

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2832

BY DELEGATES CAPUTO, N. BROWN, LOVEJOY,

CANESTRARO AND MILLER

[Introduced February 4, 2019; Referred
to the Committee on Industry and Labor then Energy]

1 A BILL to amend and reenact §22A-1-4 of the Code of West Virginia, 1931, as amended, relating
 2 to requiring drug testing companies to have contractor IDs and mandatory safety training
 3 before performing work on mine property.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 1. OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING;
 ADMINISTRATION; ENFORCEMENT.**

**§22A-1-4. Powers and duties of the Director of the Office of Miners' Health, Safety and
 Training.**

1 (a) The Director of the Office of Miners' Health, Safety and Training is hereby empowered
 2 and it is his or her duty to administer and enforce the provisions of this chapter relating to health
 3 and safety inspections and enforcement and training in coal mines, underground clay mines, open
 4 pit mines, cement manufacturing plants and underground limestone and sandstone mines.

5 (b) The Director of the Office of Miners' Health, Safety and Training has full charge of the
 6 division. The director has the power and duty to:

7 (1) Supervise and direct the execution and enforcement of the provisions of this article.

8 (2) Employ such assistants, clerks, stenographers and other employees as may be
 9 necessary to fully and effectively carry out his or her responsibilities and fix their compensation,
 10 except as otherwise provided in this article.

11 (3) Assign mine inspectors to divisions or districts in accordance with the provisions of
 12 section eight of this article as may be necessary to fully and effectively carry out the provisions of
 13 this law, including the training of inspectors for the specialized requirements of surface mining,
 14 shaft and slope sinking and surface installations and to supervise and direct the mine inspectors
 15 in the performance of their duties.

16 (4) Suspend, for good cause, any mine inspector without compensation for a period not
 17 exceeding 30 days in any calendar year.

18 (5) Prepare report forms to be used by mine inspectors in making their findings, orders
19 and notices, upon inspections made in accordance with this article.

20 (6) Hear and determine applications made by mine operators for the annulment or revision
21 of orders made by mine inspectors, and to make inspections of mines, in accordance with the
22 provisions of this article.

23 (7) Cause a properly indexed permanent and public record to be kept of all inspections
24 made by himself or by mine inspectors.

25 (8) Make annually a full and complete written report of the administration of the office to
26 the Governor and the Legislature of the state for the year ending June 30. The report shall include
27 the number of visits and inspections of mines in the state by mine inspectors, the quantity of coal,
28 coke and other minerals (excluding oil and gas) produced in the state, the number of individuals
29 employed, number of mines in operation, statistics with regard to health and safety of persons
30 working in the mines including the causes of injuries and deaths, improvements made,
31 prosecutions, the total funds of the office from all sources identifying each source of the funds,
32 the expenditures of the office, the surplus or deficit of the office at the beginning and end of the
33 year, the amount of fines collected, the amount of fines imposed, the value of fines pending, the
34 number and type of violations found, the amount of fines imposed, levied and turned over for
35 collection, the total amount of fines levied but not paid during the prior year, the titles and salaries
36 of all inspectors and other officials of the office, the number of inspections made by each
37 inspector, the number and type of violations found by each inspector. However, no inspector may
38 be identified by name in this report. Such reports shall be filed with the Governor and the
39 Legislature on or before December 31 of the same year for which it was made, and shall upon
40 proper authority be printed and distributed to interested persons.

41 (9) Call or subpoena witnesses, for the purpose of conducting hearings into mine fires,
42 mine explosions or any mine accident; to administer oaths and to require production of any books,
43 papers, records or other documents relevant or material to any hearing, investigation or
44 examination of any mine permitted by this chapter. Any witness so called or subpoenaed shall

45 receive \$40 per diem and shall receive mileage at the rate of 15 cents for each mile actually
46 traveled, which shall be paid out of the State Treasury upon a requisition upon the State Auditor,
47 properly certified by the witness.

48 (10) Institute civil actions for relief, including permanent or temporary injunctions,
49 restraining orders, or any other appropriate action in the appropriate federal or state court
50 whenever any operator or the operator's agent violates or fails or refuses to comply with any lawful
51 order, notice or decision issued by the director or his or her representative.

52 (11) Beginning January 1, 2013, the director shall share information regarding suspension
53 or revocation of a certificate of a certified person, as defined in this article for violation of the
54 substance abuse provisions of article one-a of this chapter with other states that subject similar
55 persons to disciplinary action for violation of a substance abuse policy.

56 (12) The director shall propose rules for legislative approval pursuant to §29A-3-1 *et seq.*
57 of this code, a rule establishing a program for the sharing of information between employers who
58 employ certified persons regarding the discharge of persons in safety sensitive positions as
59 defined in §22A-1A-1 of this code for violation of an employer's substance abuse policy.

60 (13) Perform all other duties which are expressly imposed upon him or her by the
61 provisions of this chapter.

62 (14) Impose reasonable fees upon applicants taking tests administered pursuant to the
63 requirements of this chapter.

64 (15) Impose reasonable fees for the issuance of certifications required under this chapter.

65 (16) Prepare study guides and other forms of publications relating to mine safety and
66 charge a reasonable fee for the sale of the publications.

67 (17) Make all records of the office open for inspection of interested persons and the public.

68 (18) Require all drug testing companies to have contractor IDs and mandatory safety
69 training before allowing them to perform work on mine property.

70 (c) The Director of the Office of Miners' Health, Safety and Training, or his or her designee,
71 upon receipt of the list of approved innovative mine safety technologies from the Mine Safety

72 Technology Task Force, has 30 days to approve or amend the list as provided in §11-13BB-4 of
73 this code. At the expiration of the time period, the director shall publish the list of approved
74 innovative mine safety technologies as provided in §11-13BB-4 of this code.

NOTE: The purpose of this bill is to require all drug testing companies to have contractor IDs and mandatory safety training before being allowed to perform work on mine property.

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