

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **House Bill 5160**

**FISCAL  
NOTE**

By Delegates Canterbury, Cooper, White, Ridenour,  
and Dillon

[Introduced February 04, 2026; 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 article,  
2 designated §22-37-1, §22-37-2, §22-37-3, §22-37-4, §22-37-5, §22-37-6, §22-37-6a, §22-  
3 37-7, §22-37-8, and §22-37-9, relating to creating the Atmospheric Intervention Oversight  
4 and Public Safety Act; prohibiting unauthorized atmospheric intervention; authorizing the  
5 Department of Environmental Protection to permit or condition or deny applications for  
6 atmospheric interventions; authorizing the Air National Guard to assist in detection and  
7 monitoring of suspected unauthorized atmospheric intervention at the request of the  
8 Governor; permitting the state to pursue enforcement actions and interstate cooperations  
9 against violations of this act; setting penalties for violations; establishing funding; and  
10 providing for severability.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 37. ATMOSPHERIC INTERVENTION OVERSIGHT AND PUBLIC SAFETY**

### **ACT.**

#### **§22-37-1. Legislative findings and declarations.**

1 (a) The Legislature finds and declares that the air and atmosphere above the State of West  
2 Virginia constitute a vital public resource essential to the health, safety, agriculture, and economic  
3 welfare of its people.

4 (b) Atmospheric modification activities—including but not limited to stratospheric aerosol  
5 injection, cloud seeding, directed-energy heating, and frequency-based weather  
6 manipulation—pose unquantified risks to human health, livestock, wildlife, water, and soil  
7 integrity.

8 (c) Pursuant to Article III, §3 of the Constitution of West Virginia and the Tenth Amendment  
9 to the Constitution of the United States, the Legislature asserts the state's sovereign duty to  
10 protect its citizens and natural resources.

11 (d) It is therefore the purpose of this article to prohibit atmospheric intervention or

geoengineering activities that emit pollutants or use electromagnetic radiation or thermal energy to alter weather or climatic conditions within or above the State of West Virginia; to establish an enforcement framework led by the Department of Environmental Protection in cooperation with the Attorney General, State Police, county sheriffs, and other law-enforcement agencies; and to provide penalties, reporting, and transparency measures to safeguard public health and state sovereignty.

(e) The Legislature further finds that preserving the integrity of atmospheric conditions is essential to crop viability, pollinator health, and public health; atmospheric modification threatens both the agricultural economy and the welfare of the state's citizens.

(f) The Legislature further declares that this Act is enacted to protect the health, safety, and inalienable rights of people on the land or residing in or traveling through West Virginia from the harms of unauthorized atmospheric modification.

#### **§22-37-2.**

#### **Definitions.**

(a) "Atmospheric modification" means any intentional activity that alters or attempts to alter the natural state of the atmosphere through chemical, biological, particulate, electromagnetic radiation, or thermal means, including stratospheric aerosol injection, cloud seeding, or directed-energy heating.

(b) "Department" means the West Virginia Department of Environmental Protection (DEP).

(c) "Directed-energy heating" means the use of radiofrequency, microwave, laser, or other energy sources that raise the temperature of atmospheric regions.

(d) "Cooperative investigation" means any joint operation or inquiry undertaken by the department, Office of the Attorney General, West Virginia State Police, county sheriffs, or any special investigative unit created or designated by the Attorney General or Superintendent of the State Police to investigate violations of this article.

(e) "Entity" means any individual or organization, including but not limited to corporations, trusts, partnerships, associations, non-governmental organizations, or any instrumentality of

federal, state, or local government; and, for purposes of this article, includes any artificial intelligence system, autonomous computational agent, or machine-based process capable of performing actions or functions that would otherwise be attributable to an individual or organization.

(f) "Unauthorized activity" means any atmospheric modification conducted in or affecting West Virginia, or in contravention of this article.

(g) "Malicious actor" means a person who knowingly conducts or assists an unauthorized activity.

(h) "Thermal energy" means the internal energy of a substance arising from the motion of its atoms or molecules. Thermal energy is expressed as temperature and heat transfer and results from kinetic activity within matter. For purposes of this article, thermal energy requires the presence of physical material and shall not include energy transmitted through electromagnetic waves.

(i) "Electromagnetic energy" means energy transmitted through electromagnetic waves, including but not limited to radio waves, microwaves, infrared radiation, visible light, ultraviolet radiation, X-rays, and gamma rays. Electromagnetic energy does not require a physical medium for propagation and is distinct from thermal energy arising from molecular motion.

**§22-37-3. Prohibitions and enforcement.**

(a) Absolute prohibition. No person, entity, or agency may conduct, sponsor, assist, or permit any form of atmospheric modification within or above West Virginia. The department shall not issue any permit, authorization, waiver, or variance allowing such activity.

(b) State jurisdiction. All enforcement and investigative authority under this article resides with the department, the Attorney General, and law enforcement agencies of this state. Federal or international entities conducting activities affecting West Virginia airspace without state consent shall be subject to the penalties and actions authorized herein.

(c) Investigations. The department shall receive complaints from the public and coordinate

9 cooperative investigations with state and local law enforcement. Investigators may collect  
10 samples, conduct measurements, and secure evidence for civil or criminal proceedings.

11 (d) Evidence and Data Standards. The department shall establish procedures for  
12 sampling, instrumentation, laboratory analysis, and data verification to ensure evidentiary  
13 reliability of the results. All collected data shall be maintained under a documented chain of  
14 custody consistent with state air-quality enforcement protocols.

15 (e) Prohibited atmospheric-modification research.

16 No federal agency, contractor, subcontractor, academic institution, private entity, or other  
17 person shall conduct, sponsor, authorize, assist, or fund any research, testing, experimentation, or  
18 field trial involving atmospheric modification within or affecting the airspace of West Virginia,  
19 regardless of whether such activity is characterized as research, experimentation, monitoring,  
20 modeling, or pilot activity.

21 (f) Rapid Response and Coordination. Where the department identifies an imminent or  
22 ongoing unauthorized atmospheric modification that poses a threat to public health, safety, or the  
23 environment, the department shall immediately commence an investigation and shall issue an  
24 emergency cease-and-desist order requiring the immediate termination of the activity.

25 Any activity subject to an emergency cease-and-desist order issued under this subsection  
26 shall be deemed a violation of this article upon identification by the department, in addition to any  
27 other violations or offenses established by investigation or enforcement proceedings.

28 The cease-and-desist order shall remain in full force and effect pending completion of the  
29 investigation and resolution of all enforcement or judicial proceedings.

30 (g) Federal and international violations.—When the department or Attorney General  
31 determines that a federal agency, contractor, or international body has conducted unauthorized  
32 activity over West Virginia, or is non-compliant with this act, the Attorney General shall issue a  
33 formal notice of violation, demand cessation, and may seek injunctive or civil relief against non-  
34 state participants or contractors, including a civil penalty up to \$1 million per day for continuing

violations.

(h) PSC coordination. The Public Service Commission shall assist the department in monitoring microwave, radiofrequency, and directed-energy emissions to determine whether such sources are used for unauthorized atmospheric intervention.

**§22-37-4. Air National Guard authority.**

(a) At the direction of the Governor, the West Virginia Air National Guard may assist the department and law-enforcement agencies in monitoring, identifying, or interdicting aircraft or aerial systems suspected of violating this article.

(b) Such assistance may include aerial observation, evidence collection, sampling of atmospheric particulates, or escort of suspect aircraft to the nearest airport for investigation.

(c) The Air National Guard shall coordinate with the department and law enforcement agencies to ensure data interoperability and secure transmission of observational evidence collected during such operations.

**§22-37-5. Penalties.**

(a) Any person or entity that engages in unauthorized activity shall be liable for a civil penalty not less than \$25,000 and not exceeding \$50,000 for each day of violation.

(b) Any malicious actor convicted of knowingly conducting unauthorized activity shall be guilty of a felony and subject to a fine up to \$500,000 and/or imprisonment for one to five years.

(c) Each day upon which a violation occurs constitutes a separate offense.

(d) Penalties collected under this article shall be deposited in the Atmospheric Oversight Fund established under §22-37-7 of this code.

(e) The department shall publish an annual summary of enforcement actions and penalties imposed under this section to promote public accountability.

**§22-37-6. Public reporting and transparency.**

(a) The department shall maintain a public online database documenting all reports, complaints, investigations, and confirmed incidents under this article.

3           **(b) If any federal or international entity conducts activity over West Virginia airspace, the**  
4 **department shall publish a summary within 30 days indicating whether such activity occurred with**  
5 **or without state consent.**

6           **(c) An annual report shall be submitted to the Governor and Legislature detailing**  
7 **investigations, enforcement actions, and recommendations.**

8           **(d) Public Education. The department shall produce an annual public information report**  
9 **that distinguishes lawful atmospheric and climate research from prohibited modification activities**  
10 **and summarizes the state's oversight and enforcement efforts.**

11           **(e) The department shall establish and maintain a secure and accessible mechanism for**  
12 **members of the public to submit complaints, tips, data, photographs, or other information relating**  
13 **to suspected violations of this article. Submissions may be made anonymously, and the existence**  
14 **of this reporting channel shall be prominently disclosed on the department's public website.**

**§22-37-6a. Whistleblower protections and reporting.**

1           **(a) Any person who, in good faith, reports information relating to a suspected violation of**  
2 **this article to the department, the Office of the Attorney General, or any state or local law-**  
3 **enforcement agency shall be protected under this section.**

4           **(b) No employer, contractor, governmental entity, or other person may discharge,**  
5 **discipline, threaten, harass, intimidate, or otherwise retaliate against an individual for making a**  
6 **protected disclosure under this article.**

7           **(c) The protections provided under this section are in addition to, and shall not be**  
8 **construed to limit or replace, any rights or remedies available under the West Virginia Whistle-**  
9 **Blower Law, §6C-1-1, et seq. of this code.**

10           **(d) Protection under this section applies whether the reporting individual is a private**  
11 **citizen, employee, contractor, subcontractor, researcher, pilot, technician, or public employee, and**  
12 **regardless of whether the reported conduct is ultimately substantiated, provided the report was**  
13 **made in good faith.**

14 (e) The identity of a whistleblower shall be kept confidential to the fullest extent permitted  
15 by law, unless disclosure is required by court order or is necessary to conduct a criminal  
16 prosecution.

17 (f) Any person subjected to retaliation in violation of this section may bring a civil action for  
18 injunctive relief, reinstatement, back pay, compensatory damages, and reasonable attorney's fees  
19 and costs.

**§22-37-7. Funding and implementation.**

1 (a) There is hereby created the Atmospheric Oversight Fund to administer this article,  
2 composed of civil penalties, legislative appropriations, and grants lawfully accepted by the  
3 department.

4 (b) The department may contract with universities or laboratories for sampling and  
5 technical analysis.

6 (c) Initial funding. — The initial implementation and administration of this article shall be  
7 funded through appropriations from the General Revenue Fund. After initial implementation, and  
8 only to the extent necessary to supplement appropriated funds, the department may apply an  
9 atmospheric integrity surcharge, not exceeding one-half percent of existing air-quality permit fees,  
10 dedicated solely to enforcement and monitoring activities under this article.

11 (d) The department shall promulgate emergency rules within 180 days to implement this  
12 article.

13 (e) Five-Year Review. The department shall, every five years after the effective date of this  
14 article, report to the Legislature on implementation, enforcement outcomes, and  
15 recommendations for continuation or amendment of this Act.

16 (f) The department shall publish on a publicly accessible website an annual accounting of  
17 all revenues, expenditures, contracts, grants, and transfers associated with the Atmospheric  
18 Oversight Fund, sufficient to allow the public and the Legislature to track the flow of funds into and  
19 out of the fund.



**§22-37-8. Transboundary application.**

1 (a) Any activity conducted outside the boundaries of this state that results in measurable  
2 atmospheric or environmental effects within West Virginia shall be considered a violation of this  
3 article.

4 (b) The Attorney General is authorized to initiate actions in state or federal court to enjoin  
5 or seek damages for any such transboundary interference.

6 (c) The department shall document and report all known or suspected transboundary  
7 incidents in its annual report.

**§22-37-9. Interstate compacts.**

1 (a) The Governor, with the advice and consent of the Legislature, is authorized to negotiate  
2 and enter into compacts or cooperative agreements with other states for the purpose of  
3 preventing, investigating, or mitigating cross-border atmospheric modification and to share data  
4 and resources.

5 (b) Pending ratification of any interstate compact, the department may enter into  
6 memoranda of understanding (MOUs) with other states to share atmospheric data, alerts, and  
7 investigative findings relevant to potential cross-border impacts.

8 (c) Any such compact shall be submitted to the Legislature for ratification.

NOTE: The purpose of this bill is to establish the Atmospheric Intervention Oversight and Public Safety Act.

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