

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3112

By Delegates Hansen, Young, Pushkin, Williams,

Garcia, Lewis, Hamilton, and Hornbuckle

[Introduced March 04, 2025; referred to the

Committee on Energy and Public Works]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,
 2 designated §22-5-21, relating to the right of individuals to know in real-time about their
 3 exposures to pollutants; permitting the West Virginia Department of Environmental
 4 Protection to install and monitor air quality using fenceline monitors near facilities that emit
 5 air pollution; providing technical assistance to individuals and groups that wish to monitor
 6 the air quality in their communities; encouraging the Department of Environmental
 7 Protection to use the collected data; permitting individuals to submit the data collected
 8 regarding air pollution to the secretary; and enabling the secretary to follow up on any data
 9 found from fenceline air quality monitoring.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. AIR POLLUTION CONTROL.
§22-5-21. Community air monitoring programs.

1 (a) The Legislature finds that:

2 (1) West Virginia communities located downwind from facilities that emit air pollution may
 3 be disproportionately affected by air pollution;

4 (2) People in West Virginia communities have a right to know about exposures to air
 5 pollution in real time;

6 (3) Air pollution resulting from facilities permitted under this article may have negative
 7 health impacts;

8 (4) Real-time air monitoring, including both fenceline monitoring and community air
 9 monitoring systems, can provide valuable air quality data, including identifying changes in air
 10 pollution levels over time;

11 (5) Fenceline monitoring documents pollution levels close to emission sources and is
 12 useful for detecting or estimating leaks, the quantity of fugitive emissions, and other air emissions
 13 from a certain facility, while community air monitoring documents pollution levels in downwind
 14 communities and is useful for documenting unhealthy levels of air pollution where people live,

15 work, go to school, and participate in outdoor recreation;

16 (6) While fenceline monitoring may already be required by air pollution permits issued
17 pursuant to this article, community air monitoring is not required;

18 (7) It is in the public interest for community air monitoring to be conducted in communities
19 downwind from facilities that emit air pollution so that air pollution data is collected not just at
20 fencelines, but also where West Virginians live, work, go to school, and participate in outdoor
21 recreation; and

22 (8) It is in the public interest for the West Virginia Department of Environmental Protection
23 to consider community air monitoring data, consistent with state and federal law.

24 (b) Community air monitoring programs are measurement systems, testing equipment,
25 tools, and processes used or developed for the purpose of collecting ambient air data: *Provided,*
26 That community air monitoring data programs do not include such systems, testing equipment,
27 tools, or processes that are used or operated by the secretary, the United States Environmental
28 Protection Agency, or a stationary source, or that are required by a permit issued pursuant to this
29 article.

30 (c) The secretary shall encourage and facilitate the establishment of community air
31 monitoring programs in communities downwind from facilities that emit air pollution by:

32 (1) Providing technical support to organizations and individuals wishing to establish a
33 community air monitoring program; and

34 (2) Providing funding to organizations and individuals wishing to establish a community air
35 monitoring program, should sufficient funding be available.

36 (d) Any person may submit community air monitoring data to the secretary, and the
37 secretary shall accept and evaluate the submitted data. When evaluating such data, the secretary
38 shall consider all of the following: Evidence that the monitoring equipment was installed, operated,
39 and maintained, and that all samples were managed and analyzed, in accordance with the
40 manufacturer's guidance and all applicable state and federal quality control guidance and rules; all

41 results of monitoring generated by each device; type of monitoring device, including model
42 number, on which the results were obtained; location of monitors when results were obtained, and
43 how long at that location; the device's error range; dates and times results were recorded; device
44 calibration history; name of the laboratory, if any, at which results were determined and reported;
45 name(s) and identifying information of device operator(s); and any other information the secretary
46 determines relevant and proper. Upon request, each device that generated the qualifying
47 community air monitoring data shall be provided to the secretary for evaluation.

48 (e) Based on the secretary's evaluation of submitted community air monitoring data, the
49 secretary may initiate the collection of follow-up air monitoring data in the community. The follow-
50 up air monitoring data may be collected by the West Virginia Department of Environmental
51 Protection or other state or federal agencies or their contractors or by upwind facilities that hold or
52 have applied for permits under this article.

NOTE: The purpose of this bill is to permit the West Virginia Department of Environmental Protection to install and monitor air quality using fenceline monitors near facilities that emit air pollution, provide technical assistance to individuals and groups that wish to monitor the air quality in their communities, encourage the Department of Environmental Protection to use the collected data; permit individuals to submit the data collected regarding air pollution to the secretary, and enable the secretary to follow up on any data found from fenceline air quality monitoring.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.