va. Code Ann. § 47-1A-8
      - 4. W. Va. Code Ann. § 47-1A-11
      - 5. W. Va. Code Ann. § 47-1A-12
    - ii. Cotton Filler Materials
      - 1. These laws regulate cotton materials used in stuffed products. Most impose labeling requirements or restrictions on sale.
      - 2. W. Va. Code Ann. § 47-1A-3
    - iii. Wood Filler Materials
      - 1. These laws regulate wool materials used in stuffed products. Most impose labeling requirements or restrictions on sale.
      - 2. W. Va. Code Ann. § 47-1A-3
    - iv. Down or Feather Filler Materials
      - 1. These laws regulate down or feather materials used in stuffed products. Most impose labeling requirements or restrictions on sale.
      - 2. W. Va. Code Ann. § 47-1A-3
    - v. Hair Filler Materials
      - 1. These laws regulate animal hair materials used in stuffed products. Most impose labeling requirements or restrictions on sale.
      - 2. W. Va. Code Ann. § 47-1A-3
    - vi. Animal Fiber Materials
      - 1. These laws regulate when and how animal fiber materials can be used in stuffed products. Most impose labeling requirements or restrictions on sale.
      - 2. W. Va. Code Ann. § 47-1A-5
    - vii. Sterilization and Sanitation Requirements
      - 1. These laws impose cleaning and sterilization requirements on new or used bedding materials prior to sale. Some also regulate how chemicals such as formaldehyde may be used. These laws are intended to limit the spread of bacteria and the transfer of disease, as well as to ensure products are safe for consumers.
      - 2. W. Va. Code Ann. § 47-1A-4

3. W. Va. Code Ann. § 47-1A-5
  4. W. Va. Code Ann. § 47-1A-6
  5. W. Va. Code Ann. § 47-1A-10
  - viii. Registration, Licensing, and Permits
    1. These laws impose registration, licensing, or permitting requirements on producers or manufacturers of bedding and other products such as mattresses.
    2. W. Va. Code Ann. § 47-1A-7
    3. W. Va. Code Ann. § 47-1A-10
- VII. Live Animal Imports
- a. Aquaculture
    - i. Aquaculture Import and Disease Reporting
      1. Many states require reporting of various communicable diseases found in fish farms. Additionally, many states require permits and/or health testing for importation of fish to fish farms.
      2. W. Va. Code, § 20-2-13
    - ii. Viral hemorrhagic Septicemia
      1. These laws impose import requirements or other restrictions on certain species of fish in order to prevent the spread of viral hemorrhagic septicemia, a disease that causes internal bleeding and death among infected animals. Previously, the federal government regulated this disease; however, on April 14, 2014 federal restrictions were removed with the thought that existing state-level regulation was effective and sufficient to limit spread of the disease.
      2. W. Va. Code R. § 20-2-13
  - b. Birds
    - i. Avian Influenza and Newcastle Disease
      1. Highly Pathogenic Avian Influenza is a contagious virus most often spread by contact between infected and healthy birds (including wild birds). Humans also can contract this disease. The 2014-15 avian influenza outbreak required the destruction of 50 million birds costing the industry \$3.3 billion in losses. Similarly, Newcastle disease is a contagious viral bird disease affecting the poultry industry and wild avians that is transmissible to humans. States have imposed laws requiring testing, reporting, and regulating imports of poultry to control these diseases, that work in conjunction with federal restrictions.
      2. W. Va. Code St. R. § 61-1-3
  - c. Cattle and Bison
    - i. Anthrax
      1. Anthrax is an infectious bacterial disease often found in cattle and sheep that causes sudden death and is transmissible to humans. Most often, it is spread through exposure to the spores formed

during the decay of deceased animals. Federal regulation prohibits the interstate movement of animals affected by anthrax. However, states impose further restrictions on the importation of animals that have been or may have been exposed to the disease.

2. W. Va. Code St. R. § 61-1-7
3. W. Va. Code St. R. § 61-1-3
4. <https://agriculture.wv.gov/divisions/animalhealth/Documents/Reportable%20Diseases%20and%20Conditions%202017.pdf>

ii. Brucellosis

1. Brucellosis is a contagious and costly disease typically affecting cattle, bison, cervids (elk and deer), and swine that also affects humans. It is a bacterial infection that spreads from animals to people most often through ingestion of unpasteurized milk, cheese, and other dairy products. All 50 states participate in a voluntary program with the federal government to control brucellosis in cattle, and many states impose additional regulations requiring testing, reporting, and regulating of imports.
2. W. Va. Code St. R. § 61-1-11

iii. Rabies

1. Rabies can occur in all warm-blooded animals and is always fatal if not treated promptly after exposure. All forms of livestock and companion animals are at risk for contracting the disease. Transmission often occurs through a bite from a rabid animal and as such the disease can travel between wild and domestic species. These laws prohibit the importation of animals exposed to rabies or impose additional restrictions to prevent the spread of this disease.
2. W. Va. Code St. R. § 61-1-7
3. W. Va. Code St. R. § 61-1-3
4. <https://agriculture.wv.gov/divisions/animalhealth/Documents/Reportable%20Diseases%20and%20Conditions%202017.pdf>

d. Bees

i. Import Requirements and Health Certifications

1. These laws impose certification, permitting, or registration requirements prior to the movement of bees into the state. They are intended to ensure the health of bee colonies prior to import in order to protect the health of local bee populations and prevent the spread of disease.
2. W. Va. Code Ann. § 19-13-7

e. Horses

i. Equine Infectious Anemia

1. Equine Infectious Anemia (“EIA” or “Swamp Fever”) is a viral disease that is extremely contagious, spread through fly bites, and leads to severe, chronic disease or death. Federal regulations

restrict the interstate movement of horses once they test positive for EIA but impose no testing requirement. States regulate the importation of horses, often requiring a negative EIA test prior to import.

2. W. Va. Code St. R. § 61-1-7

f. Sheep and Goats

i. Scrapie

1. Scrapie is a fatal, degenerative disease that affects the nervous systems of infected sheep and goats. It is one of several transmissible spongiform encephalopathies (“TSEs”)—which are related to bovine spongiform encephalopathy (“BSE” or “mad cow disease”) and chronic wasting disease in deer. Some states participate in the voluntary National Scrapie Eradication Program to test and destroy animals that test positive for scrapie. In addition, many states require negative testing or certification prior to importation.

2. W. Va. Code St. R. § 61-1-9

g. Swine

i. Pseudorabies

1. Pseudorabies is an infectious, herpes-virus disease of the central nervous system that causes convulsions, intense itching, and is generally fatal. Some states participate in the voluntary Pseudorabies Eradication State-Federal-Industry Program which includes surveillance, herd certification, and herd cleanup once an animal tests positive. Additionally, many states require testing or certification prior to import.

2. W. Va. Code St. R. § 61-1-7

3. W. Va. Code St. R. § 61-1-13

ii. Swine Vesicular Disease

1. Swine vesicular disease causes lesions on the feet, snout, and mouth of swine, and is economically costly because it must be distinguished from foot-and-mouth disease. These laws restrict the importation of pigs to prevent the spread of swine vesicular disease.

2. W. Va. Code St. R. § 61-1-7

3. W. Va. Code St. R. § 61-1-3

4. <https://agriculture.wv.gov/divisions/animalhealth/Documents/Reportable%20Diseases%20and%20Conditions%202017.pdf>

VIII. Companion Animals

a. None

IX. Products for Animals

a. Pet Food

i. Requirements of Manufacturers

## West Virginia State Laws Affected by H.R. 4879

1. These laws impose licensing requirements on pet food manufacturers who wish to sell products within the state.
    2. W. Va. Code Ann. § 19-14-5
  - b. Commercial Feed
    - i. Labeling of Commercial Feed
      1. These regulations impose labeling requirements for manufacturers who sell commercial feed products for use by livestock within the state. Often they dictate how labels should appear and what information they must contain.
      2. W. Va. Code, § 19-14-8
      3. W. Va. Code St. R. § 61-5-7
    - c. Prohibited Foods
      - i. Feed Garbage to Swine
        1. Swine Health Protection Act (“SHPA”) requires that meat and animal-byproduct-containing food scraps are heat treated before being fed to swine. However, states can impose additional regulations including more stringent heat treatments, conditions on vegetable food scraps, regulations on what can be feed to owner’s own swine, import regulations, etc. For the purposes of this discussion, only regulations addressing restrictions on the importation of garbage-fed swine are relevant.
        2. W. Va. Code St. R. § 61-1A-3
  - X. Dead Animals and Animal Parts
    - a. None
  - XI. Invasive Pests, Plants, and Disease
    - a. Noxious Weeds
      1. These laws augment and supplement the federal list of noxious weeds according to the concerns of a particular state. Some prohibit any importation of a plant or seedling, while others set maximum allowances for noxious weed seeds that may be intermixed with any other agricultural seed sold within the state. They are intended to inhibit the spread of undesirable plants and weeds throughout the United States.
      2. W. Va. Code St. R. § 61-14A-5
      3. W. Va. Code St. R. § 61-9-13
  - XII. Procurement
    - a. Agricultural Goods
      1. These laws regulate government bid and solicitation preferences for products or services. Often they impose preferences for in-state producers of agricultural products.
      2. West Virginia Code, §5A-3-37
  - XIII. General Prohibitions
    - a. None
  - XIV. Miscellaneous

Source: Harvard Law School Animal Law & Policy Program, Analysis of the “Protect Interstate Commerce Act of 2018” H.R. 4879. 2018. Available at [animal.law.harvard.edu/projects/analysis-of-the-protect-interstate-commerce-act-of-2018-h-r-4879/](http://animal.law.harvard.edu/projects/analysis-of-the-protect-interstate-commerce-act-of-2018-h-r-4879/)

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- a. None