

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 334**

4 (By Senators Yost and Edgell)

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6 [Originating in the Committee on Labor;
7 reported March 20, 2013.]
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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 §21-3-22, relating to
13 requiring onsite employees at certain public works
14 construction projects to complete an Occupational Safety and
15 Health Administration-approved ten-hour construction safety
16 program; requiring the retention of training records;
17 authorizing the Commissioner of Labor to issue cease-and-
18 desist notices; providing civil penalties for violations;
19 providing criminal penalties for exhibiting false documents;
20 and exempting certain persons.

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

22 That the Code of West Virginia, 1931, as amended, be amended
23 by adding thereto a new section, designated §21-3-22, to read as
24 follows:

1 **ARTICLE 3. SAFETY AND WELFARE OF EMPLOYEES.**

2 **§21-3-22. OSHA construction safety program.**

3 (a) No person or other business entity providing services as
4 a contractor or subcontractor under a contract, entered on or after
5 July 1, 2014, for the construction, reconstruction, alteration,
6 remodeling or repairs of a public work by the state, or political
7 subdivision thereof, where the total contract cost of all work to
8 be performed by all contractors and subcontractors is \$50,000 or
9 more, shall use, employ, or assign any person to work at the public
10 work site for any combined period of seven or more days who has not
11 successfully completed a ten-hour construction safety program
12 designed by the United States Occupational Safety and Health
13 Administration (OSHA).

14 (b) Every contractor and subcontractor providing services
15 under a public improvement contract identified in subsection (a) of
16 this section, shall make and maintain records of the persons he or
17 she employs pursuant to the contract and, for each employee, the
18 date of the employee's completion of the safety training program
19 and the identity of the provider of the training. These records
20 shall be preserved pursuant to the provisions of section five,
21 article five-c of this chapter and shall be maintained at the
22 employer's business office.

23 (c) If the commissioner of labor or his or her designee finds
24 a person who has not completed the OSHA safety training at work at

1 a public improvement work site in violation of this section, the
2 commissioner may issue a notice for that person to cease and desist
3 in performing work at the site until the person has completed the
4 training program.

5 (d) The commissioner of labor may assess a a civil penalty of
6 not less than \$100 nor more than \$1,000 to any person or business
7 entity who violates subsection (a) or (b) of this section for each
8 violation.

9 (e) Any person who, with knowledge that a document or other
10 record falsely represents that a person has completed the training
11 program identified in this section, provides or exhibits the
12 document or record to the commissioner of labor or to his or her
13 designee or to an employer, shall be guilty of a misdemeanor and,
14 upon conviction thereof, shall be fined not less than \$250 nor more
15 than \$2,500, or confined in jail for not less than one nor more
16 than thirty days, or both.

17 (f) The following individuals are exempt from the training
18 requirements of this section:

19 (1) Law-enforcement officers involved with traffic control or
20 job site security;

21 (2) Federal, state and municipal government employees and
22 inspectors; and

23 (3) Suppliers whose sole responsibility is to deliver
24 materials to the work site and other delivery personnel.

NOTE: The purpose of this bill is to require onsite employees at certain public works construction projects to complete an Occupational Safety and Health Administration (OSHA) approved ten-hour construction safety program prior to beginning work.

This section is new; therefore, strike-throughs and underscoring have been omitted.