

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 547**

SENATORS TRUMP AND PLYMALE, *original sponsors*

[Originating in the Committee on the Judiciary;

reported on January 29, 2020]



1 A BILL to amend and reenact §21-3E-16 of the Code of West Virginia, 1931, as amended, relating  
2 to employer testing, notice, termination, and forfeiture of unemployment compensation  
3 benefits.

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

**ARTICLE 3. THE WEST VIRGINIA SAFER WORKPLACE ACT.**

**§21-3E-16. Employer testing; notice; termination; forfeiture.**

1 If an employer implements a drug-free workplace program in accordance with this article,  
2 which includes notice, education, and procedural requirements for testing for drugs and alcohol  
3 pursuant to this law, the employer may require the employee to submit to a test for the presence  
4 of drugs or alcohol. If an employee is terminated because alcohol or a drug or alcohol is found to  
5 be present in the employee's system at a level proscribed by the employer's policy, the employee,  
6 ~~may be terminated and forfeits his or her eligibility for unemployment compensation benefits and~~  
7 if injured at the time of the intoxication, forfeits indemnity benefits under the Workers'  
8 Compensation Laws. However, the employer's drug-free workplace program must notify all  
9 employees that it is a condition of employment for an employee to refrain from reporting to work  
10 or working with the presence of drugs or alcohol in his or her body and that policy must also state  
11 that if an injured employee refuses to submit to a test for drugs or alcohol that employee forfeits  
12 eligibility for ~~unemployment compensation benefits, and if injured,~~ indemnity benefits under the  
13 Workers' Compensation Laws. Employers who do not notify their employees of this condition of  
14 employment waive their right to assert that eligibility for benefits is entirely forfeited.

15 Nothing ~~herein~~ in this section may be construed or ~~deemed~~ determined to affect §23-4-  
16 2(a) of this code and the provisions of said section shall be the sole manner in which intoxication  
17 may be proven to establish such intoxication as the proximate cause of an injury for purposes of  
18 said chapter.

NOTE: The purpose of this bill is to rectify a conflict with Federal Unemployment  
Compensation and Social Security Administration laws regarding claims determinations

and an individual's "opportunity for a fair hearing" for unemployment compensation claims that are denied.

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