

Senate Bill No. 572

(By Senators Wills and Snyder)

[Introduced February 21, 2011; referred to the Committee on
Energy, Industry and Mining; and then to the Committee on the
Judiciary.]

11 A BILL to amend the Code of West Virginia, 1931, as amended, by
12 adding thereto a new section, designated §22A-1-40, relating
13 to prohibiting certain employees of the Office of Miners'
14 Health, Safety and Training from being called as witnesses in
15 actions arising from mine accidents where those employees
16 served as mine rescue personnel without the prior written
17 permission of the director; and authorizing rulemaking.

18 *Be it enacted by the Legislature of West Virginia:*

19 That the Code of West Virginia, 1931, as amended, be amended
20 by adding thereto a new section, designated §22A-1-40, to read as
21 follows:

22 **ARTICLE 1. OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING;**
23 **ADMINISTRATION; ENFORCEMENT.**
24 **§22A-1-40. Testimony in civil actions prohibited; exceptions;**
25 **rulemaking.**

26 (a) Notwithstanding any provision in this code to the
27 contrary, no past or present employee of the Office of Miners'

1 Health, Safety and Training employed in the capacity of a mine
2 safety instructor or mine inspector may be called as a witness in
3 any civil action arising from a mine accident where that employee
4 worked as a member of a mine rescue team without the written
5 permission of the director.

6 (b) The director shall promulgate rules pursuant to chapter
7 twenty-nine of this code relating to the availability of agency
8 personnel working as mine safety instructors or mine inspectors
9 being called as witnesses in actions arising from mine accidents
10 where those employees served in the capacity of mine rescue
11 personnel. The rules shall take into consideration the mental
12 injury or emotional distress testifying might cause the employee,
13 staffing considerations and the necessity of the requested
14 testimony to a just resolution of the action.

NOTE: The purpose of this bill is to prohibit mine safety instructors and mine inspectors of the Office of Miners' Health, Safety and Training from being called as witnesses in actions arising from mine accidents where those employees served as mine rescue personnel without the prior written permission of the director. The bill also authorizes rulemaking.

This section is new; therefore, strike-throughs and underscoring have been omitted.