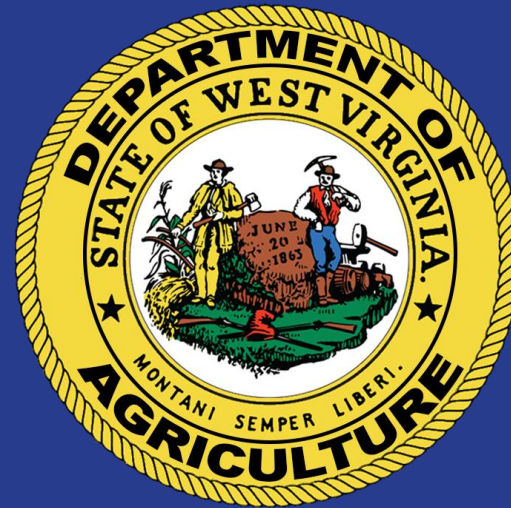


Deregulation Bills in WV



Grant Bishop

**West Virginia Department of Agriculture
Deputy Director Regulatory Division**

If You're Not at the Table, You're on the Menu



HISTORY OF DEREGULATION BILLS IN WV

- 2020 Occupational Licensing Consumer Choice Act
- 2022 Products Generally Available Exemption

2020 LEGISLATIVE SESSION
SB 218
OCCUPATIONAL LICENSING CONSUMER CHOICE ACT

- The purpose of this bill is to create the **Occupational Licensing Consumer Choice Act** to allow persons to work for employers or consumers without first obtaining a professional license.
- Except for Doctors, Nurses, Dentist, Pharmacist.
- This attempt was unsuccessful.

2022 LEGISLATIVE SESSION
HB 4644
PRODUCTS GENERALLY AVAILABLE EXEMPTION

- The purpose of this bill is to **exempt** from the requirement of an annual pesticide business license for **persons applying products that are generally available** through retail sale at groceries, drug stores and other stores offering a broad variety of consumer products.
- Signed into law March 8, 2022

2022 REGULAR SESSION

INTRODUCED

House Bill 4644

By Delegates Foster, Kimes, and Steele

[Introduced February 11, 2022; Referred to the Committee on Government Organization]

A BILL amend and reenact §19-16A-14 of the Code of West Virginia, 1931, as amended, relating to agriculture and the West Virginia Pesticide Control Act; and exempting from the requirement of an annual pesticide business license for persons applying products that are generally available through retail sale at groceries, drug stores and other stores offering a broad variety of consumer products.

Be it enacted by the Legislature of West Virginia:

ARTICLE 16A. WEST VIRGINIA PESTICIDE CONTROL ACT.

§19-16A-14. Exemptions.

(a) Veterinarian exemption. -- The provisions of §9-16A-7 of this code relating to licenses and requirements for their issuance do not apply to a doctor of veterinary medicine applying pesticides to animals during the normal course of his or her veterinary practice: Provided, That he or she is not regularly engaged in the business of applying pesticides for hire amounting to a principal or regular occupation and does not publicly hold himself or herself out as a pesticide applicator.

(b) Farmer exemption. -- The provisions of §9-16A-7 of this code article relating to licenses and requirements for their issuance do not apply to any farmer applying pesticides for himself or herself or with ground equipment or manually for his or her farmer neighbors: Provided, That he or she:

- (1) Operated farm property and operates and maintains pesticide application equipment primarily for his or her own use;
- (2) Is not regularly engaged in the business of applying pesticides for hire amounting to a principal or regular occupation and that he or she does not publicly hold himself or herself out as a pesticide applicator; and
- (3) Operates his or her pesticide application equipment only in the vicinity of his or her own property and for the accommodation of his or her neighbors.

(c) Experimental research exemption. -- The provisions of §9-16A-7 of this code relating to licenses and requirements for their issuance do not apply to research personnel applying pesticides only to bona fide experimental plots.

(d) Products generally available exemption.-- The provisions of §9-16A-7 of this code relating to licenses and requirements for their issuance do not apply to the use, application, or administration, by unlicensed persons whether for compensation or not, of lawn care products or pest control products that are generally available through retail sale at groceries, drug stores and other stores offering a broad variety of consumer products.



HB 4644

PRODUCTS GENERALLY AVAILABLE EXEMPTION

- (a) Veterinarian exemption
- (b) Farmer exemption
- (c) Experimental research exemption
- (d) Products generally available exemption.-- The provisions of §19-16A-7 of this code relating to licenses and requirements for their issuance do not apply to the use, application, or administration, by unlicensed persons whether for compensation or not, of **lawn care products** or **pest control products** that are **generally available through retail sale** at groceries, drug stores and other stores offering a broad variety of consumer products.

HB 4644

- Introduced February 11, 2022, by Delegates Foster of Putnam County, Kimes of Wood County and Steele of Raleigh County
- To House Government Organization Committee
- To the House Floor; Three Readings Passed House
- To Senate Agricultural and Natural Resources Committee
- To Senate Floor; Three Readings Passed Senate
- Governor's Desk for Signature March 8, 2022
- Effective June 8, 2022

ASK #1 NOT GRANTED

RULE MAKING LANGUAGE SUGGESTED BY WVDA

- “The commissioner shall propose emergency and legislative rules for promulgation in accordance with §29A-3-1 et seq. of this code to implement the provisions of this section.”
- WVDA suggested... The provisions of this subsection apply only to general use pesticides that are purchased from retail stores and are applied as purchased. Application of general use pesticides that require mixing or dilution are not exempt from licensure.
- WVDA suggested... The provisions of this subsection apply only to lawn and landscape spot treatments.

ASK #2 NOT GRANTED

VETO REQUEST LETTER FROM COMMISSIONER KENT LEONHARDT TO GOVERNOR JIM JUSTICE

Dear Governor Justice:

This letter is to respectfully ask that you veto HB 4644:

A BILL to amend and reenact §19-16A-14 of the Code of West Virginia, 1931, as amended, relating to agriculture and the West Virginia Pesticide Control Act; and exempting from the requirement of an annual pesticide business license for persons applying products that are generally available through retail sale at groceries, drug stores and other stores offering a broad variety of consumer products.

HB 4644 is an attempt to deregulate the application of general-use pesticides for hire, which would allow unlicensed, untrained, and uninsured individuals to apply pesticides in and around homes, businesses, food handling establishments, and health care facilities. It invites the opportunity for the misapplication of pesticides and subsequent potential to harm to humans, pets, pollinators, and the environment, and places into question the State's enforcement primacy granted by the EPA in the West Virginia State Plan for the Certification of Commercial and Private Applicators of Pesticides.

The safe and effective use of pesticides is of utmost importance to the West Virginia Department of Agriculture, which has been licensing pesticide applicators since 1975.

...

PESTICIDE ENFORCEMENT POLICY STATEMENT

Pesticide Enforcement Policy Statement For Products Generally Available Exemption

With the passage of HB 4644, effective June 8, 2022, annual pesticide business licenses and certification are no longer required for persons applying lawn care and pest control products that are generally available through retail sale at groceries, drug stores and other stores. As we applaud the Legislature's effort to continue to reduce red tape and overburdensome regulations, we still believe there is value in hiring licensed pesticide application businesses employing certified pesticide applicators. This ensures those businesses are properly insured and their applicators have received initial training and continuing education as outlined in **§61-12A** Certified Pesticide Applicator Rules. In addition, the WVDA will continue to uphold the federally mandated certification and licensing program, as well as provide oversight over lawn care and pest control services.

Licensing requirements and continuing education ensure that an individual has proper knowledge of pesticide application. The misapplication of pesticides has the potential to harm humans, animals and the environment. The safe and effective use of pesticides is of utmost importance to the WVDA. For that reason, we will continue to encourage our current licensed companies and individuals to maintain licensing. The WVDA offers initial certification training at no charge, as well as continuing education training assistance. Moving forward, we recommend the public contact licensed businesses for services.

We will continue to work with our lawn care and pest control industries to foster economic development, as well as safe and effective use of pesticides. If you have suggestions, please do not hesitate to reach out.

For a list of current licensed businesses and applicators visit <https://wvplants.wvda.us>.

If you have any questions regarding pesticide applicators, please reach out to Grant Bishop at (304)



Enforcement
Policy

QUESTIONS

- The Certified Applicator Rule was not revised and still contains Turf and General Pest categories.
- Is WVDA obligated to change the Rule?

THANK YOU!