

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2508

By Delegate Keaton

[Introduced January 12, 2023; Referred to the
Committee on Agriculture and Natural Resources
then the Judiciary]

1 A BILL to amend and reenact §19-19-4 of the Code of West Virginia, 1931, as amended, relating to
 2 adding a clear and convincing evidentiary standard of proof for certain actions against
 3 agricultural operations.

Be it enacted by the Legislature of West Virginia:

ARTICLE 19. PRESERVATION OF AGRICULTURAL PRODUCTION.

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

1 The conduct of agriculture upon agricultural land shall not be deemed adverse to other use
 2 or uses of adjoining or neighboring land, whether such other land be used or occupied for
 3 residential, commercial, business or for governmental, or any uses other than agricultural. No
 4 complaint or right of action shall be maintained in any court of this state against the owner or
 5 operator of agricultural lands adverse to the conduct of agriculture upon agricultural lands, unless
 6 the plaintiff proves both of the following by clear and convincing evidence:

7 (1) The complainant's use and occupancy of land of the complainant has existed upon his
 8 or her adjoining or neighboring land before the agricultural operation complained of upon the
 9 agricultural land; and

10 (2) The conduct of such agricultural operation complained of has caused or will cause
 11 actual physical damage to the person or property of the owner or occupant of such adjoining or
 12 neighboring lands.

NOTE: The purpose of this bill is to add a clear and convincing evidentiary standard of proof for certain actions against agricultural operations.

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