

1 **H. B. 2151**

2
3 (By Delegates Caputo and Mahan)

4 [Introduced January 12, 2011; referred to the

5 Committee on Energy, Industry and Labor, Economic Development and

6 Small Business then the Judiciary.]

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11 A BILL to amend the Code of West Virginia, 1931, as amended, by
12 adding thereto a new section, designated §22A-1-40, relating
13 to notice of hazardous chemical substances and lead exposure
14 to employees of mine operators; requiring Director of Miners'
15 Health, Safety and Training to adopt a list of hazardous
16 substances by rule and to compile safety information regarding
17 hazardous substances; and providing a criminal penalty for
18 violation.

19 *Be it enacted by the Legislature of West Virginia:*

20 That the Code of West Virginia, 1931, as amended, be amended
21 by adding thereto a new section, designated §22A-1-40, to read as
22 follows:

23 **ARTICLE 1. OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING;**
24 **ADMINISTRATION; ENFORCEMENT.**

1 §22A-1-40. Hazardous chemical substances; notice to employees;
2 notice to employees of lead exposure; reports to
3 director; penalties.

4 (a) It is declared the policy of this state to require mine
5 operators (hereinafter employers) subject to the provisions of this
6 chapter to disclose to employees the hazards of exposure in the
7 workplace to hazardous or toxic chemical substances and materials.
8 For this purpose, the Director of the Office of Miners' Health,
9 Safety and Training shall adopt the list of toxic and hazardous
10 substances found in twenty-nine Code of Federal Regulations
11 1910.1000, 1910.1001, 1910.1020, 1910.1025, 1910.1200 and
12 1910.1201, Subpart Z, revised as of July 1, 1998, as amended, and
13 shall also maintain, by rule a list of chemical substances and
14 materials which have been determined or are suspected to be
15 hazardous or toxic to the health of employees who may be exposed to
16 them in the course of employment. In establishing and maintaining
17 this list, the director may give consideration to any list made or
18 hereafter made by the Secretary of Labor of the United States
19 identifying or proposing to identify chemical substances and
20 materials as hazardous or toxic or setting standard levels of safe
21 exposure thereto, as the same are published from time to time in
22 the federal register. The director shall publish and update, at
23 least annually, the list of substances and materials and
24 information regarding lead exposure and shall include in the

1 publication thereof, for each listed substance or material, any
2 standard levels of safe exposure published by the secretary in the
3 federal register, giving due consideration to any changes made or
4 proposed by the secretary in the secretary's list of hazardous or
5 toxic chemical substances and materials, or in any standard levels
6 of safe exposure established or proposed from time to time by the
7 secretary, as the same are published in the federal register. The
8 director shall provide a copy of the updated list and lead exposure
9 information to the Joint Committee on Government and Finance by
10 December 1 each year.

11 (b) Any employer of ten or more employees using or producing
12 any listed hazardous chemical substance or material shall
13 conspicuously post a warning notice in the work area where any such
14 substance or material is used, to read substantially as follows:

15 WARNING NOTICE

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17 (Name of hazardous chemical substance or material) is used at
18 this work site.

19 Common symptoms of overexposure include the following:

20

21 Name of Employer

22 Any notice required to be posted with regard to a mobile work
23 site may be posted on the container or containers of the hazardous
24 substance or material or in some other conspicuous place.

1 The employer shall include in the notice those common symptoms
2 of overexposure that: (1) Are published with the standard levels
3 of safe exposure; or (2) are certified to the employer by a
4 physician employed for that purpose. Good faith reliance upon the
5 source of information will be sufficient notice of the common
6 symptoms.

7 (c) Any employer whose employees may come in contact with lead
8 as defined in twenty-nine Code of Federal Regulations 1910.1025,
9 Subpart Z, shall reasonably investigate the possibility of lead
10 exposure to employees. Upon a determination of the presence of
11 lead, the employer shall take all reasonable and necessary steps to
12 minimize exposure to employees, and the employer shall
13 conspicuously post a warning notice in the work area where any lead
14 exposure may occur, to read substantially as follows:

15 WARNING NOTICE

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17 Lead has been detected at this work site. There is a
18 possibility of lead exposure at this work site and all reasonable
19 and necessary steps must be followed to minimize employee exposure
20 including the following:

21

22 Name of Employer

23 The Director of the Office of Miners' Health, Safety and
24 Training shall provide, at the request of the employer, the

1 reasonable and necessary steps to minimize worker exposure to lead
2 for inclusion on the warning notice above. Any notice required to
3 be posted with regard to a mobile work site may be posted in a
4 conspicuous place where exposure is possible.

5 The employer must comply with all requirements of the director
6 and the provisions of twenty-nine Code of Federal Regulations
7 1910.1025, Subpart Z regarding any known lead hazard.

8 (d) Any employer having notice of any incident of exposure to
9 a listed hazardous chemical substance or material in excess of its
10 standard level of safe exposure published by the director shall,
11 within ten days thereof, report to the director the circumstances
12 of the incident and provide a copy of the report to the employee.

13 (e) Any person or corporation that violates the provisions of
14 this section is guilty of a misdemeanor and, upon conviction
15 thereof, shall be fined not less than \$100 nor more than \$1,000 for
16 each violation.

NOTE: The purpose of this bill is to require mine operators to provide notice of hazardous chemical substances and lead exposure to its employees.

This section is new; therefore, it has been completely underscored.