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**H. B. 3005**

(By Delegates Fleischauer, Pushkin, Guthrie, Lynch, Rowe,  
Skinner ad Longstreth)

[Introduced February 24, 2015 ; referred to the  
Committee on Energy then the Judiciary.]

A BILL to amend and reenact §22-3-22a of the Code of West Virginia, 1931, as amended, relating  
to prohibiting blasting within six hundred twenty-five feet of an occupied dwelling.

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

That §22-3-22a of the Code of West Virginia, 1931, as amended, be amended and reenacted  
to read as follows:

**ARTICLE 3. SURFACE COAL MINING AND RECLAMATION ACT.**

**§22-3-22a. Blasting restrictions; site specific blasting design requirement.**

(a) For purposes of this section, the term “production blasting” means blasting that removes  
the overburden to expose underlying coal seams and does not include construction blasting.

(b) For purposes of this section, the term “construction blasting” means blasting to develop  
haul roads, mine access roads, coal preparation plants, drainage structures or underground coal mine  
sites and does not include production blasting.

(c) For purposes of this section, the term “protected structure” means any of the following  
structures that are situated outside the permit area: An occupied dwelling; a temporarily unoccupied

1 dwelling which has been occupied within the past ninety days; a public building; a structure for  
2 commercial purposes; a school; a church; a community or institutional building; and a public park  
3 or a water well.

4 (d) Production blasting is prohibited within ~~three hundred~~ six hundred twenty-five feet of a  
5 protected structure or within one hundred feet of a cemetery.

6 (e) Blasting within one thousand feet of a protected structure shall have a site-specific blast  
7 design approved by the office of explosives and blasting. The site-specific blast design shall limit  
8 the type of explosives and detonating equipment, the size, the timing and frequency of blasts to do  
9 the following:

10 (1) Prevent injury to persons; (2) prevent damage to public and private property outside the  
11 permit area; (3) prevent adverse impacts on any underground mine; (4) prevent change in the course,  
12 channel or availability of ground or surface water outside the permit area; and (5) reduce dust outside  
13 the permit area.

14 In the development of a site-specific blasting plan, consideration shall be given, but is not  
15 limited to, the physical condition, type and quality of construction of the protected structure, the  
16 current use of the protected structure and the concerns of the owner or occupant living in the  
17 protected structures identified in the blasting schedule notification area.

18 (f) An owner or occupant of a protected structure may waive the blasting prohibition within  
19 ~~three hundred~~ six hundred twenty-five feet. If a protected structure is occupied by a person other  
20 than the owner, both the owner and the occupant of the protected structure shall waive the blasting  
21 prohibition within ~~three hundred~~ six hundred twenty-five feet in writing. The operator shall send  
22 copies of all written waivers executed pursuant to this subsection to the office of explosives and

1 blasting. Written waivers executed and filed with the office of explosives and blasting are valid  
2 during the life of the permit or any renewals of the permit and are enforceable against any subsequent  
3 owners or occupants of the protected structure.

4 (g) The provisions of this section do not apply to the following: (1) Underground coal  
5 mining operations; (2) the surface operations and surface impacts incident to an underground coal  
6 mine; and (3) the extraction of minerals by underground mining methods or the surface impacts of  
7 the underground mining methods: *Provided*, That nothing contained in this section may be  
8 construed to exempt any coal mining operation from the general performance standards as contained  
9 in section thirteen of this article and any rules promulgated pursuant to said section.

NOTE: The purpose of this bill is to extend the distance from occupied dwellings or certain other structures in which surface mine production blasting may not occur, to be consistent with the distance a gas well drilling pad must be from an occupied dwelling.

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