

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 4323**

(BY DELEGATES COWLES AND MILEY)

[BY THE REQUEST OF THE EXECUTIVE]

[Introduced January 28, 2016;

originating in the Committee on Energy.]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §15-5C-1 and §15-5C-2, all relating to the reporting of emergency incidents  
3 by well operators and pipeline operators; defining terms; establishing reporting  
4 requirements; establishing obligations of local emergency telephone operators; providing  
5 for recording and handling of calls; setting forth administrative civil penalty; and providing  
6 appeal process.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a  
2 new article, designated §15-5C-1 and §15-5C-2, all to read as follows:

**ARTICLE 5C. REPORTING OF EMERGENCY INCIDENTS BY WELL AND PIPELINE  
OPERATORS.**

**§15-5C-1. Definitions.**

1 When used in this article:

2 (1) "Director" means the Director of the Division of Homeland Security and Emergency  
3 Management in the Department of Military Affairs and Public Safety.

4 (2) "Incident" means:

5 (A) An injury to an individual at a well, well pad or pipeline facility that results in death or  
6 serious bodily injury that has a reasonable potential to cause death;

7 (B) An unintended confinement of an individual in an enclosed space at a well, well pad  
8 or pipeline facility from which a person will not be released for a period exceeding fifteen  
9 minutes;

10 (C) The unintended ignition or explosion of oil, natural gas or other substance at a well,  
11 well pad or pipeline facility;

12 (D) An unintended fire in or about a well, well pad or pipeline facility not extinguished  
13 within fifteen minutes of discovery of the unintended fire; and

14 (E) Any unintended release of poisonous or combustible substances that have a  
15 reasonable potential to cause death.

16 (3) "Pipeline facility" means, without limitation, new and existing pipe, pipe rights-of-way  
17 and any equipment, facility, or building used in the transportation of oil or natural gas or the  
18 treatment of oil or natural gas during the course of transportation.

19 (4) "Pipeline operator" means any person or persons, firm, partnership, independent  
20 contractor, company or corporation that constructs, maintains or operates a pipeline facility.

21 (5) "Well" means any shaft or hole sunk, drilled, bored or dug into the earth or into  
22 underground strata for the extraction or injection or placement of any liquid, oil or natural gas, or  
23 any shaft or hole sunk or used in conjunction with such extraction or injection or placement.  
24 The term "well" does not include any shaft or hole sunk, drilled, bored or dug into the earth for  
25 the sole purpose of core drilling or pumping or extracting therefrom potable, fresh or usable  
26 water for household, domestic, industrial, agricultural or public use.

27 (6) "Well pad" means any area constructed and maintained for use to create a well.

28 (7) "Well operator" means any person or persons, firm, partnership, independent  
29 contractor, company or corporation that drills or engages in hydraulic fracturing for any liquid, oil  
30 or natural gas, or that completes or operates wells to produce any liquid, oil or natural gas.

**§15-5C-2. Reporting requirements.**

1 (a) In addition to any other requirements imposed by law, all pipeline operators and well  
2 operators shall report incidents to the Division of Homeland Security and Emergency  
3 Management at the Mine and Industrial Accident Call Center at 1-866-987-2338, or other such  
4 number as may be identified by the Director within fifteen minutes of ascertaining the  
5 occurrence of an incident at a well, well pad or pipeline facility. Pipeline operators and well  
6 operators may satisfy this requirement by contacting the local emergency telephone system and  
7 orally reporting the information required by this section.

8 (b) Contents of report:

9 (1) The initial report shall include the following minimum information:

10 (A) The name, title, and business affiliation of the individual making the report;

11 (B) The identification and location of the well, well pad or pipeline facility; and

12 (C) Notification that an incident has occurred.

13 (2) If the caller has ready access to the following information, he or she shall also  
14 provide:

15 (A) Then-available information concerning the nature and extent of the incident,  
16 including any information that concerns the existence or nonexistence of potential threats to the  
17 public health;

18 (B) In the event of an unplanned fire that cannot be contained within fifteen minutes,  
19 explosion or release, preliminary information regarding the type of substance involved and, if a  
20 release, the estimated amount released, if known; and

21 (C) The name, title, business affiliation, and contact information of the individual  
22 designated to serve as a contact person on behalf of the pipeline operator or well operator.

23 (c) Any local emergency telephone system receiving an initial notification shall  
24 immediately forward all information received to the Division of Homeland Security and  
25 Emergency Management at the Mine and Industrial Accident Call Center at 1-866-987-2338, or  
26 other such number as may be identified by the Director.

27 (d) All calls received by the Division of Homeland Security and Emergency Management  
28 at the Mine and Industrial Accident Call Center shall be recorded for documentation purposes.  
29 Recording of calls shall be automatic, and the recorded call information, including time of call  
30 and complete voice transcripts, shall be made available to the public upon receipt of a request  
31 to the Director in accordance with the West Virginia Freedom of Information Act, article one,  
32 chapter twenty-nine-b of this code.

33 (e) The Director shall impose a civil administrative penalty of not less than \$2,500 but  
34 not to exceed \$50,000 on the pipeline operator or well operator if it is determined that the

35 pipeline operator or well operator failed to give timely notice as required by this section:  
36 *Provided*, That the Director shall waive imposition of the civil administrative penalty if the failure  
37 to give the required notice:

38 (1) Occurred as a result of circumstances wholly outside the control of the pipeline  
39 operator or well operator;

40 (2) Occurred because the pipeline operator or well operator was attempting to stabilize  
41 the incident;

42 (3) Occurred because the pipeline operator or well operator was rendering emergency  
43 assistance; or

44 (4) Resulted from the incident occurring in a location with no or inadequate wireless  
45 communications coverage and notice was provided within fifteen minutes of reestablishing  
46 communication.

47 (f) Any pipeline operator or well operator aggrieved by the imposition of a civil  
48 administrative penalty may request within thirty days of receipt of a written communication  
49 imposing a civil administrative penalty that the Director reconsider the imposition or amount of  
50 the civil administrative penalty. If reconsideration is denied, the pipeline operator or well  
51 operator shall have a right of appeal to the Circuit Court of Kanawha County, West Virginia.

NOTE: The purpose of this bill is to require well operators and pipeline operators to report certain emergency incidents to the Division of Homeland Security and Emergency Management within fifteen minutes, unless exceptions apply.

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