

# WEST VIRGINIA LEGISLATURE

## 2026 REGULAR SESSION

Introduced

### House Bill 5039

FISCAL  
NOTE

By Delegates Dillon, Anders, and Ridenour

[Introduced February 02, 2026; referred to the  
Committee on Energy and Public Works]

1 A BILL to amend and reenact §22-5-1 of the Code of West Virginia, 1931, as amended, and to  
 2 repeal §22-5-2, §22-5-3, §22-5-4, §22-5-5, §22-5-6, §§22-5-7,22-5-8, §22-5-9, §22-5-10,  
 3 §22-5-11, §22-5-11a, §22-5-11b, §22-5-11c, §22-5-12, §22-5-13, §22-5-14, §22-5-15, §22-  
 4 5-16, §22-5-17, §22-5-18, §22-5-19, and §22-5-20 of said code, relating to air pollution  
 5 control; abolishing the provisions in §22-5-1 *et seq.*, Air Pollution Control in said code and  
 6 in lieu thereof, establishing the Fueling Modern Life Act; stating Legislative findings; and  
 7 establishing state policy relating to carbon dioxide.

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

**ARTICLE 5. AIR POLLUTION CONTROL FUELING MODERN LIFE ACT.**

**§22-5-1. ~~Declaration of policy and purpose~~ Carbon dioxide; beneficial treatment; state policy.**

1 ~~It is hereby declared to be the public policy of this state and the purpose of this article to~~  
 2 ~~achieve and maintain such levels of air quality as will protect human health and safety, and to the~~  
 3 ~~greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort~~  
 4 ~~and convenience of the people, promote the economic and social development of this state and~~  
 5 ~~facilitate the enjoyment of the natural attractions of this state.~~

6 ~~To these ends it is the purpose of this article to provide for a coordinated statewide program~~  
 7 ~~of air pollution prevention, abatement and control; to facilitate cooperation across jurisdictional~~  
 8 ~~lines in dealing with problems of air pollution not confined within single jurisdictions; to assure the~~  
 9 ~~economic competitiveness of the state by providing for the timely processing of permit applications~~  
 10 ~~and other authorizations under this article; and to provide a framework within which all values may~~  
 11 ~~be balanced in the public interest.~~

12 ~~Further, it is the public policy of this state to fulfill its primary responsibility for assuring air~~  
 13 ~~quality pursuant to the Federal Clean Air Act, as amended.~~

14 (a) The Legislature finds that:

15 (1) Carbon dioxide is a foundational nutrient necessary for all life on earth. Plants need

16 carbon dioxide along with sunlight, water and nutrients to prosper. The more carbon dioxide  
17 available for this, the better life can flourish;

18 (2) The carbon cycle, where carbon dioxide is reused and transferred between the  
19 atmosphere and organisms on earth, is a biological necessity for life on earth;

20 (3) Agricultural production worldwide is outpacing population growth and breaking  
21 production records primarily due to increasing atmospheric carbon dioxide;

22 (4) More carbon dioxide allows plants to better resist drought by using water more  
23 efficiently;

24 (5) The national aeronautics and space administration has confirmed that global  
25 vegetation is increasing from the near-polar regions to the equator. The largest contributor to this  
26 greening of the earth is increasing carbon dioxide;

27 (6) Carbon dioxide levels are currently at approximately 420 parts per million, which is at  
28 near-historically low concentrations. The current carbon dioxide levels are one-sixth (1/6) of the  
29 average of 2,600 parts per million over geologic time;

30 (7) It is estimated that carbon dioxide levels need to exceed 150 parts per million to ensure  
31 the survival of plant life on earth;

32 (8) The earth needs carbon dioxide to support life and to increase plant yields, both of  
33 which will contribute to the health and prosperity of all West Virginia citizens; and

34 (9) Restrictions on carbon dioxide released into the atmosphere through human activity  
35 unnecessarily restrict availability of this critical nutrient to living things in diverse ecosystems, but  
36 also places arbitrary limits on economic activity and human flourishing.

37 (b) It is the policy of the state of West Virginia that:

38 (1) Carbon dioxide is a foundational nutrient necessary for life on earth as well as human  
39 advancement;

40 (2) Carbon dioxide shall not be designated or treated as a pollutant or contaminant;

41 (3) The state of West Virginia shall not pursue any targets or measures that support the

42 reduction or elimination of carbon dioxide, including any "net-zero" targets; and

43 (4) The state of West Virginia shall encourage and fully support the utilization of carbon-  
44 based fuels including coal, oil, and natural gas for generation of electricity, motor fuels, and other  
45 uses necessary to supporting modern life which the market shall demand.

**§22-5-2. Definitions.**

1 [Repealed.]

**§22-5-3. Causing statutory pollution unlawful; article not to provide persons with additional legal remedies.**

1 [Repealed.]

**§22-5-4. Powers and duties of director; and legal services; rules.**

1 [Repealed.]

**§22-5-5. Issuance of cease and desist orders by director; service; permit suspension, modification and revocation; appeals to board.**

1 [Repealed.]

**§22-5-6. Penalties; recovery and disposition; duties of prosecuting attorneys.**

1 [Repealed.]

**§22-5-7. Applications for injunctive relief.**

1 [Repealed.]

**§22-5-8. Emergencies.**

1 [Repealed.]

**§22-5-9. Powers reserved to Secretary of the Department of Health, Commissioner of Bureau for Public Health, local health boards and political subdivisions; conflicting statutes repealed.**

1 [Repealed.]

**§22-5-10. Records, reports, data or information; confidentiality; proceedings upon request to inspect or copy.**

1 [Repealed.]

**§22-5-11. Construction, modification or relocation permits required for stationary sources of air pollutants.**

1 [Repealed.]

**§22-5-11a. Activities authorized in advance of permit issuance.**

1 [Repealed.]

**§22-5-11b. Construction and operating permits required for natural gas electric generation facilities as stationary sources of air pollutants.**

1 [Repealed.]

**§22-5-11c. Construction and operating permits required for coal electric generation facilities as stationary sources of air pollutants.**

1 [Repealed.]

**§22-5-12. Operating permits required for stationary sources of air pollution.**

1 [Repealed.]

**§22-5-13. Consolidation of permits.**

1 [Repealed.]

**§22-5-14. Administrative review of permit actions.**

1 [Repealed.]

**§22-5-15. Motor vehicle pollution, inspection and maintenance.**

1 [Repealed.]

**§22-5-16. Small business environmental compliance assistance program, compliance advisory panel.**

1 [Repealed.]

**§22-5-17. Interstate ozone transport.**

1 [Repealed.]

**§22-5-18. Market-based banking and trading programs, emissions credits; director to**

**promulgate rules.**

1 [Repealed.]

**§22-5-19. Inventory of greenhouse gases.**

1 [Repealed.]

**§22-5-20. Development of a state plan relating to carbon dioxide emissions from existing fossil fuel-fired electric generating units.**

1 [Repealed.]

NOTE: The purpose of this bill is to abolish the provisions in §22-5-1 *et seq.*, Air Pollution Control in said code and in lieu thereof, establish the Fueling Modern Life Act, stating Legislative findings and establishing state policy relating to carbon dioxide.

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