

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Committee Substitute

for

House Bill 2980

BY DELEGATES PAYNTER, DEAN, MAYNARD, HANSHAW

(MR. SPEAKER), MILLER AND SHOTT

[Introduced February 11, 2019; Referred

to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §22A-13-1, §22A-13-2, §22A-13-3, §22A-13-4, §22A-13-5 and §22A-13-6, all
3 relating to creating the Mine Trespass Act; providing a short title; providing for criminal
4 penalties; providing a hold harmless clause; and providing for temporary exemption from
5 environmental regulations.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13. MINE TRESPASS ACT.

§22A-13-1. Findings and Short Title.

1 The Legislature hereby finds and declares that:

2 (1) The first priority and concern of all persons in the coal mining industry is the health and
3 safety of its most precious resource—the miner.

4 (2) Unauthorized persons entering into mines represent a threat to the safety of our miners
5 by resulting in the deployment of precious resources, personnel and equipment which should be
6 reserved for the protection of the hard-working men and women who risk their lives to mine our
7 coal.

8 (3) In furtherance of these purposes and the provisions of this article, it is the intent of the
9 Legislature to adequately safeguard these resources by safeguarding the needless expenditure
10 of the skill and resources dedicated to the protection of our miners from being expended in the
11 unnecessary pursuit of protecting persons who enter mines illegally.

12 (4) This article is known and may be cited as the Mine Trespass Act.

§22A-13-2. Mine trespass; Criminal Penalties.

1 (a) Any person who willfully enters any mine, whether active workings, inactive workings,
2 or abandoned workings, without permission, is guilty of the offense of mine trespass.

3 (b) First offense conviction. — Upon a first trespassing conviction pursuant to subsection
4 (a) of this section, the person is guilty of a misdemeanor and shall be confined in jail not more
5 than one year and be fined not less than \$1,000 nor more than \$5,000.

6 (c) Second offense conviction. — Upon a second trespassing conviction pursuant to
7 subsection (a) of this section, the person is guilty of a felony and shall be confined in a state
8 correctional facility not less than one year and not more than five years and fined not less than
9 \$5,000 nor more than \$10,000.

10 (d) Third offense conviction. — Upon a third and subsequent trespassing conviction
11 pursuant to subsection (a) of this section, the person is guilty of a felony and shall be confined in
12 a state correctional facility not less than five years nor more than 10 years and fined not less than
13 \$10,000, nor more than \$25,000.

14 (e) If a person convicted under the provisions of subsection (a) of this section is a holder
15 of any certificate issued under §22A-8-1 et seq. of this code, that certification shall be considered
16 to be revoked, and that person shall be permanently barred from having another such certificate
17 issued.

18 (f) Notwithstanding and in addition to any other penalties provided by law, any person who
19 performs or causes damage to property in the course of a mine trespass is liable to the property
20 owner in twice the amount of the damage.

21 (g) The provisions of this section shall not apply in a labor dispute.

§22A-13-3. Mine trespass; Injury to others; death of others.

1 (a) Any person who commits a mine trespass under §22A-13-2 of this code is guilty of an
2 additional misdemeanor offense if, during the course of the rescue efforts for any such person,
3 there occurs a bodily injury, as defined in §17C-5-2 of this code, to any person other than himself
4 or herself, and, upon conviction thereof, shall be confined in jail for not more than one year and
5 shall be fined not less than \$1,000 nor more than \$5,000: *Provided*, That the jail term shall include
6 actual confinement of not less than seven days.

7 (b) Any person who commits a mine trespass under §22A-13-2 of this code is guilty of an
8 additional felony offense if, during the course of the rescue efforts for any such person, there
9 occurs a serious bodily injury, as defined in §17C-5-2 of this code, to any person other than

10 himself or herself, and, upon conviction thereof, shall be imprisoned in a state correctional facility
11 for not less than two nor more than 10 years and shall be fined not less than \$5,000 nor more
12 than \$10,000.

13 (c) Any person who commits a mine trespass under §22A-13-2 of this code is guilty of an
14 additional felony offense if, during the course of the rescue efforts for any such person, the death
15 of any person occurs, and, upon conviction thereof, shall be imprisoned in a state correctional
16 facility for not less than three nor more than 15 years and shall be fined not less than \$10,000 nor
17 more than \$25,000.

§22A-13-4. Mine trespass; conspiracy to commit trespass.

1 If two or more persons combine or conspire together for the purpose of willfully entering
2 any mine, whether active workings or abandoned workings, without permission, every such
3 person, whether or not he or she has done any act in pursuance of the combination or conspiracy,
4 they are guilty of a misdemeanor, and, upon conviction, shall be fined not less than \$50 nor more
5 than \$500, and may be confined in jail not less than one nor more than 12 months.

§22A-13-5. Hold harmless clause; decision to enter mine.

1 (a) If an injury or death occurs to any person who has entered any mine, whether active
2 workings or abandoned workings, without permission, neither the owner of that mine or property,
3 or the State of West Virginia or any of its political subdivisions, or any agency operating under
4 color of law thereunder, or any other person, organization, or entity which may have any
5 connection in law or fact to the injured or deceased party, including any person, organization, or
6 entity involved in any rescue or attempted rescue of such person who has committed an entry
7 without permission, shall be held liable in any court or other forum for such injury or death.

8 (b) There is no requirement for company or state personnel to conduct rescue operations
9 when conditions in the active, closed or abandoned mine are too dangerous. The decision on
10 whether a mine is too dangerous to enter for rescue operations shall be made by the operator

11 and/or the Director of the Office of Miners' Health, Safety and Training and may not be reviewable
12 by a court of this state.

§22A-13-6. Temporary exemption for environmental regulations.

1 If there is an unauthorized entry by any person or persons into any mine, whether active
2 workings or abandoned workings, neither the owner of that mine or property, nor any other person,
3 organization, or entity involved in any rescue or attempted rescue of such person, may be held
4 liable for any violation of any environmental regulation, if the violation occurred as part of any
5 rescue efforts.

NOTE: The purpose of this bill is to create the Mine Trespass Act and establish misdemeanor and felony offenses for the trespass. The bill also provides a hold harmless provision and for temporary exemption from environmental regulations.

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