

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Second Engrossed**

**Senate Bill 675**

BY SENATORS MAYNARD, MANN, BEACH, CLINE,  
FACEMIRE, HAMILTON, HARDESTY, PREZIOSO, ROBERTS,  
RUCKER, SMITH, STOLLINGS, AND SYPOLT

[Originating in the Committee on Natural Resources;

Reported on February 25, 2019]



1 A BILL to amend and reenact §22-15A-3 of the Code of West Virginia, 1931, as amended; and to  
2 amend said code by adding thereto a new section, designated §22-15A-3a, all relating to  
3 requiring the Department of Environmental Protection to create and implement an Adopt-  
4 A-Stream Program; encouraging the removal of litter along West Virginia's rivers and  
5 streams by volunteers; and allowing the Litter Control Fund to be used to fund the  
6 program.

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

**ARTICLE 15A. THE A. JAMES MANCHIN REHABILITATION ENVIRONMENTAL  
ACTION PLAN.**

1 **§22-15A-3. West Virginia litter control and recycling programs; transfer of programs and**  
2 **employees; additional duties of secretary; grants to counties and municipalities;**  
3 **and rules relating thereto.**

4 (a) After July 1, 2005, the litter control and recycling programs heretofore operated and  
5 managed by the Division of Natural Resources shall transfer to the Department of Environmental  
6 Protection.

7 With the transfer of the West Virginia Litter Control and Recycling Programs from the  
8 jurisdiction of the Division of Natural Resources to the jurisdiction of the Department of  
9 Environmental Protection, all records, assets, and contracts, along with rights and obligations  
10 thereunder, obtained or signed on behalf of the Litter Control and Recycling Programs are hereby  
11 transferred and assigned to the Department of Environmental Protection.

12 (b) The Commissioner of the Division of Natural Resources and the Secretary of the  
13 Department of Environmental Protection shall determine which employees of the Division of  
14 Natural Resources will be transferred to the Department of Environmental Protection. All  
15 employees including administrators of the litter control and recycling programs are subject to  
16 being transferred to the Department of Environmental Protection. Employees in the classified

17 service who have gained permanent status as of the effective date of this article, enacted during  
18 the 2005 regular session of the Legislature, will not be subject to further qualifying examination in  
19 their respective classifications by reason of the transfer required by the provisions of this section.  
20 Nothing contained in this section may be construed to either abridge the rights of employees  
21 within the classified service of the state to the procedures and protections set forth in §29-6-1 *et*  
22 *seq.* of this code or to preclude the reclassification or reallocation of positions in accordance with  
23 procedures set forth in ~~said~~ that article. The Division of Personnel shall work with the commission  
24 and secretary to efficiently transfer employees from the Division of Natural Resources to the  
25 Department of Environmental Protection.

26 (c) In addition to all other powers, duties, and responsibilities granted and assigned to the  
27 Secretary of the Department of Environmental Protection in this chapter and elsewhere by law,  
28 the secretary, in the administration of the West Virginia Litter Control Program created by this  
29 section, shall:

30 (1) Coordinate all industry and business organizations seeking to aid in the litter control  
31 and recycling effort;

32 (2) Cooperate with all local governments to accomplish coordination of local litter control  
33 and recycling efforts;

34 (3) Encourage, organize, coordinate, and increase public awareness of and participation  
35 in all voluntary litter control and recycling campaigns, including citizen litter watch programs,  
36 seeking to focus the attention of the public on the litter control and recycling programs of the state  
37 and local governments and of private recycling centers;

38 (4) Recommend to local governing bodies that they adopt ordinances similar to the  
39 provisions of §22-15A-4 of this code;

40 (5) Investigate the methods and success of techniques of litter control, removal, and  
41 disposal utilized in other states, and develop, encourage, organize, and coordinate local litter

42 control programs funded by grants awarded pursuant to subsection (d) of this section utilizing  
43 such successful techniques;

44 (6) Investigate the availability of, and apply for, funds available from any and all private or  
45 public sources to be used in the litter control program created by this section;

46 (7) Attract to the state persons or industries that purchase, process, or use recyclable  
47 materials;

48 (8) Contract for the development, production, and broadcast of radio and television  
49 messages promoting the West Virginia Litter Control Program. The messages should increase  
50 public awareness of and promote citizen responsibility toward the reduction of litter; and

51 (9) Encourage, organize, coordinate, and increase public awareness of, and participation  
52 in, a volunteer litter reporting program statewide.

53 (d) All authority to promulgate rules pursuant to §29A-3-1 *et seq.* of this code establishing  
54 criteria for awarding direct or matching grants for the study of available research and development  
55 in the fields of litter control, removal, and disposal, methods for the implementation of such  
56 research and development, and the development of public educational programs concerning litter  
57 control is hereby transferred from the Division of Natural Resources to the Secretary of the  
58 Department of Environmental Protection as of the effective date of enactment of this section and  
59 article during the 2005 session of the Legislature: *Provided*, That any rule promulgated by the  
60 Division of Natural Resources relating to such grants shall remain in force and effect as though  
61 promulgated by the Department of Environmental Protection until the Secretary amends the rules  
62 in accordance with the provisions of article three, §29A-3-1 *et seq.* of this code.

63 (e) All authority to promulgate rules pursuant to §29A-3-1 *et seq.* of this code designating  
64 public areas where litter receptacles shall be placed and the minimum number of litter receptacles  
65 in accordance with §22-15A-4(g) of this code is hereby transferred from the Division of Natural  
66 Resources to the Secretary of the Department of Environmental Protection as of the effective date  
67 of enactment of this section and article during the 2005 session of the Legislature. Any rule

68 promulgated by the Division of Natural Resources relating to littering receptacles shall remain in  
69 effect as if promulgated by the secretary until amended by the secretary.

70 (f) Commencing on July 1, ~~2005~~ 2019, the secretary shall expend annually at least  ~~fifty~~ 30  
71 percent of the moneys credited to the Litter Control Fund in the previous fiscal year for matching  
72 grants to counties and municipalities for the initiation and administration of litter control programs.  
73 The secretary shall promulgate rules pursuant to §29A-3-1 *et seq.* of this code establishing criteria  
74 for the awarding of matching grants.

75 (g) The Secretary of the Department of Environmental Protection in cooperation with the  
76 Commissioner of Highways, the Department of Commerce, the West Virginia State Police, the  
77 United States Forestry Service, and other local, state, and federal law-enforcement agencies shall  
78 be responsible for the administration and enforcement of all laws and rules relating to the  
79 maintenance of cleanliness and improvement of appearances on and along highways, roads,  
80 streets, alleys, streams, rivers, and any other private or public areas of the state. These other  
81 agencies shall make recommendations to the secretary, from time to time, concerning means and  
82 methods of accomplishing litter control consistent with the provisions of this chapter. ~~Such~~ The  
83 cooperation shall include, but not be limited to, contracts with the Commissioner of Highways to  
84 operate a litter control program.

85 (h) All other state agencies and local governments shall cooperate with the secretary in  
86 effecting the purposes of the litter control program.

**§22-15A-3a. Creation of Adopt-A-Stream Program required.**

1 (a) The Adopt-A-Highway Program was established in the late 1980s to improve the  
2 quality of the state's environment by encouraging public involvement in the elimination of highway  
3 litter. That program is cosponsored by the Division of Highways and the Department of  
4 Environmental Protection, Rehabilitation Environmental Action Plan. Its objective is to save  
5 taxpayer money by increasing public awareness and to serve as an educational tool by focusing  
6 on the consequences of littering. The program offers volunteers the opportunity to take charge of

7 their own environment by making a positive effort to create a cleaner, more aesthetic place in  
8 which to live.

9 In West Virginia there are currently 25,000 volunteers who regularly pick up litter on 4,000  
10 miles of highway. They have been responsible for removing more than 40 million pounds of litter  
11 since the program began.

12 (b) As with the Adopt-A-Highway Program, individuals, families, churches, businesses,  
13 schools, civic organizations, government agencies, scouting groups, fraternities, and  
14 communities may participate in an Adopt-A-Stream Program, which the department shall create  
15 and implement. Anyone who is at least 12 years old may participate. Any stream or river that is a  
16 part of the West Virginia Stream Partners Program is eligible for adoption, with the exception of  
17 streams or rivers considered unsafe. Volunteers may select a stream or river to adopt and then  
18 have it approved by the department, or they may ask the department to suggest an adoptable  
19 stream or river. Adopted streams must be at least one mile long. The Litter Control Fund may be  
20 used to support the Adopt-A-Stream Program.

21 (c) Adoptions are for a period of one year, during which time one cleanup are required per  
22 year. As volunteers pick up litter, bags that have been filled are placed on stream sides for removal  
23 and disposal by the program. Garbage bags, safety vests, safety training, traffic warning signs,  
24 and gloves are to be furnished by the program.

25 (d) Adopted streams may be identified by a sign at each end of the section bearing the  
26 Adopt-A-Stream logo and the name of the adoptee. Volunteers who complete one required litter  
27 pickup within the one-year contract period shall be awarded a certificate of accomplishment  
28 signed by the secretary.

29 (e) The secretary may propose legislative rules pursuant to §29A-3-1 et seq. of this code.