WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1982

ENROLLED

HOUSE BILL No. 2020

(By Mrs. Deed & Mrs. Harden)

Passed: March 13, 1982

In Effect Ninety Days from Passage
AN ACT to amend chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article nineteen, relating to the declaration of public policy and legislative intent; providing for the protection and preservation of agricultural production and practices; protection of agricultural operations and temporary changes thereof; definition and qualification of adverse uses relating to agricultural land use; and duties of landowners.

Be it enacted by the Legislature of West Virginia:

That chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article nineteen, to read as follows:

ARTICLE 19. PRESERVATION OF AGRICULTURAL PRODUCTION.

§19-19-1. Purpose; public policy.

1 WHEREAS, Agricultural production of food and fiber is a basic necessity to sustain human life, and essential to the general welfare and stability of this state and the citizens thereof, and the continued conduct of the utilization of land in the conduct of agricultural production, including woodland and forestry production, is a necessity to the welfare and common good of all of the citizens of this state; and,

2 WHEREAS, The infringement upon agricultural lands and agricultural operations by other uses and occupancies which
are either adverse or incompatible with the continued agricultural utilization may be of such nature as to endanger orderly agricultural production, it is hereby declared to be the public policy of this state that agricultural production and the utilization of land in agricultural productive operations be protected and preserved.


For the purposes of this article:

(a) “Agriculture” shall mean the production of food, fiber and woodland products, by means of cultivation, tillage of the soil and by the conduct of animal, livestock, dairy, apiary, equine or poultry husbandry, and the practice of forestry, silviculture, horticulture, or any other plant or animal production and all farm practices related, usual or incidental thereto, including the storage, packing, shipping and marketing, but not including any manufacturing, milling or processing of such products by other than the producer thereof.

(b) “Agricultural land” shall mean not less than five acres of land and the improvements thereupon, used or usable in the production of food, fiber or woodland products of an annual value of one thousand dollars, or more, by the conduct of the business of agriculture, as defined in subsection (a) of this section.


The change of agricultural land use to a differing agricultural use, including rotation or lying fallow from time to time, shall not constitute abandonment as agricultural land or limit the change to any other agricultural use.

§19-19-4. Agriculture not adverse; limitation of actions.

The conduct of agriculture upon agricultural land shall not be deemed adverse to other use or uses of adjoining or neighboring land, whether such other land be used or occupied for residential, commercial, business or for governmental, or any uses other than agricultural. No complaint or right of action shall be maintained in any court of this state against
the owner or operator of agricultural lands adverse to the
conduct of agriculture upon agricultural lands, unless:

(1) The complainant’s use and occupancy of lands of the
complainant has existed upon his adjoining or neighboring
land before the agricultural operation complained of upon
the agricultural land; and

(2) The conduct of such agricultural operation complained
of has caused or will cause actual physical damage to the
person or property of the owner or occupant of such ad-
joining or neighboring lands.

§19-19-5. Duties of owner or operator maintained.

Nothing in this article shall be construed to excuse or re-
lieve the owner or operator of any agricultural lands from any
other right or duty as to any other person or persons, and
shall apply only to the right to conduct the practice of agricul-
ture upon his agricultural lands, and the rights and duties of
such owner or operator shall be in all other respects main-
tained as to any other person or persons or entity.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

R. P. Bayley
Chairman Senate Committee

Jonge Whittow
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Jeff C. Whirl
Clerk of the Senate

W. A. Blankenship
Clerk of the House of Delegates

W. M. McShan
President of the Senate

Nate M. Deedle
Speaker House of Delegates

The within _______________ this the __________ day of _________________________, 1982.

John D. Robby
Governor