

WEST VIRGINIA CODE: §22-15A-3

§22-15A-3. West Virginia litter control and recycling programs; transfer of programs and employees; additional duties of secretary; grants to counties and municipalities; and rules relating thereto.

(a) After July 1, 2005, the litter control and recycling programs heretofore operated and managed by the Division of Natural Resources shall transfer to the Department of Environmental Protection.

With the transfer of the West Virginia Litter Control and Recycling Programs from the jurisdiction of the Division of Natural Resources to the jurisdiction of the Department of Environmental Protection, all records, assets, and contracts, along with rights and obligations thereunder, obtained or signed on behalf of the Litter Control and Recycling Programs are hereby transferred and assigned to the Department of Environmental Protection.

(b) The Commissioner of the Division of Natural Resources and the Secretary of the Department of Environmental Protection shall determine which employees of the Division of Natural Resources will be transferred to the Department of Environmental Protection. All employees including administrators of the litter control and recycling programs are subject to being transferred to the Department of Environmental Protection. Employees in the classified service who have gained permanent status as of the effective date of this article, enacted during the 2005 regular session of the Legislature, will not be subject to further qualifying examination in their respective classifications by reason of the transfer required by the provisions of this section. Nothing contained in this section may be construed to either abridge the rights of employees within the classified service of the state to the procedures and protections set forth in §29-6-1 et seq. of this code or to preclude the reclassification or reallocation of positions in accordance with procedures set forth in that article. The Division of Personnel shall work with the commission and secretary to efficiently transfer employees from the Division of Natural Resources to the Department of Environmental Protection.

(c) In addition to all other powers, duties, and responsibilities granted and assigned to the Secretary of the Department of Environmental Protection in this chapter and elsewhere by law, the secretary, in the administration of the West Virginia Litter Control Program created by this section, shall:

- (1) Coordinate all industry and business organizations seeking to aid in the litter control and recycling effort;
- (2) Cooperate with all local governments to accomplish coordination of local litter control and recycling efforts;

(3) Encourage, organize, coordinate, and increase public awareness of and participation in all voluntary litter control and recycling campaigns, including citizen litter watch programs, seeking to focus the attention of the public on the litter control and recycling programs of the state and local governments and of private recycling centers;

(4) Recommend to local governing bodies that they adopt ordinances similar to the provisions of §22-15A-4 of this code;

(5) Investigate the methods and success of techniques of litter control, removal, and disposal utilized in other states, and develop, encourage, organize, and coordinate local litter control programs funded by grants awarded pursuant to subsection (d) of this section utilizing such successful techniques;

(6) Investigate the availability of, and apply for, funds available from any and all private or public sources to be used in the litter control program created by this section;

(7) Attract to the state persons or industries that purchase, process, or use recyclable materials;

(8) Contract for the development, production, and broadcast of radio and television messages promoting the West Virginia Litter Control Program. The messages should increase public awareness of and promote citizen responsibility toward the reduction of litter; and

(9) Encourage, organize, coordinate, and increase public awareness of, and participation in, a volunteer litter reporting program statewide.

(d) All authority to promulgate rules pursuant to §29A-3-1 et seq. of this code establishing criteria for awarding direct or matching grants for the study of available research and development in the fields of litter control, removal, and disposal, methods for the implementation of such research and development, and the development of public educational programs concerning litter control is hereby transferred from the Division of Natural Resources to the Secretary of the Department of Environmental Protection as of the effective date of enactment of this section and article during the 2005 session of the Legislature: Provided, That any rule promulgated by the Division of Natural Resources relating to such grants shall remain in force and effect as though promulgated by the Department of Environmental Protection until the Secretary amends the rules in accordance with the provisions of §29A-3-1 et seq. of this code.

(e) All authority to promulgate rules pursuant to §29A-3-1 et seq. of this code designating public areas where litter receptacles shall be placed and the minimum number of litter receptacles in accordance with §22-15A-4(g) of this code is hereby transferred from the Division of Natural Resources to the Secretary of the Department of Environmental Protection as of the effective date of enactment of this section and article during the 2005 session of the Legislature. Any rule promulgated by the Division of Natural Resources

relating to littering receptacles shall remain in effect as if promulgated by the secretary until amended by the secretary.

(f) Commencing on July 1, 2019, the secretary shall expend annually at least 30 percent of the moneys credited to the Litter Control Fund in the previous fiscal year for matching grants to counties and municipalities for the initiation and administration of litter control programs. The secretary shall promulgate rules pursuant to §29A-3-1 et seq. of this code establishing criteria for the awarding of matching grants.

(g) The Secretary of the Department of Environmental Protection in cooperation with the Commissioner of Highways, the Department of Commerce, the West Virginia State Police, the United States Forestry Service, and other local, state, and federal law-enforcement agencies shall be responsible for the administration and enforcement of all laws and rules relating to the maintenance of cleanliness and improvement of appearances on and along highways, roads, streets, alleys, streams, rivers, and any other private or public areas of the state. These other agencies shall make recommendations to the secretary, from time to time, concerning means and methods of accomplishing litter control consistent with the provisions of this chapter. The cooperation shall include, but not be limited to, contracts with the Commissioner of Highways to operate a litter control program.

(h) All other state agencies and local governments shall cooperate with the secretary in effecting the purposes of the litter control program.