

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 3005**

**2015 Carryover**

(BY DELEGATES FLEISCHAUER, PUSHKIN, GUTHRIE,  
LYNCH, ROWE, SKINNER AD LONGSTRETH)

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

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

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

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

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

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

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

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

7 (c) For purposes of this section, the term “protected structure” means any of the following  
8 structures that are situated outside the permit area: An occupied dwelling; a temporarily  
9 unoccupied dwelling which has been occupied within the past ninety days; a public building; a  
10 structure for commercial purposes; a school; a church; a community or institutional building; and  
11 a public park or a water well.

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

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

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

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

26 (f) An owner or occupant of a protected structure may waive the blasting prohibition within  
27 ~~three hundred~~ six hundred twenty-five feet. If a protected structure is occupied by a person other  
28 than the owner, both the owner and the occupant of the protected structure shall waive the  
29 blasting prohibition within ~~three hundred~~ six hundred twenty-five feet in writing. The operator  
30 shall send copies of all written waivers executed pursuant to this subsection to the office of  
31 explosives and blasting. Written waivers executed and filed with the office of explosives and  
32 blasting are valid during the life of the permit or any renewals of the permit and are enforceable  
33 against any subsequent owners or occupants of the protected structure.

34 (g) The provisions of this section do not apply to the following: (1) Underground coal  
35 mining operations; (2) the surface operations and surface impacts incident to an underground  
36 coal mine; and (3) the extraction of minerals by underground mining methods or the surface  
37 impacts of the underground mining methods: *Provided*, That nothing contained in this section  
38 may be construed to exempt any coal mining operation from the general performance standards  
39 as contained 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.