

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Originating

House Bill 3503

By Delegates Hornby, Howell, Anderson, and

Zatezalo.

[Originating in the Committee on Energy and Public

Works; Reported on March 20, 2025.]

1 A BILL to amend the code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §22-11-31, relating to the regulation by counties, municipalities, and political
3 subdivisions of commercial horticulture under the Water Pollution Control Act; providing
4 that regulations within the subject matter of the Water Pollution Control Act governing
5 commercial horticulture by counties, municipalities, and political subdivisions are invalid
6 and unenforceable; and providing limitations of causes of action against commercial
7 horticulture operations brought by counties, municipalities, and political subdivisions within
8 the subject matter of the Water Pollution Control Act.

Be it enacted by the Legislature of West Virginia:

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 11. WATER POLLUTION CONTROL ACT.

§22-11-31. State pre-emption in favor of commercial horticulture under the Water Pollution Control Act.

1 (a) Notwithstanding the provisions of Chapter 7, Chapter 7A, Chapter 8, and Chapter 8A of
2 the West Virginia Code or the West Virginia Code of State Rules promulgated thereunder to the
3 contrary, no county, municipality, or political subdivision may prohibit, regulate, permit, or license
4 commercial horticulture by adopting any charter, law, rule, regulation, ordinance, or zoning
5 provision concerning the size, placement, location, or operation of commercial horticulture within
6 the subject matter of the Water Pollution Control Act, and all such provisions in charters, laws,
7 rules, regulations, ordinances, or zoning provisions are hereby invalid and unenforceable.

8 (b) No county, municipality, or political subdivision may bring a cause of action against a
9 commercial horticulture operation for any activity within the subject matter of the Water Pollution
10 Control Act, if the commercial horticulture operation is in material compliance of the Water
11 Pollution Control Act, its rules, and federal laws and regulations.

NOTE: The purpose of this bill is to clarify that state law under the Water Pollution Control Act will govern all commercial horticulture activities in this state. All city and county

ordinances and zoning provisions are preempted by state law.

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