WEST virginia legislature

2021 regular session

Introduced

House Bill 3235

By Delegate Hamrick

[Introduced March 16, 2021; Referred to the Committee on Agriculture and Natural Resources then Government Organization]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-38-1, §19-38-2, §19-38-3, and §19-38-4, relating to vegetable garden protection; providing the protected right to cultivate vegetable gardens.

Be it enacted by the Legislature of West Virginia:

Article 38. Vegetable garden protection act.

§19-38-1. Purpose.

This article’s purpose is to encourage and protect the sustainable cultivation of fresh produce at all levels of production, including on residential property for personal consumption or noncommercial sharing.

§19-38-2. Vegetable garden defined.

As used in this article, the term “vegetable garden” means any plot of ground or elevated soil bed on residential property where vegetables, herbs, fruits, flowers, pollinator plants, leafy greens, or other edible plants are cultivated.

§19-38-3. Right to cultivate vegetable gardens.

Notwithstanding any other law, any person may cultivate vegetable gardens on their own property, or on the private property of another with the permission of the owner, in any county, municipality, or other political subdivision of this state.

§19-38-4. State and local regulation.

This article does not preclude the adoption of a regulation or local ordinance of general nature that does not specifically regulate vegetable gardens, including, but not limited to, regulations and ordinances relating to height, setback, water use, fertilizer use, or control of invasive or unlawful species, provided that any such regulation or ordinance does not have the effect of precluding vegetable gardens.

NOTE: The purpose of this bill is to establish the vegetable garden protection act.

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