

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4323

BY DELEGATES COWLES AND MILEY

[BY THE REQUEST OF THE EXECUTIVE]

[Passed March 12, 2016; in effect ninety days from
passage.]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §15-5C-1 and §15-5C-2, all relating to the reporting of emergency incidents
3 by well operators and pipeline operators; defining terms; establishing reporting
4 requirements; establishing time by which report must be made; setting forth contents of
5 report; establishing obligations of local emergency telephone operators; providing for
6 recording and handling of calls; providing that certain information is available to the public
7 pursuant to the West Virginia Freedom of Information Act; setting forth civil administrative
8 penalty; setting forth situations in which civil administrative penalty shall be waived;
9 permitting pipeline operator or well operator to request reconsideration of civil
10 administrative penalty; and providing right to appeal.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 article, designated §15-5C-1 and §15-5C-2, all to read as follows:

**ARTICLE 5C. REPORTING OF EMERGENCY INCIDENTS BY WELL AND PIPELINE
OPERATORS.**

§15-5C-1. Definitions.

1 When used in this article:

2 (1) "Director" means the Director of the Division of Homeland Security and Emergency
3 Management.

4 (2) "Incident" means:

5 (A) An injury to an individual at a well, well pad or pipeline facility that results in death or
6 serious bodily injury or that has a reasonable potential to cause death;

7 (B) An unintended confinement of an individual in an enclosed space at a well, well pad
8 or pipeline facility from which a person will not be released for a period exceeding fifteen minutes;

9 (C) The unintended ignition or explosion of oil, natural gas or other substance at a well,

10 well pad or pipeline facility;

11 (D) An unintended fire in or about a well, well pad or pipeline facility not extinguished within
12 fifteen minutes of discovery of the unintended fire; and

13 (E) Any unintended release of poisonous or combustible substances that have a
14 reasonable potential to cause death.

15 (3) "Pipeline facility" means, without limitation, new and existing pipe, pipe rights-of-way
16 and any equipment, facility, or building used in the transportation of oil or natural gas or the
17 treatment of oil or natural gas during the course of transportation: *Provided*, That the term "pipeline
18 facility" shall not include pipelines of four inches or less, measuring the inside diameter, that
19 service a farm, commercial structure or residence.

20 (4) "Pipeline operator" means any person or persons, firm, partnership, independent
21 contractor, company or corporation that constructs, maintains or operates a pipeline facility.

22 (5) "Well" means any shaft or hole sunk, drilled, bored or dug into the earth or into
23 underground strata for the extraction or injection or placement of any liquid, oil or natural gas, or
24 any shaft or hole sunk or used in conjunction with such extraction or injection or placement. The
25 term "well" does not include any shaft or hole sunk, drilled, bored or dug into the earth for the sole
26 purpose of core drilling or pumping or extracting therefrom potable, fresh or usable water for
27 household, domestic, industrial, agricultural or public use.

28 (6) "Well pad" means any area constructed and maintained for use to create a well.

29 (7) "Well operator" means any person or persons, firm, partnership, independent
30 contractor, company or corporation that drills or engages in hydraulic fracturing for any liquid, oil
31 or natural gas, or that completes or operates wells to produce any liquid, oil or natural gas.

§15-5C-2. Reporting requirements.

1 (a) In addition to any other requirements imposed by law, all pipeline operators and well
2 operators shall report incidents to the Division of Homeland Security and Emergency
3 Management at the Mine and Industrial Accident Call Center at 1-866-987-2338, or other such

4 number as may be identified by the Director within fifteen minutes of ascertaining the occurrence
5 of an incident at a well, well pad or pipeline facility. Pipeline operators and well operators may
6 satisfy this requirement by contacting the local emergency telephone system and orally reporting
7 the information required by this section.

8 (b) Contents of report:

9 (1) The initial report shall include the following minimum information:

10 (A) The name, title, and business affiliation of the individual making the report;

11 (B) The identification and location of the well, well pad or pipeline facility; and

12 (C) Notification that an incident has occurred.

13 (2) If the caller has ready access to the following information, he or she shall also provide:

14 (A) Then-available information concerning the nature and extent of the incident, including
15 any information that concerns the existence or nonexistence of potential threats to the public
16 health;

17 (B) In the event of an unplanned fire that cannot be contained within fifteen minutes,
18 explosion or release, preliminary information regarding the type of substance involved and, if a
19 release, the estimated amount released, if known; and

20 (C) The name, title, business affiliation, and contact information of the individual
21 designated to serve as a contact person on behalf of the pipeline operator or well operator.

22 (c) Any local emergency telephone system receiving an initial notification shall
23 immediately forward all information received to the Division of Homeland Security and Emergency
24 Management at the Mine and Industrial Accident Call Center at 1-866-987-2338, or other such
25 number as may be identified by the Director.

26 (d) All calls received by the Division of Homeland Security and Emergency Management
27 at the Mine and Industrial Accident Call Center shall be recorded for documentation purposes.
28 Recording of calls shall be automatic, and the recorded call information, including time of call and
29 complete voice transcripts, shall be made available to the public upon receipt of a request to the

30 Director in accordance with the West Virginia Freedom of Information Act, article one, chapter
31 twenty-nine-b of this code.

32 (e) The Director shall impose a civil administrative penalty of not less than \$2,500 but not
33 to exceed \$50,000 on the pipeline operator or well operator if it is determined that the pipeline
34 operator or well operator failed to give timely notice as required by this section: *Provided*, That
35 the Director shall waive imposition of the civil administrative penalty if the failure to give the
36 required notice:

37 (1) Occurred as a result of circumstances wholly outside the control of the pipeline
38 operator or well operator;

39 (2) Occurred because the pipeline operator or well operator was attempting to stabilize
40 the incident;

41 (3) Occurred because the pipeline operator or well operator was rendering emergency
42 assistance; or

43 (4) Resulted from the incident occurring in a location with no or inadequate wireless
44 communications coverage and notice was provided within fifteen minutes of reestablishing
45 communication.

46 (f) Any pipeline operator or well operator aggrieved by the imposition of a civil
47 administrative penalty may request within thirty days of receipt of a written communication
48 imposing a civil administrative penalty that the Director reconsider the imposition or amount of the
49 civil administrative penalty. If reconsideration is denied, the pipeline operator or well operator shall
50 have a right of appeal to the Circuit Court of Kanawha County, West Virginia.