

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **Senate Bill 62**

By Senator Rucker

[Introduced January 14, 2026; referred  
to the Committee on Government Organization; and  
then to the Committee on Finance]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section, designated §19-36-7, relating to recognizing the constitutional authority of the Commissioner of Agriculture to intervene and supersede in matters that negatively affect agritourism; specifying the implementation of such authority; and requiring annual report to the Legislature.

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

ARTICLE	36.	AGRITOURISM	RESPONSIBILITY	ACT.
<u>§19-36-7.</u>		Promotion	of	agritourism.

(a) It is the intention of the Legislature to promote agritourism as a means of supporting agricultural production and to educate the public about the agricultural industry and its importance within the state.

(b) The Legislature finds that:

(1) It is necessary to eliminate duplication of regulatory authority over and conflicting  
policies impacting agritourism;

(2) The Commissioner of Agriculture, as a duly elected, statewide constitutional officer, has the power and authority to intervene and supersede in matters that negatively affect agritourism, when in his or her sound judgment, the policy priorities of state or local government entities are contrary to the effective and optimal implementation of agritourism activities and events;

(3) Nationally, many states recognize the authority of the state's highest agricultural official to direct the agritourism activities without undue interference by state agencies or local government entities; and

(4) It is necessary and expedient to avoid undue or unnecessary interference with  
agritourism activities and events in this state.

(c) When, in the sound judgment of the commissioner, any state agency or local government ordinance, regulation, rule, policy, or directive of similar nature unnecessarily contravenes the reasonable needs or conditions of an agritourism activity or event, the

19 commissioner may exercise his or her constitutional authority and intervene to override their  
20 application to the activity or event, except as otherwise provided in this section.

21 (1) The commissioner may not override the provisions of the State Fire Code pursuant to  
22 87 C.S.R. § 1, et seq., and including the National Fire Protection Association's Life Safety Code.  
23 To ensure public safety for all activities or events in which the commissioner intervenes, the  
24 commissioner shall seek the assistance of the State Fire Marshal or a local fire marshal to ensure  
25 that the provisions of the State Fire Code are satisfied.

26 (2) For purposes of this section, the location of agritourism activities or events includes  
27 land that the commissioner has deemed appropriate for an agritourism event or land that is  
28 classified as agricultural, including all buildings and improvements on that land.

29 (d) On or before June 30, 2027, and annually thereafter, the commissioner shall report to  
30 the Legislature any instances for which the authority recognized in this section was invoked.

NOTE: The purpose of this bill is to grant authority to the Department of Agriculture to preempt any Department of Environmental Protection, Fire Marshall, zoning laws, county, or municipality rules in for occasional agritourism activities so long as the activities adhere to the National Fire Protection Association's Life Safety Code for occupant safety.

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