

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 224

BY SENATORS HALL, AZINGER AND TRUMP

[Introduced February 9, 2017; referred
to the Committee on the Workforce; and then to the
Committee on the Judiciary]

1 A BILL to repeal §21-5-14, §21-5-14a and §21-5-16 of the Code of West Virginia,1931, as
 2 amended; and to amend and reenact §21-5-15 of said code, relating to repealing the
 3 requirement for an employer’s bond for wages and benefits for certain designated
 4 employers; and related requirements.

Be it enacted by the Legislature of West Virginia:

1 That §21-5-14, §21-5-14a and §21-5-16 of the Code of West Virginia,1931, as amended,
 2 be repealed; and that §21-5-15 of said code be amended and reenacted to read as follows:

ARTICLE 5. WAGE PAYMENT AND COLLECTION.

§21-5-15. Violations; cease and desist orders and appeals therefrom; criminal penalties.

1 ~~(a) Any person, firm or corporation who knowingly and willfully fails to provide and maintain~~
 2 ~~an adequate bond as required by section fourteen of this article is guilty of a misdemeanor, and,~~
 3 ~~upon conviction thereof, shall be fined not less than \$200 nor more than \$5,000, or imprisoned in~~
 4 ~~the county jail not more than one month, or both fined and imprisoned.~~

5 ~~(b) Any person, firm or corporation who knowingly, willfully and fraudulently disposes of or~~
 6 ~~relocates assets with intent to deprive employees of their wages and fringe benefits is guilty of a~~
 7 ~~felony and, upon conviction thereof, shall be fined not less than 5,000 nor more than \$30,000, or~~
 8 ~~imprisoned in the penitentiary not less than one nor more than three years, or both fined and~~
 9 ~~imprisoned.~~

10 ~~(c) (1) At any time the commissioner determines that a person, firm or corporation has not~~
 11 ~~provided or maintained an adequate bond, as required by section fourteen of this article, the~~
 12 ~~commissioner shall issue a cease and desist order which is to be issued and posted requiring that~~
 13 ~~said person, firm or corporation either post an adequate bond or cease further operations in this~~
 14 ~~state within a period specified by the commissioner; which period shall be not less than five nor~~
 15 ~~more than fourteen days. The cease and desist order may be issued by the commissioner at his~~
 16 ~~or her own instance or at his or her direction, with or without application to or the approval of any~~
 17 ~~other officer, agent, department or employee of the state or application to any court for approval~~

18 ~~thereof. Any person, firm or corporation who continues to engage in construction work or the~~
19 ~~severance, production or transportation of minerals without an approved bond after such specified~~
20 ~~period shall be guilty of a felony, and, upon conviction thereof, shall be fined not less than \$5,000~~
21 ~~nor more than \$30,000, or imprisoned in the penitentiary not less than one nor more than three~~
22 ~~years, or both fined and imprisoned. Any cease and desist order issued by the commissioner~~
23 ~~pursuant to this subsection may be directed by the commissioner to the sheriff of the county~~
24 ~~wherein the business activity of which the order is the subject, or to any officer or employee of the~~
25 ~~department, commanding such sheriff, officer or employee to serve such order upon the business~~
26 ~~in question within seventy-two hours and to make proper return thereof.~~

27 ~~(2) Any other provision of law to the contrary notwithstanding, any person against whom~~
28 ~~a cease and desist order has been directed shall be entitled to judicial review thereof by filing a~~
29 ~~verified petition taking an appeal therefrom within fifteen days from the date of service of such~~
30 ~~order. Such verified petition shall be filed in the circuit court of the county wherein service of the~~
31 ~~order was completed, at the option of the petitioner, or, in the circuit court of Kanawha County,~~
32 ~~West Virginia. If the appeal is not perfected within such fifteen day period, the cease and desist~~
33 ~~order shall be final and shall not thereafter be subject to judicial review. No appeal shall be~~
34 ~~deemed to have been perfected except upon the filing with the clerk of the circuit court of the~~
35 ~~county wherein the appeal is taken, of a bond or other security to be approved by the court, in an~~
36 ~~amount of not less than the amount of the bond otherwise required to be posted under the~~
37 ~~provisions of section fourteen of this article. The person so filing a petition of appeal shall cause~~
38 ~~a copy of the petition and bond or other posted security to be served upon the commissioner by~~
39 ~~certified mail, return receipt requested, within seven days after the date upon which the petition~~
40 ~~for appeal is filed.~~

41 ~~(d) Any person who threatens any officer, agent or employee of the department or other~~
42 ~~person authorized to assist the commissioner in the performance of his or her duties under any~~
43 ~~provision of section fourteen of this article or of this section or who shall interfere with or attempt~~

44 ~~to prevent any such officer, agent, employee or other person in the performance of such duties~~
45 ~~shall be guilty of a felony, and, upon conviction thereof, shall be fined in an amount of not less~~
46 ~~than \$1,000 nor more than \$3,000 or imprisoned in the penitentiary not less than one nor more~~
47 ~~than three years, or both such fine and imprisonment.~~

NOTE: The purpose of this bill is to repeal the requirement for an employer's bond for wages and benefits for certain designated employers and related requirements.

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