

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENROLLED

House Bill 5006

BY DELEGATES ANDERSON, ZATEZALO, COOPER,
HECKERT, RILEY, FEHRENBACHER, BARNHART, HANSEN,
YOUNG, HOTT, AND WILLIAMS

[Passed February 19, 2024; in effect ninety days from passage.]

1 AN ACT to amend and reenact §22-15A-2 and §22-15A-16 of the Code of West Virginia, 1931,
2 as amended, relating to the administration of the A. James Manchin Rehabilitation
3 Environmental Action Plan to eliminate antiquated recycling goals and to set new criteria
4 for evaluating the State's success in achieving its recycling goals; defining new terms;
5 providing certain exceptions; establishing reporting requirements for recycling
6 establishments of certain defined recycled materials; establishing a required yearly
7 reporting date; and providing for rule making.

Be it enacted by the Legislature of West Virginia:

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

§22-15A-2. Definitions.

1 Unless the context clearly indicates a different meaning or defined elsewhere in this
2 chapter, as used in this article:

3 (1) "Beneficial use" means the use or reuse of whole waste tires or tire derived material
4 which are reused in constructing retaining walls, rebuilding highway shoulders and subbase,
5 building highway crash attenuation barriers and other civil engineering applications, feed hopper
6 or watering troughs for livestock, other agricultural uses approved by the Department of
7 Environmental Protection, playground equipment, boat or truck dock construction, house or
8 building construction, go-cart, motorbike or race track barriers, recapping, alternative daily cover
9 or similar types of beneficial applications: *Provided*, That waste tires may not be reused as
10 fencing, as erosion control structures, along stream banks or river banks or reused in any manner
11 where human health or the environment, as determined by the Secretary of the Department of
12 Environmental Protection, is put at risk.

13 (2) "Brand" means the name, symbol, logo, trademark, or other information that identifies
14 a product rather than the components of the product.

15 (3) "Collected for commercial purposes" means taking solid waste for disposal from any
16 person for remuneration regardless of whether or not the person taking the solid waste is a
17 common carrier by motor vehicle governed by article two, chapter twenty-four-a of this code.

18 (4) "Computer" means a desktop, personal computer or laptop computer, including the
19 computer monitor. Computer does not include a personal digital assistant device, computer
20 peripheral devices such as a mouse or other similar pointing device, a printer or a detachable
21 keyboard.

22 (5) "Court" means any circuit, magistrate or municipal court.

23 (6) "Covered electronic device" means a television, computer or video display device with
24 a screen that is greater than four inches measured diagonally. "Covered electronic device" does
25 not include a video display device that is part of a motor vehicle or that is contained within a
26 household appliance or commercial, industrial or medical equipment.

27 (7) "Department" means the Department of Environmental Protection.

28 (8) "Litter" means all waste material, including, but not limited to, any garbage, refuse,
29 trash, disposable package, container, can, bottle, paper, covered electronic devices, ashes,
30 cigarette or cigar butt, carcass of any dead animal or any part thereof or any other offensive or
31 unsightly matter, but not including the wastes of primary processes of mining, logging, sawmilling,
32 farming or manufacturing.

33 (9) "Litter receptacle" means those containers suitable for the depositing of litter at each
34 respective public area designated by the secretary's rules promulgated pursuant to subsection
35 (e), section three of this article.

36 (10) "Manufacturer" means a person that is the brand owner of a covered electronic device
37 or television sold or offered for sale in this state by any means, including transactions conducted
38 through retail sales outlets, catalogs or the Internet.

39 (11) "Person" means a natural person, corporation, firm, partnership, association or
40 society and the plural as well as the singular.

41 (12) "Public area" means an area outside of a municipality, including public road and
42 highway rights-of-way, parks and recreation areas owned or controlled by this state or any county
43 of this state or an area held open for unrestricted access by the general public.

44 (13) "Recyclable materials" means those materials that would otherwise become solid
45 waste for disposal in a refuse disposal system and which may be collected, separated or
46 processed and returned to the marketplace in the form of raw materials or products.

47 (14) "Recycling" means any action or process such as collecting, separating, baling,
48 and/or shipping of recyclable materials for the purpose of reuse or conversion into raw materials
49 or new products.

50 (15) "Recycling establishment" means an in-state establishment engaged in recycling of,
51 or brokering of, reportable recyclable materials. Recycling establishment does not include any of
52 the following:

53 (a) A retail establishment that bales cardboard packaging or collects other materials, for
54 off-site shipment;

55 (b) An end user of reportable recyclable materials such as a paper mill, steel mill, foundry,
56 or die caster that converts the reportable recyclable materials into new products or raw materials
57 for conversion into new products; or

58 (c) A recycling establishment that sends all reportable recyclable materials to another in-
59 state recycling establishment.

60 (16) "Reportable recyclable material" means materials which are separated from
61 household and/or commercial waste and delivered to an establishment for recycling including, but
62 not limited to, the following:

63 (a) Paper and paper products;

64 (b) Plastics and plastic products;

65 (c) Glass;

66 (d) Electronics;

- 67 (e) Ferrous metals;
- 68 (f) Non-ferrous metals;
- 69 (g) Textiles; or
- 70 (h) Single stream recyclable materials that include any combination of the materials listed
- 71 above.

72 "Reportable recyclable material" does not include any of the following:

- 73 (i) Materials that are directed to or received by a person subject to §61-3-49 of this code;
- 74 or
- 75 (j) Materials generated from the shredding or dismantling of motor vehicles or parts from
- 76 motor vehicles.

77 (17) "Remediate or remediation" means to remove all litter, solid waste and tires located

78 above grade at a site: *Provided*, That remediation does not include clean up of hazardous waste.

79 (18) "Television" means any telecommunication system device that can receive moving

80 pictures and sound broadcast over a distance and includes a television tuner or a video display

81 device peripheral to a computer in which the display contains a television tuner.

82 (19) "Secretary" means the Secretary of the Department of Environmental Protection.

83 (20) "Video display device" means an electronic device with an output surface that

84 displays or is capable of displaying moving graphical images or visual representations of image

85 sequences or pictures that show a number of quickly changing images on a screen to create the

86 illusion of motion. Video display device includes a device that is an integral part of the display and

87 cannot easily be removed from the display by the consumer and that produces the moving image

88 on the screen. A "video display device" may use a cathode-ray tube (CRT), liquid crystal display

89 (LCD), gas plasma, digital light processing, other image-projection technology or imaging display

90 technologies.

91 (21) "Waste tire" means any continuous solid or pneumatic rubber covering designed to

92 encircle the wheel of a vehicle but which has been discarded, abandoned or is no longer suitable

93 for its original, intended purpose nor suitable for recapping, or other beneficial use because of
94 wear, damage or defect. A tire is no longer considered to be suitable for its original intended
95 purpose when it fails to meet the minimum requirements to pass a West Virginia motor vehicle
96 safety inspection. Used tires located at a commercial recapping facility or tire dealer for the
97 purpose of being reused or recapped are not waste tires.

98 (22) "Waste tire monofill or monofill" means an approved solid waste facility where no
99 solid waste except waste tires are placed for the purpose of long term storage for eventual
100 retrieval for marketing purposes.

101 (23) "Waste tire processing facility" means a solid waste facility or manufacturer that
102 accepts waste tires generated by sources other than the owner or operator of the facility for
103 processing by such means as cryogenics, pyrolysis, pyroprocessing cutting, splitting, shredding,
104 quartering, grinding or otherwise breaking down waste tires for the purposes of disposal, reuse,
105 recycling and/or marketing.

106 (24) "Waters of the state" means generally, without limitation, natural or artificial lakes,
107 rivers, streams, creeks, branches, brooks, ponds, impounding reservoirs, springs, wells,
108 watercourses and wetlands.

109 (25) "Yard waste" means grass clippings, weeds, leaves, brush, garden waste, shrub or
110 tree prunings and other living or dead plant tissues, except that materials, which due to inadvertent
111 contamination or mixture with other substances which render the waste unsuitable for
112 composting, are not yard waste: *Provided*, That the same or similar waste generated by
113 commercial agricultural enterprises is excluded.

§22-15A-16. Recycling goals.

1 It is the goal of this State to establish a base recycling rate which shall be evaluated every
2 five years to aid in implementation of recycling initiatives aimed at increasing this rate. In order to
3 evaluate the State's recycling rate, the Department shall create and implement a process by which
4 recycling establishments shall report, at a minimum, to the State the following information:

5 (a) The recycling establishment's name, physical location, postal mailing address, e-mail
6 address, telephone number, contact person, and amount and kind of reportable recyclable
7 material handled at the recycling establishment; and

8 (b) The amount of each category of reportable recyclable material received at the
9 recycling establishment and the amount of recyclable material shipped from the recycling
10 establishment.

11 (c) A recycling establishment shall report the previous calendar year's data to the
12 Department no later than March 1, 2026, and each year thereafter.

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

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2024.

.....
Governor