

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 3048

BY DELEGATES R. MILLER, MARCUM, CAPUTO AND

PHILLIPS

[Introduced March 14, 2017; Referred
to the Committee on Government Organization the
Finance.]

1 A BILL to amend and reenact §15-5A-5 of the Code of West Virginia, 1931, as amended, relating
2 to collection of Tier II fees for chemical inventories.

Be it enacted by the Legislature of West Virginia:

1 That §15-5A-5 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

**ARTICLE 5A. WEST VIRGINIA EMERGENCY RESPONSE AND COMMUNITY RIGHT-
TO-KNOW ACT.**

§15-5A-5. Powers and duties of the commission.

1 The commission shall have and may exercise the following powers and authority and shall
2 perform the following duties:

3 (a) Designate emergency planning districts;

4 (b) Appoint local emergency planning committees for each emergency planning district
5 and supervise and coordinate the activities of such committees;

6 (c) Revise any designations and appointments made under subsections (a) and (b) of this
7 section as it deems appropriate: *Provided*, That any interested person may petition the state
8 emergency response commission to modify the membership of a local emergency planning
9 commission;

10 (d) Designate, if necessary, additional facilities which shall be subject to the requirements
11 of this article, provided such designation is made after public notice and opportunity for comment
12 as provided under article three, chapter twenty-nine-a of the code;

13 (e) Review the emergency response plans submitted by the local emergency planning
14 committees and make recommendations to the local committees on revisions of the plan that may
15 be necessary to ensure coordination of such plan with the plans of other emergency planning
16 districts and other existing state and local emergency response plans;

17 (f) Enter into cooperative agreements with other state agencies designating specific

18 responsibilities to be performed by such state agencies to implement the provisions of this article;

19 (g) Promulgate procedural rules in accordance with the provisions of article three, chapter
20 twenty-nine-a of this code, establishing rules of practice before the commission;

21 (h) Promulgate procedural rules in accordance with the provisions of article three, chapter
22 twenty-nine-a of this code, establishing procedures for receiving and processing requests from
23 the public for information in accordance with the provisions of 42 U.S.C. §11001, et seq., and this
24 article, and prescribing forms and instructions for requesting such information;

25 (i) Promulgate procedural rules in accordance with the provisions of article three, chapter
26 twenty-nine-a of this code, prescribing forms and instructions for the submission and receipt of
27 confidential information;

28 (j) Promulgate rules establishing the following fees which shall be deposited in a special
29 account for the administration of this act and which shall be reasonably calculated to recover the
30 necessary expenses incurred by the Office of Emergency Services in the administration of this
31 article:

32 (1) An emergency planning notification fee not to exceed ~~\$100~~ \$200 to be paid by a facility
33 when it makes the emergency planning notification required under SARA, Title III, sections 301
34 through 303;

35 (2) An inventory form fee not to exceed ~~\$100~~ \$2,500 to be paid annually by a facility when
36 it submits the emergency and hazardous chemical inventory forms or material safety data sheet
37 required under SARA, Title III, sections 311 and 312; and

38 (3) A surcharge fee not to exceed twenty percent of the fee otherwise payable to be paid
39 by facilities which fail to pay the fees in paragraphs (1) and (2) in a timely manner;

40 (k) Establish an emergency planning grant program to be administered by the commission.
41 The grant programs will be funded by fees collected to administer this act pursuant to subdivision
42 (j) of this section. The commission shall promulgate rules which establish the method of awarding
43 such grants to local emergency planning committees to assist them in performing their

44 responsibilities under this article;

45 (l) Promulgate legislative rules in accordance with the provisions of article three, chapter
46 twenty-nine-a of this code necessary to implement the provisions of this article; and

47 (m) The chairman of the commission may order a facility owner or operator to comply with
48 the requirements of applicable federal law, this article and any rules or regulations promulgated
49 thereunder. When the chairman has reasonable cause to believe that there exists a failure to
50 comply with the provisions of applicable federal law, this article or any rule or regulation
51 promulgated thereunder or any order entered by the chairman, he or she may request the Attorney
52 General to commence an action for civil penalties, injunctive relief or other appropriate relief to
53 enforce such provisions, rules and regulations or order. Such action may be brought in any federal
54 district court having jurisdiction, or in the Circuit Court of Kanawha County or the county where
55 the facility or a major portion thereof is located.

NOTE: The purpose of this bill is to increase the cap mandated on the collection of Tier II fees for chemical inventories.

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