

WEST VIRGINIA LEGISLATURE
2018 FIRST EXTRAORDINARY SESSION

Enrolled

Senate Bill 1004

BY SENATORS CARMICHAEL (MR. PRESIDENT) AND PREZIOSO

(BY REQUEST OF THE EXECUTIVE)

[Passed May 21, 2018; in effect 90 days from passage]

1 AN ACT to amend and reenact §15-9A-4 of the Code of West Virginia, 1931, as amended, as
2 contained in Chapter 216, Acts of the Legislature, Regular Session, 2018, relating to
3 modifying the type of businesses and establishments required to post human trafficking
4 assistance notices; modifying the criminal penalties for failure to comply with posting of
5 notices once given notice of lawful duty to post; providing that a business or establishment
6 that does not correct a violation within 30 days from the receipt of notice is guilty of a
7 misdemeanor and, upon a first conviction thereof, shall be fined not more than \$250; and
8 providing that a second or subsequent conviction is punishable by a fine of not less than
9 \$250 nor more than \$500.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9A. DIVISION OF JUSTICE AND COMMUNITY SERVICES.

§15-9A-4. Human trafficking assistance notices.

1 (a) For the purpose of assisting victims of human trafficking to obtain help and services,
2 the following businesses and establishments shall post a notice which meets the requirements of
3 this section:

4 (1) All locations licensed by the Alcohol Beverage Control Commissioner that permit on-
5 premises consumption of alcoholic beverages, pursuant to §60-7-1 *et seq.* of this code;

6 (2) Exotic entertainment facilities, which are facilities featuring live nude dancing, nude
7 service personnel, or live nude entertainment;

8 (3) Primary airports;

9 (4) Passenger rail stations;

10 (5) Bus stations;

11 (6) Locations where gasoline and diesel fuel are sold;

12 (7) Emergency departments within hospitals;

13 (8) Urgent care centers;

14 (9) Locations at which farm labor contractors and day haulers work, if a physical facility is
15 available at those locations upon or in which notice can be posted;

16 (10) Privately operated job recruitment centers;

17 (11) Rest areas located along interstate highways in this state, operated by the Division
18 of Highways;

19 (12) Hotels; and

20 (13) Any other business or establishment that the director determines, by legislative rule,
21 is an effective location to provide notice to victims of human trafficking.

22 (b) *Requirements for posting of notice.* — The notice required by this section must be
23 posted in English, Spanish, and any other language determined by legislative rule by the director.
24 The notice must be posted in each public restroom for the business or establishment, and either
25 in a conspicuous place near the public entrance of the business or establishment or in another
26 location in clear view of the public and employees, where similar notices are customarily posted.

27 (c) The director shall provide hyperlinks on the division's website to downloadable notices
28 that are eight and one-half inches by 11 inches in size that provide information regarding the
29 National Human Trafficking Resource Center and display the telephone number for the National
30 Human Trafficking Resource Center hotline. These downloadable notices must be available in
31 English, Spanish, and any other language determined by legislative rule by the director. These
32 downloadable notices, if printed and posted, will satisfy the notice posting requirements of this
33 section.

34 (d) Any law-enforcement officer, representative of the Bureau for Public Health or of a
35 county health department, representative of the State Alcoholic Beverage Control Commissioner,
36 representative of the Division of Labor, or other state representative inspecting a business or
37 establishment or otherwise lawfully acting under his or her state authority, may notify, in writing,
38 any business or establishment that it has failed to comply with the requirements of this section.
39 The written notice must be delivered to the noncomplying business or establishment by certified

40 mail, with return receipt requested. A business or establishment that does not correct a violation
41 within 30 days from the receipt of the written notice is guilty of a misdemeanor and, upon a first
42 conviction thereof, shall be fined not more than \$250; and upon a second or subsequent
43 conviction, shall be fined not less than \$250 nor more than \$500.

44 (e) For the purposes of this section, and unless a different meaning is plainly required:

45 (1) "Day hauler" means any person who is employed by a farm labor contractor to
46 transport, or who, for a fee, transports, by motor vehicle, workers to render personal services in
47 connection with the production of any farm products to, for, or under the direction of a third person:
48 *Provided*, That such term shall not include a person engaged in the production of agricultural
49 products;

50 (2) "Farm labor contractor" means any person who, for a fee, employs workers to render
51 personal services in connection with the production of any farm products to, for, or under the
52 direction of a third person, or who recruits, solicits, supplies, or hires workers on behalf of an
53 employer engaged in the growing or producing of farm products, and who, for a fee, provides in
54 connection therewith one or more of the following services: Furnishes board, lodging, or
55 transportation for those workers; supervises, times, checks, counts, weighs, or otherwise directs
56 or measures their work; or disburses wage payments to such persons: *Provided*, That such term
57 shall not include a person engaged in the production of agricultural products;

58 (3) "Hospital" shall have the same meaning as set forth in §16-2D-2(21) of this code;

59 (4) "Hotel" means any establishment which offers overnight accommodations to the public
60 in exchange for a monetary payment;

61 (5) "Primary airport" shall have the same meaning as set forth in 49 U.S.C. § 47102(16);
62 and

63 (6) "Production of agricultural products" means raising, growing, harvesting, or storing of
64 crops; feeding, breeding, or managing livestock, equine, or poultry; producing or storing feed for
65 use in the production of livestock.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2018.

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Governor