

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2014



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 376

(SENATORS YOST, FITZSIMMONS, KESSLER (MR. PRESIDENT)
AND WELLS, *ORIGINAL SPONSORS*)

[PASSED MARCH 8, 2014; TO TAKE EFFECT JULY 1, 2014.]

E N R O L L E D

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FOR

Senate Bill No. 376

(SENATORS YOST, FITZSIMMONS, KESSLER (MR. PRESIDENT)
AND WELLS, *original sponsors*)

[Passed March 8, 2014; to take effect July 1, 2014.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-3-22, relating to safety and welfare of employees at certain public improvement sites by public authorities; defining terms; requiring onsite employees at certain public improvement sites to complete an Occupational Safety and Health Administration-approved ten-hour construction safety program; requiring the retention of training records; providing for incremental implementation period for mandate; providing the Commissioner of Labor to issue cease-and-desist notices in certain situations; providing civil penalties for violations; creating a misdemeanor offense and providing criminal fines for exhibiting false documents; exempting certain construction activities and persons from application of this section; and requiring a report from the Commissioner of Labor on effectiveness of the safety training.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §21-3-22, to read as follows:

ARTICLE 3. SAFETY AND WELFARE OF EMPLOYEES.

§21-3-22. OSHA construction safety program.

1 (a) For the purposes of this section:

2 (1) “Business entity” means any firm, partnership,
3 association, company, corporation, limited partnership,
4 limited liability company or other entity.

5 (2) “Commissioner” means the Commissioner of Labor
6 or his or her designee.

7 (3) “Public authority” has the same meaning as in section
8 two, article one-d of this chapter.

9 (4) “Public improvement” has the same meaning as in
10 section two, article one-d of this chapter.

11 (b) No person or business entity providing services as a
12 contractor or subcontractor under a contract, entered on or
13 after July 1, 2014, for the construction, reconstruction,
14 alteration, remodeling or repairs of any public improvement,
15 by or on behalf of a public authority, where the total contract
16 cost of all work to be performed by all contractors and
17 subcontractors is in excess of \$50,000, may use, employ or
18 assign any person to a public improvement work site who has
19 not successfully completed a ten-hour construction safety
20 program designed by OSHA, no later than twenty-one
21 calendar days after being employed at or assigned to the
22 public improvement work site.

23 (c) The training requirement contained in subsection (b)
24 of this section does not apply to a person used, employed or
25 assigned to a public improvement work site for less than
26 twenty-one consecutive calendar days following the person's
27 first day of employment or assignment at the public
28 improvement work site.

29 (d) During the three hundred sixty-five days following
30 the effective date of this section, a person employed or
31 assigned to a public improvement work site shall have ninety
32 days to complete the training requirement of subsection (b)
33 of this section.

34 (e) A contractor or subcontractor subject to this section
35 shall make and maintain a record of the persons he or she
36 uses, employs or assigns pursuant to the contract, including
37 the date of the completion of the safety training program
38 required by subsection (b) of this section and the identity of
39 the provider of the training. The records required by this
40 subsection shall be preserved pursuant to section five, article
41 five-c of this chapter and be maintained at the employer's
42 business office.

43 (f) Upon a finding by the commissioner that a person has
44 been used, employed at or assigned to a public improvement
45 work site in violation of subsection (b) of this section, the
46 commissioner may issue a cease-and-desist order to the
47 person who has not completed the requisite training until the
48 person presents the commissioner with evidence that he or
49 she has successfully completed the training program required
50 by subsection (b) of this section.

51 (g) The commissioner may assess a civil penalty of not
52 less than \$100 nor more than \$1,000 to any person or
53 business entity for each violation of this section.

54 (h) Any person with knowledge that a document or other
55 record falsely represents that a person has completed the
56 training program required by subsection (b) of this section
57 and who provides or exhibits the document or record to the
58 commissioner or to an employer shall be guilty of a
59 misdemeanor and, upon conviction thereof, shall be fined not
60 less than \$250 nor more than \$2,500.

61 (i) The following persons are exempt from the training
62 requirements of subsection (b) of this section:

63 (1) Law-enforcement officers involved with traffic
64 control or job-site security;

65 (2) Federal, state and municipal government employees
66 and inspectors; and

67 (3) Suppliers of materials and persons whose sole
68 responsibility is to deliver materials to the work site.

69 (j) The commissioner shall report to the Joint Committee
70 on Government and Finance by January 1, 2017, on accident
71 and injury rates at public improvement work sites during the
72 two years prior and following enactment of this section.

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.

To take effect July 1, 2014.

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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, 2014.

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Governor