

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 971

By Senator Morris

[Introduced February 17, 2026; referred
to the Committee on Agriculture; and then to the
Committee on Government Organization]

1 A BILL to amend and reenact §19-36-5 of the Code of West Virginia, 1931, as amended, relating to
 2 the Agritourism Responsibility Act; and providing fire safety requirements for agritourism
 3 businesses.

Be it enacted by the Legislature of West Virginia:

ARTICLE 36. AGRITOURISM RESPONSIBILITY ACT.

§19-36-5. Maintenance of property status for certain purposes; exceptions.

1 (a) Notwithstanding any provision of this code to the contrary, the occurrence of
 2 agritourism does not change the nature or use of property that otherwise qualifies as agricultural
 3 for building code, zoning, or property tax classification purposes.

4 (b) An agritourism business may use certain of its facilities for ~~occasional~~ events without
 5 complying with building and fire codes applicable to structures used for such purposes on a full-
 6 time basis if such facilities are deemed structurally sound and otherwise safe for the intended use.:

7 Provided, That the following facilities shall not be eligible for exemption from CSR 87-01:

8 (1) Educational facilities other than those used for incidental use such as field trips, club
 9 meetings and day trips;

10 (2) Daycare facilities;

11 (3) Correctional facilities;

12 (4) Health care or medical treatment facilities; and

13 (5) Sleeping and lodging facilities.

14 (c) An eligible agritourism business involving fully enclosed permitted buildings shall
 15 provide the following minimum fire safety standards:

16 (1) A minimum of two exits for occupancy for 75-400 persons and one additional exit for
 17 each 250 persons thereafter based on the calculated occupant load, located remotely from each
 18 other, each providing at least 36 inches of clear open width with free swinging doors or panic bars
 19 that open outward; provided that Barn-style doors may be used as exits only if they remain
 20 unlocked and functional when the building is occupied;

21 (2) Exit signs that are clearly visible and either illuminated or using photoluminescent
22 lettering so they remain visible in low lighting;

23 (3) Portable fire extinguishers appropriately rated for ordinary hazards, mounted, and
24 accessible, that are installed, inspected, maintained according to State Fire Code and tagged,
25 mounted and accessible at each exit door and other locations with no more than 75 feet between
26 each extinguisher in any occupied area;

27 (4) Fire alarm system detection when occupant load exceeds 300 persons, provided that
28 sprinkler systems shall be required only when the occupant load exceeds 1,000 persons;

29 (5) Carbon monoxide detection that is installed and maintained if the building uses fuel-
30 fired equipment;

31 (6) Posted occupant load for the structure as determined by subsection(i);

32 (7) Emergency lighting if the building is windowless, lacks adequate natural lighting to
33 permit safe egress during a power failure or is used during nighttime hours;

34 (8) Emergency evacuation plan prepared and maintained by the owner or operator of the
35 facility, posted at all exits and inside any interior fully enclosed spaces such as dressing rooms,
36 restrooms or kitchens; and

37 (9) Kitchen and other spaces where food is prepared using residential or commercial grade
38 cooking equipment shall have GFCI electrical receptacles and a Class K fire extinguisher that is
39 maintained and readily available, provided that kitchens and other interior food preparation spaces
40 using commercial-grade cooking equipment also shall comply with NFPA 96 and NFPA 17A and
41 be installed by a licensed fire protection contractor.

42 (d) Unless determined that an imminent danger exists, all existing electrical wiring, fixtures,
43 appliances and equipment that have already gained an agritourism exemption from the
44 department shall be permitted to continue operation: *Provided*, That new agritourism structures be
45 maintained in accordance with the edition of the NFPA 70 (National Electrical Code) in effect at the
46 time of installation; provided that where it is determined that imminent danger exists, fire code

47 authorities are authorized to order repairs to ensure the building is safe for occupancy.

48 (e) Unless expressly authorized by the authority having jurisdiction, open flame devices,
49 indoor pyrotechnics, spark-producing devices and flame effects are prohibited unless the building
50 is equipped with a compliant automatic sprinkler system, provided that the authority having
51 jurisdiction retains the authority to prohibit any or all open flames or other sources of ignition where
52 circumstances make such conditions hazardous to life safety;

53 (f) Overnight lodging or sleeping is prohibited unless the building complies with all
54 requirements of the West Virginia State Fire Code.

55 (g) Overall structure height shall not exceed two stories, provided that a second floor used
56 for assembly shall have a means of egress and fire extinguishers equivalent to the first floor,
57 including the number of exits, exit placement, door width and minimum distance between fire
58 extinguishers.

59 (h) The Office of the State Fire Marshal or the local authority having jurisdiction must
60 perform an initial inspection of any agritourism business seeking an exemption from state fire code
61 and provide a written report on that inspection to the property owner and the West Virginia
62 Department of Agriculture before the Department determines eligibility for exemption.

63 (i) Occupant load shall be determined by dividing the occupiable square footage by seven
64 persons for assembly use or divided by 30 persons if the space is used for other purposes other
65 than assembly. Occupiable areas include assembly spaces, restrooms, corridors and other
66 spaces intended for human use; provided that mechanical rooms, storage areas and other non-
67 occupiable spaces shall not be included in square footage.

68 (j) Unless required otherwise, the following buildings are not subject to the provisions of
69 this article:

70 (1) Gazebos;

71 (2) Pavilions;

72 (3) Open-wall barns;

- 73 (4) Other similar open-air facilities;
- 74 (5) Greenhouses;
- 75 (6) High Tunnels;
- 76 (7) Buildings primarily intended for grain storage; and
- 77 (8) Agricultural structures not used for agritourism.

NOTE: The purpose of this bill is to provide reasonable minimum safety standards for fully enclosed buildings participating in the state's agritourism program.

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