

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **Senate Bill 165**

By Senator Thorne

[Introduced January 14, 2026; referred  
to the Committee on Agriculture]

1 A BILL to amend and reenact §17A-3-14e, §19-13-1, §19-13-2, §19-13-3, §19-19-1, §19-19-2,  
2 §19-19-4, and §19-19-7 of the Code of West Virginia, 1931, as amended, relating to  
3 clarifying the Right to Farm Act relating to residential agricultural operations and the  
4 regulation of honey bees; fees collected for highway beautification to promote pollinators;  
5 and including tropilaelaps mites to the definition of honey bee pests.

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

## **CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION, CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.**

### **ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.**

#### **§17A-3-14e. Special registration plates for organizations.**

1 (a) The division may continue to issue all special registration plates to organizations issued  
2 under a prior enactment of §17A-3-14 of this code.

3 (b) An organization requesting the creation and issuance of a special registration plate  
4 shall make application with the division. The application shall include sufficient information, as  
5 determined by the commissioner, to determine whether the special registration plate requested,  
6 and the organization making the application, meet all the requirements set forth in this section and  
7 legislative rule. The application shall include a proposed design, including lettering, logo, image, or  
8 message to be placed on the registration plate. The commissioner shall notify the organization of  
9 the commissioner's approval or disapproval of the application.

10 (c) (1) The commissioner may not begin the design or production of any license plates  
11 authorized and approved pursuant to this section until the organization which applied for the  
12 special registration plate has collected and submitted collectively to the division applications  
13 completed by at least 100 persons and collectively deposited with the division all fees necessary to  
14 cover the first year's basic registration, one-time design and manufacturing costs, and the first

15 year additional annual fee for all of the submitted applications.

16 (2) By concurrent resolution of the Legislature, the requirement to collectively deposited  
17 with the division all fees necessary to cover the first year's basic registration, one-time design, and  
18 manufacturing costs may be waived for any organization.

19 (d) If the organization fails to submit the required number of applications and fees within six  
20 months of the effective date of the approval of the application for the plate by the commissioner,  
21 the plate may not be produced until a new application is submitted and is approved by the  
22 commissioner: *Provided*, That an organization that is unsuccessful in obtaining the minimum  
23 number of applications may not make a new application for a special plate until at least two years  
24 have passed since the approval of the previous application of the organization.

25 (e) The division shall charge a special initial application fee of \$25 for each special license  
26 plate in addition to all other fees required by this chapter. This special fee shall be collected by the  
27 division and deposited in the State Road Fund.

28 (f) The division shall charge an annual fee of \$15 for each special registration plate in  
29 addition to all other fees required by this chapter.

30 (g) All fees collected for special license plates under the subject of pollinators or protecting  
31 pollinators shall be deposited into the State Road Fund and be used by the Commissioner for the sole  
32 and exclusive purpose of maintenance and beautification of highways through the planting and  
33 maintenance of flora to promote the existence of pollinators.

34 ~~(g)~~ (h) Upon appropriate application, the division may issue a special registration plate  
35 designed by the commissioner in consultation with the organization for any number of vehicles  
36 titled in the name of a qualified registration plate applicant. Persons desiring the special  
37 registration plate shall offer sufficient proof of membership in the organization unless the  
38 organization has identified in the application that the special registration plate is desired to be  
39 made available for general issuance.

40 ~~(h)~~ (i) The commissioner may discontinue the issuance or renewal of the registration of any

41 special plate issued pursuant to this section if:

42 (1) The number of valid registrations for the specialty plate falls below 100 plates for at  
43 least 12 consecutive months; or

44 (2) The organization no longer exists or no longer meets the requirements of this section.

45 (i) (j) If a new design is requested after issuance of a special registration plate, the  
46 organization shall pay the costs of design and any unused material from the previous design. In  
47 addition, the division shall charge a special initial application fee of \$25 for each newly designed  
48 special license plate in addition to all other fees required by this chapter.

## CHAPTER 19. AGRICULTURE.

### ARTICLE 13. ~~INSPECTION AND PROTECTION OF AGRICULTURE.~~ THE WEST

#### VIRGINIA

#### APIARY

#### ACT.

**§19-13-1. Short title; findings.**

1 (a) This article ~~may be cited~~ shall be known as "The West Virginia Apiary Act."

2 (b) The Legislature finds that pollinators such as honey bees have been in drastic decline in  
3 this state and nationwide for several decades.

4 (c) The Legislature finds that protecting pollinators, including, but not limited to, honey bees  
5 is of critical importance to maintaining and building our state's economy. specifically agricultural  
6 practices which are reliant on pollinators.

7 (d) The Legislature finds that the practice of beekeeping has had a positive economic  
8 impact to the state of West Virginia and as to the food security of this state's residents, and is  
9 critical to maintaining both

10 (e) The Legislature further finds that the private keeping and maintaining of honey bee  
11 colonies in apiaries by West Virginia citizens is critical to increasing pollinators on which our state's  
12 agricultural operations rely.

**§19-13-2.**

**Definitions.**

For the purpose of this article, the term:

(1) "Abandoned apiary" means any apiary in which twenty-five percent or more of the colonies are dead or diseased, or the death or disarray of the colonies exposes them to robbing, or diseased or potentially diseased abandoned bee equipment which may jeopardize the welfare of neighboring colonies.

(2) "Apiary" means any place where one or more colonies or nuclei of bees are kept or where bee equipment is stored.

(3) "Appliances" means any apparatus, tool, machine or other device, used in the handling and manipulating of bees, honey, wax and hives. It also means any container of honey and wax that may be used in any apiary or in transporting bees and their products and apiary supplies.

(4) "Bees" means any stage of the common hive or honey bee (*Apis mellifera*), or other species of the genus *Apis*.

(5) "Bee equipment" means hives, supers, frames, veils, gloves or any other appliances.

(6) "Bee products" means honey, bees wax, pollen, propolis and royal jelly.

(7) "Colony" means the hive and includes bees, comb, honey and bee equipment.

(8) "Commissioner" means the commissioner of the Department of Agriculture of the State of West Virginia or a duly authorized employee.

(9) "Control agents or control mechanisms" means any method of chemical or mechanical control to suppress or eradicate an apiary disease, pest, or parasitic infestation in an apiary or the colonies contained therein.

(10) "Department" means the Department of Agriculture of the State of West Virginia.

(11) "Hive" means a frame hive, box hive, box, barrel, log, gum, skep or any other receptacle or container, natural or artificial, or any part thereof, which may be used or employed as a domicile for bees.

(12) "Honey bee pest" means American foulbrood (*Bacillus larvae*), European foulbrood (*Melissococcus pluton*), Varroa mite (*Varroa destructor*), honey bee tracheal mite (*Acarapis*

woodi), Tropilaelaps mite (Tropilaelaps clareae or Tropilaelaps mercedsae), or any other virus or infectious or parasitic organism determined by the commissioner to be transmissible to other bee colonies and that represents a threat to beekeeping in West Virginia.

(13) "Nuclei" means the removal of a split portion or division of any colony of honey bees for the express purpose of creating a numerical increase in colonies for honey production, pollination service or monetary gain through sale of honey bees.

(14) "Packaged bees" means bees shipped in combless packages accompanied by a valid certificate of health from an authorized state or federal agency verifying the absence or presence of any infectious or communicable diseases or parasitic infestations, and further providing that no honey has been used for food while in transit or that any honey used as food in transit was properly sterilized.

(15) "Person" means corporations, partnerships, associations, societies, individuals or group of individuals or any employee, servant or agent acting for or employed by any person.

(16) "Premises" means any parcel of real estate and structures in which bee equipment, bees, bee products and bee appliances are or may be utilized for storage purposes.

(17) "Quarantine" means a declaration by the commissioner which specifies a period of enforced isolation to contain and prevent the spread of honey bee pests.

(18) "Sterilized or sterilization" means to treat and neutralize honey bee pests by means of ~~steam-autoclave~~, irradiation, pit incineration, or by any other acceptable method which the commissioner determines effective for control of honey bee pests.

**§19-13-3. Commissioner's powers and duties; rule-making authority; apiary education; cooperation with governmental agencies; seizure of infected bees and bee equipment.**

(a) The commissioner may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code: (1) To effectively eradicate, suppress or control honey bee pests as far as may be practical; (2) to regulate the keeping and maintaining

of bees, bee equipment, queen breeding equipment, apiaries and appliances; (3) to regulate treatments, retreatments, and fees for the services; and (4) any other rules necessary to effectuate the enforcement of this article.

(b) The commissioner is authorized to conduct apiary education in a manner which advances and promotes bee culture in West Virginia.

(c) The commissioner is authorized to cooperate with the federal government and its agencies, departments and instrumentalities; other West Virginia agencies, departments, divisions, or political subdivisions; and any other state or commonwealth and its agencies, departments or political subdivisions, in order to carry out the effective administration of this article.

(d) The commissioner is authorized to stop the delivery of, to seize, to destroy, to treat or to order returned to point of origin, at the owner's expense, all appliances, bees, bee equipment, bee products or hives transported into or within this state, found to be infected with honey bee pests regardless of whether a valid certificate of inspection is attached.

(e) The authority to prohibit, regulate, inspect, and permit managed bees and apiaries and to adopt rules on the placement and location of apiaries shall be preempted by the Commissioner and supersedes any related ordinance, charter, regulation, or law adopted by any county, municipalities, or political subdivision.

**§19-19-1. Purpose; public policy.**

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,

Whereas, The infringement upon residential agricultural lands, 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.

**§19-19-2.****Definitions.**

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, harvesting of silviculture products, packing, shipping, milling, and marketing of agricultural products conducted by the proprietor of the agricultural operation, or any other legal plant or animal production and all farm practices.

(b) "Agricultural land" shall mean any amount of land and the improvements thereupon, used or usable in the production of food, fiber or woodland products of an annual value of \$1,000 or more, by the conduct of the business of agriculture, as defined in subsection (a) of this section.

(c) "Agricultural operation" shall mean any facility including agricultural residential land and any appurtenances thereon utilized for agriculture.

(d) "Agricultural residential land" shall mean any amount of land zoned for residential purposes, and the improvements or appurtenances thereon used or usable for the purposes of urban agriculture in the production of food for consumption by the owner or operator of the residential agricultural land, or for the production and sale of nonpotentially hazardous foods as defined by §19-35-2 of this code, limited to cultivation and/or tillage of the soil and by the conduct of apiary husbandry, and the practice of horticulture, harvesting of silviculture conducted by the proprietor of the agricultural residential land and, all farm practices.

(e) "Urban agriculture" shall mean the keeping, maintaining, raising, and/or harboring any apiary within any town, city, municipality, or political subdivision for personal consumption or the production and sale of nonpotentially hazardous food.



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

The conduct of agriculture upon agricultural land or agricultural residential 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 or agricultural residential land adverse to the conduct of agriculture upon agricultural lands or agricultural residential land, unless:

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

(2) The conduct of such agricultural operation complained of has, by clear and convincing evidence, caused or will cause actual physical damage to the person or property of the owner or occupant of such adjoining or neighboring lands.

**§19-19-7. Additional limitations on nuisance actions.**

(a) The provisions of this section are in addition to the limitations on actions brought against an agricultural operation in §19-19-4 of this code, and shall also apply to any nuisance action brought against an agricultural operation in any court of this state.

(b) A person may not file a nuisance action to recover damages in which an agricultural operation is alleged to be a public or private nuisance unless:

(1) He or she is the majority legal land owner;

(2) He or she owns property adversely affected by agricultural operations within one half mile of the agricultural operation; and

(3) The agricultural operation has materially violated a federal, state, or local law applicable to agriculture.

(c) No agricultural operation within this state which has been in operation for a period of more than one year shall be considered a nuisance, either public or private, as the result of a

changed condition in or about the locality where such agricultural operation is located. In any nuisance action, public or private, against an agricultural operation or its principals or employees proof that the agricultural operation has existed for one year or more is an absolute defense to the nuisance action, if the operation is in compliance with all applicable state and federal laws, regulations, and permits.

(d) No state or local agency, city, municipality, town, or political subdivision may bring a criminal or civil action against an agricultural operation for an activity that is in material compliance with all applicable state and federal laws, regulations, and permits.

(e) No agricultural operation shall be or become a private or public nuisance if the operators are conducting the agricultural operation in a manner consistent with commonly accepted agricultural practice. If the operation is in material compliance with all applicable state and federal laws, regulations, and permits, it shall be presumed to be conducted in a manner consistent with commonly accepted agricultural practice.

(f) No agricultural operation shall be considered a nuisance, private or public, if the agricultural operation makes a reasonable expansion, so long as the operation is in material compliance with all applicable state and federal laws, regulations, and permits.

(1) For the purpose of this section, a reasonable expansion includes, but is not limited to:

(A) Transfer of the agricultural operation;

(B) Purchase of additional land for the agricultural operation;

(C) Introducing technology to an existing agricultural operation including, but not limited to, new activities, practices, equipment, and procedures consistent with technological development within the agricultural industry;

(D) Applying a Natural Resources Conservation Service program or other United States Department of Agriculture program to an existing or future agricultural operation; or

(E) Any other change that is related and applied to an existing agricultural operation, so long as the change does not affect the agricultural operation's compliance with applicable state and federal laws, regulations, and permits.

(2) The reasonable expansion exemption provided by this subsection cannot apply to an expansion that:

(A) Creates a substantially adverse effect upon the environment; or

(B) Creates a hazard to public health and safety.

(g) A requirement of a municipality does not apply to an agricultural operation situated outside of the municipality's corporate boundaries on the effective date of this chapter. If an agricultural operation is subsequently annexed or otherwise brought within the corporate boundaries of a municipality, the requirements of the municipality do not apply to the agricultural operation.

(h) An agricultural operation is not, nor shall it become, a private or public nuisance after it has been in operation for more than one year, if such operation was not a nuisance at the time the operation began, and the conditions or circumstances complained of as constituting the basis for the nuisance action exist substantially unchanged since the established date of operation. The established date of operation is the date on which an agricultural operation commenced.

(i) The provisions of this section shall not apply in any of the following circumstances:

(1) Whenever a nuisance results from the negligent operation of any such agricultural operation; or

(2) To affect or defeat the right of any person to recover for injuries or damages sustained because of an agricultural operation or portion of an agricultural operation that is conducted in violation of a federal, state, or local statute or governmental requirement that applies to the agricultural operation or portion of agricultural operation.

61 (j) The protected status of an agricultural operation, once acquired, is assignable,  
62 alienable, and inheritable. The protected status of an agricultural operation, once acquired, may  
63 not be waived by the temporary cessation of operations or by diminishing the size of the operation.

64 (k) No town, city, municipality, or political subdivision may prohibit urban agriculture or  
65 agricultural residential land or cause a permit or license to be issued or obtained to engage in the  
66 practice of urban agriculture.

NOTE: The purpose of this bill is to clarify the Right to Farm Act and the regulation of honey bees. The purpose of the bill is also to include tropilaelaps mites to the definition of honey bee pests and to allocate funds through special license plates to be used for highway beautification to promote pollinators.

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