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States' Right-To-Farm Statutes

State of West Virginia

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States' Right-to-Farm Statutes

STATE OF WEST VIRGINIA

W. Va. Code §§ 19-19-1 to 19-19-6

Current with Laws of the 2010 Regular Session effective through June 1, 2010

§ 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 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, or any other plant or animal production and all farm practices related, usual or incidental thereto, including the storage, packing, shipping and marketing, but not including any manufacturing, milling or processing of such products by other than the producer thereof.

(b) "Agricultural land" shall mean not less than five acres of land and the improvements thereupon, used or usable in the production of food, fiber or woodland products of an annual value of one thousand dollars or more, by the conduct of the business of agriculture, as defined in subsection (a) of this section.

§ 19-19-3. Temporary change of agricultural operations

The change of agricultural land use to a differing agricultural use, including rotation or lying fallow from time to time, shall not constitute abandonment as agricultural land or limit the change to any other agricultural use.

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

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

- (1) The complainant's use and occupancy of land of the complainant has existed upon his adjoining or neighboring land before the agricultural operation complained of upon the agricultural land; and
- (2) The conduct of such agricultural operation complained of has caused or will cause actual physical damage to the person or property of the owner or occupant of such adjoining or neighboring lands.

§ 19-19-5. Duties of owner or operator maintained

Nothing in this article shall be construed to excuse or relieve the owner or operator of any agricultural lands from any other right or duty as to any other person or persons, and shall apply only to the right to conduct the practice of agriculture upon his agricultural lands, and the rights and duties of such owner or operator shall be in all other respects maintained as to any other person or persons or entity.

§ 19-19-6. Liability for damage or destruction of silvicultural or agricultural field test crop; damages

(a) Any person or legal entity who willfully and knowingly damages or destroys, or allows an instrumentality within his or her control to damage or destroy a silvicultural or agricultural field test crop that is grown for personal purposes, commercial purposes, or for testing or research purposes in the context of a product development program in conjunction or coordination with a private research facility or a university or any federal, state or local government agency, shall be liable for twice the market value of the crop damaged or destroyed prior to damage or destruction, as determined by a court of competent jurisdiction, plus interest and reasonable court costs. Where the damaged or destroyed crops are grown for testing or research purposes, damages shall also include twice the actual damages relating to production, research, testing, replacement and crop development costs directly related to the crop that has been damaged or destroyed.

(b) The rights and remedies available under this section are in addition to any other rights or remedies otherwise available in law or statute.

(c) For the purpose of this section, the term "person" means an individual or any nongovernmental group, association, corporation or any other nongovernmental entity.