

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 625

BY SENATORS TRUMP, KESSLER, UNGER, WALTERS,

PREZIOSO AND FACEMIRE

[Introduced February 18, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to amend and reenact §22-30-14 of the Code of West Virginia, 1931, as amended, relating
 2 to limitations on public access to information relating to the Aboveground Storage Tank
 3 Act.

Be it enacted by the Legislature of West Virginia:

1 That §22-30-14 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted to read as follows:

ARTICLE 30. THE ABOVEGROUND STORAGE TANK ACT.

§22-30-14. Public access to information.

1 (a) The public ~~shall have~~ has access to all documents and information submitted to the
 2 department pursuant to this article, subject to the limitations contained in the state Freedom of
 3 Information Act, article one, chapter twenty-nine-b of this code, or any information designated by
 4 the Division of Homeland Security and Emergency Management as restricted from public release.
 5 Trade secrets, proprietary business information and information designated by the Division of
 6 Homeland Security and Emergency Management as restricted from public release pursuant to
 7 subsection (c) of this section shall be secured and safeguarded by the department. ~~Such~~ The
 8 information or data ~~shall~~ may not be disclosed to the public or to any firm, individual or agency
 9 other than officials or authorized employees or representatives of a state or federal agency
 10 implementing the provisions of this article or any other applicable law related to releases of fluid
 11 from aboveground storage tanks that impact the state’s water resources or related to source water
 12 protection planning. Any person who ~~makes any unauthorized disclosure of such confidential~~
 13 ~~information or data~~ violates the provision of this section is guilty of a misdemeanor and, upon
 14 conviction thereof, may be fined not more than \$1,000 or confined in a ~~regional jail facility~~ for not
 15 more than twenty days, or both fined and confined.

16 (b) ~~A list of the potential sources of significant contamination contained within the zone of~~
 17 ~~critical concern or zone of peripheral concern as provided by the Bureau for Public Health, working~~
 18 ~~in conjunction with the department and the Division of Homeland Security and Emergency~~

19 ~~Management may only be disclosed to the extent consistent with the protection of trade secrets,~~
20 ~~confidential business information and information designated by the Division of Homeland~~
21 ~~Security and Emergency Management as described above.~~ The exact location, ~~of the~~
22 ~~contaminants~~ size and substances stored in aboveground storage tanks within the zone of critical
23 concern or zone of peripheral concern is not subject to public disclosure in response to a Freedom
24 of Information Act request under article one, chapter twenty-nine-b of this code. However, the
25 location, ~~characteristics and approximate quantities of potential sources of significant~~
26 ~~contamination~~ exact location, size and substances stored in aboveground storage tanks within
27 the zone of critical concern or zone of peripheral concern shall be made known to one or more
28 designees of the public water utility, and shall be maintained in a confidential manner by the public
29 water utility. In the event of a release to waters of the state that could affect a public water supply,
30 information about the release shall be promptly made available to any emergency responders
31 responding to the site of a spill or release and the general public shall be promptly notified in the
32 event of a chemical spill, release or related emergency by the Director of Homeland Security and
33 Emergency Management.

34 (c) The Director of Homeland Security and Emergency Management may promulgate
35 emergency rules and shall propose legislative rules, pursuant to article three, chapter twenty-
36 nine-a of this code to effectuate the provisions of this section: Provided, That no rule so
37 promulgated may restrict public access to information that is already subject to public disclosure
38 under any other state or federal statute.

NOTE: The purpose of this bill is to revise the exceptions from Freedom of Information Act provided for in the Aboveground Storage Tank Act.

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