

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4323

By COWLES AND DELEGATE MILEY,

BY REQUEST OF THE EXECUTIVE

[Introduced January 28, 2016; Referred
to the Committee on Industry and Labor then Energy.]

1 A BILL 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 obligations of local emergency telephone operators; providing
 5 for recording and handling of calls; setting forth administrative civil penalty; and providing
 6 appeal process.

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 in the Department of Military Affairs and Public Safety.

4 (2) "Incident" means:

5 (A) The death of an individual at a well, well pad or pipeline facility;

6 (B) An injury to an individual at a well, well pad or pipeline facility that has a reasonable
 7 potential to cause death;

8 (C) The entrapment of an individual;

9 (D) The unplanned ignition or explosion of oil, natural gas or other substance at a well,
 10 well pad or pipeline facility;

11 (E) An unplanned fire in or about a well, well pad or pipeline facility not extinguished within
 12 five minutes of ignition; or

13 (F) Any release of poisonous or explosive substances that have a reasonable potential to

14 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.

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

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

26 (6) "Well operator" means any person or persons, firm, partnership, independent
27 contractor, company or corporation that drills or engages in hydraulic fracturing for any liquid, oil
28 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 number
4 identified by the director within fifteen minutes of ascertaining the occurrence of an incident at a
5 well, well pad or pipeline facility. Pipeline operators and well operators may satisfy this
6 requirement by contacting the local emergency telephone system and reporting the information
7 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 number
25 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.

30 (e) The director shall impose a civil administrative penalty of \$50,000 on the pipeline
31 operator or well operator if it is determined that the pipeline operator or well operator failed to give
32 immediate notice as required by this section: *Provided*, That the director may waive imposition of
33 the civil administrative penalty if he or she finds that the failure to give immediate notice:

34 (1) Was caused by circumstances wholly outside the control of the pipeline operator or
35 well operator;

36 (2) Occurred because the pipeline operator or well operator was attempting to stabilize

37 the incident;

38 (3) Occurred because the pipeline operator or well operator was rendering emergency
39 assistance; or

40 (4) Resulted from the incident occurring in a communications gap area and notice was
41 provided within fifteen minutes of reestablishing communication.

42 (f) Any pipeline operator or well operator aggrieved by the imposition of a civil
43 administrative penalty may request the director to reconsider within thirty days. If reconsideration
44 is denied, the pipeline operator or well operator has a right of appeal to the circuit court of
45 Kanawha County, West Virginia.

NOTE: The purpose of this bill is to require well operators and pipeline operators to report certain emergency incidents to the Division of Homeland Security and Emergency Management within fifteen minutes, unless exceptions apply.

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