

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 110

BY SENATOR SWOPE

[Introduced January 12,2022; referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §21-5J-1, §21-5J-2, §21-5J-3, and §21-5J-4, all relating to prohibiting political
 3 subdivisions from enacting any ordinance, regulation, local policy, local resolution, or other
 4 legal requirements regulating certain areas of the employer-employee relationship and the
 5 sale or marketing of consumer merchandise; establishing a short title; establishing areas
 6 where political subdivisions are prohibited from enacting or promulgating ordinances, local
 7 policies, or local regulations; and providing for exceptions and applicability.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5J. LOCAL GOVERNMENT LABOR AND CONSUMER MARKETING

REGULATORY LIMITATION ACT.

§21-5J-1. Short title.

1 This article shall be known and cited as the Local Government Labor and Consumer
 2 Marketing Regulatory Limitation Act.

§21-5J-2. Definitions.

1 For purposes of this article:

2 “Consumer merchandise” means merchandise offered for sale or lease, or provided with
 3 a sale or lease, primarily but not exclusively for personal, family, or household purposes, and
 4 includes any container used for consuming, carrying, or transporting such merchandise.

5 “Container” means a bag, cup, package, container, bottle, or other packaging that is all of
 6 the following:

7 (A) Designed to be either reusable or single-use;

8 (B) Made of cloth, paper, plastic, including foamed or expanded plastic, cardboard,
 9 corrugated material, aluminum, glass, or postconsumer recycled or similar material or substrates,
 10 including coated, laminated, or multilayer substrates; and

11 (C) Designed for consuming, transporting, or protecting merchandise, food or beverages

12 from or at a food service or retail facility.

§21-5J-3. Prohibited areas of regulation.

1 A political subdivision, as defined in §29-12A-3c of this code, may not adopt, enforce, or
2 administer an ordinance, regulation, local policy, local resolution or other legal requirement
3 regarding any of the following specific areas:

4 (1) Regulating information an employer or potential employer must request, require or
5 exclude on an application for employment from an employee or a potential employee: *Provided,*
6 That this section does not prohibit an ordinance, local policy or local resolution requiring a criminal
7 background check for an employee or potential employee in connection with the receipt of a
8 license or permit from a local governmental body;

9 (2) Requiring an employer to pay to an employee a wage higher than any applicable state
10 or federal law;

11 (3) Requiring an employer to pay to an employee a wage or fringe benefit based on wage
12 and fringe benefit rates prevailing in the locality;

13 (4) Regulating work stoppage or strike activity of employers and their employees or the
14 means by which employees may organize;

15 (5) Requiring an employer to provide to an employee paid or unpaid leave time;

16 (6) Requiring an employer or its employees to participate in any educational
17 apprenticeship or apprenticeship training program that is not required by state or federal law;

18 (7) Regulating hours and scheduling that an employer is required to provide to employees;
19 or

20 (8) Regulating standards or requirements regarding the sale or marketing of consumer
21 merchandise that are different from, or in addition to, any state law: *Provided, That this section*
22 does not prohibit an ordinance, local policy or local resolution that limits the hours a business may
23 operate and shall not apply to city solid waste or recycling collection programs.

§21-5J-4. Exceptions; applicability.

1 (a) Nothing in this article may be construed to prohibit a political subdivision from enforcing
2 a written agreement voluntarily entered into and in effect prior to the effective date of this article.

3 (b) Any ordinance, regulation, local policy, local resolution, or other legal requirement
4 enacted or adopted prior to the effective date of this article, including those enacted or adopted
5 pursuant to §8-1-5a of this code, that would be prohibited under §21-5J-3 of this code is void upon
6 the effective date of this article.

7 (c) §21-5J-3 of this code does not apply to the employees of a political subdivision.

8 (d) Nothing in this article may be construed as prohibiting or limiting a political subdivision
9 from complying with the West Virginia Drug and Alcohol Free Workplace Act, set forth in §21-
10 1d-1 et seq. of this code, or otherwise requiring similar drug and alcohol policies and testing of a
11 political subdivision's vendors.

NOTE: The purpose of this bill is to prohibit political subdivisions from enacting any ordinance, regulation, local policy, local resolution or other legal requirements regulating certain areas of the employer-employee relationship and the sale or marketing of consumer merchandise.

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