

1 **H. B. 4303**

2
3 (By Delegates Manypenny, Longstreth, Caputo,
4 Diserio and D. Poling)
5

6 [Introduced January 24, 2014; referred to the
7 Committee on Industry and Labor then the Judiciary.]
8
9

10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding a new article, designated §21-3E-1, §21-3E-2, §21-3E-3,
12 §21-3E-4 and §21-3E-5, all relating to creating the Oil and
13 Gas Drilling Workplace Safety Act; providing a short title;
14 providing for rule-making; setting forth minimum requirements
15 for the rules; establishing the applicability of worker's
16 compensation and the potential loss of immunity; providing
17 special requirements; requiring injuries to be reported;
18 requiring quarterly reports and the reports to be public; and
19 providing for monetary penalties.

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

21 That the Code of West Virginia, 1931, as amended, be amended
22 by adding thereto a new article, designated §21-3E-1, §21-3E-2,
23 §21-3E-3, §21-3E-4 and §21-3E-5, all to read as follows:

24 **ARTICLE 3E. THE OIL AND GAS DRILLING WORKPLACE ACT.**

25 **§21-3E-1. Short title.**

1 This article shall be known and may be cited as the "Oil and
2 Gas Drilling Workplace Safety Act."

3 **§21-3E-2. Rule-making authority.**

4 (a) The commission, in conjunction with the Department of
5 Environmental Protection, shall propose rules for legislative
6 approval pursuant to article three, chapter twenty-nine-a of this
7 code to provide for enhanced workplace safety requirements and
8 employee training requirements for all oil and gas drilling
9 operations in the state. The rules shall include, but are not
10 limited to, requirements relating to exposure to chemicals, work
11 hours for both drilling site employees and employees involved in
12 transportation, including truck drivers working on and off the
13 drill rig site, safety of machinery, proper care and treatment of
14 clothing worn on drilling sites, use of proper masks to protect
15 worker respiratory health, use of proper lighting, safety of living
16 conditions for workers, safety of site location, including
17 stability of ground surfaces necessary to support all equipment
18 used at drilling sites, and required duration of training.

19 (b) The rules issued pursuant to subsection (a) of this
20 section shall be printed in English in at least fourteen point type
21 and conspicuously posted in a visible and prominent location at
22 each oil and gas drilling site location.

23 **§21-3E-3. Applicability of the workers' compensation; loss of**
24 **immunity.**

1 Notwithstanding any provision of this code to the contrary, in
2 the event any covered employer conducting oil and gas drilling
3 operations in this state fails to make the provision of payment of
4 disability or death benefits as required by article four, chapter
5 twenty-three of this code, that employer loses its immunity
6 otherwise available to it and all the elements of "deliberate
7 intention" as per subdivision (2), subsection (d), section two of
8 that article shall have been met.

9 **§21-3E-4. Special requirements.**

10 (a) All applicants for a new drilling permit for an oil and
11 gas drilling operation shall utilize union workers or workers
12 who have been trained or are undergoing training, appropriate for
13 the type of and scope of work to be performed, where such training
14 is through a valid apprenticeship program or an educational
15 institution or school chartered, licensed or registered by the
16 Department of Education, or a provider approved by the Department
17 of Education. Following completion of training required by this
18 section, a certificate of completion shall be issued by the
19 apprenticeship program, educational institution, school or
20 provider, and shall be conspicuously posted at each site location
21 where the holder of the certificate is employed and shall be made
22 available to the public upon request.

23 (b) Any subcontractors or other independent contractors at
24 such permitted sites shall also agree to the employment of or

1 contractual relation with the same type of workers. Notwithstanding
2 the foregoing, nothing in this section shall be construed to
3 mandate an employer or contractor subject to this section to
4 exclusively require the use of union labor at a construction site
5 or to be in violation of any federal prohibition regarding the
6 same.

7 **§21-3E-5. Reports of injuries.**

8 (a) A drilling permit holder must report to the commissioner
9 any workplace accident occurring at the oil or gas drilling
10 location by the close of business of the commissioner's next
11 business day. In the event a drilling permit holder fails to
12 report any workplace accident pursuant to this subsection, the
13 commissioner may by order which particularly describes the nature
14 of the violation, assess the permit holder a civil penalty of
15 not more than \$1,000 for the first such violation, not more than
16 \$2,000 for a second violation and not more than \$3,000 for a third
17 or subsequent violation. The penalty shall be paid to the
18 commissioner for deposit in the State Treasury. In assessing the
19 amount of the penalty, the commissioner shall give due
20 consideration to the size of the employer's business, the good
21 faith of the employer, the history of previous violations and the
22 failure with any other record-keeping requirements.

23 (b) The commissioner must publish a quarterly report on all
24 workplace accidents occurring at oil or gas drilling locations.

- 1 The quarterly reports shall be available for public review, in
2 writing and via an online format on the commission's website.

NOTE: The purpose of this bill is to create the Oil and Gas Drilling Workplace Act. The bill provides a short title. The bill provides for rule-making. The bill sets forth the minimum requirements of the rules. The bill establishes the applicability of worker's compensation and a potential loss of immunity. The bill provides special requirements. The bill requiring injuries to be reported. The bill requires quarterly reports and the reports to be public. The bill provides for monetary penalties.

This article is new; therefore, it has been completely underscored.