

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-30-82

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1982

— ● —

# ENROLLED

HOUSE BILL No. 2020

(By Mrs. Neal & Mr. Harden)

— ● —

Passed : March 13, 1982

In Effect Ninety days from Passage



ENROLLED

# H. B. 2020

(By MRS. NEAL and MR. 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  
2 basic necessity to sustain human life, and essential to the  
3 general welfare and stability of this state and the citizens  
4 thereof, and the continued conduct of the utilization of land  
5 in the conduct of agricultural production, including woodland  
6 and forestry production, is a necessity to the welfare and  
7 common good of all of the citizens of this state; and,

8 WHEREAS, The infringement upon agricultural lands and  
9 agricultural operations by other uses and occupancies which

10 are either adverse or incompatible with the continued agri-  
11 cultural utilization may be of such nature as to endanger  
12 orderly agricultural production, it is hereby declared to be  
13 the public policy of this state that agricultural production  
14 and the utilization of land in agricultural productive opera-  
15 tions be protected and preserved.

**§19-19-2. Definitions.**

1 For the purposes of this article:

2 (a) "Agriculture" shall mean the production of food, fiber  
3 and woodland products, by means of cultivation, tillage of  
4 the soil and by the conduct of animal, livestock, dairy, apiary,  
5 equine or poultry husbandry, and the practice of forestry, sylvi-  
6 culture, horticulture, or any other plant or animal production  
7 and all farm practices related, usual or incidental thereto,  
8 including the storage, packing, shipping and marketing, but  
9 not including any manufacturing, milling or processing of such  
10 products by other than the producer thereof.

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

**§19-19-3. Temporary change of agricultural operations.**

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

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

1 The conduct of agriculture upon agricultural land shall  
2 not be deemed adverse to other use or uses of adjoining or  
3 neighboring land, whether such other land be used or occupied  
4 for residential, commercial, business or for governmental, or  
5 any uses other than agricultural. No complaint or right of  
6 action shall be maintained in any court of this state against

7 the owner or operator of agricultural lands adverse to the  
8 conduct of agriculture upon agricultural lands, unless:

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

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

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

1 Nothing in this article shall be construed to excuse or re-  
2 lieve the owner or operator of any agricultural lands from any  
3 other right or duty as to any other person or persons, and  
4 shall apply only to the right to conduct the practice of agricul-  
5 ture upon his agricultural lands, and the rights and duties of  
6 such owner or operator shall be in all other respects main-  
7 tained as to any other person or persons or entity.

4

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*R. P. Beyler*  
-----  
Chairman Senate Committee

*Jonny E. Whitlow*  
-----  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Jedd C. Wilho*  
-----  
Clerk of the Senate

*U. Blankenship*  
-----  
Clerk of the House of Delegates  
*Warren R. McLean*  
-----  
President of the Senate

*Walter M. Dell*  
-----  
Speaker House of Delegates

The within *is approved* this the *30*  
day of *March*, 1982.

*John A. Reilly*  
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Governor

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SECY. OF STATE