

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4254

BY DELEGATES HAMILTON, STORCH, BUTLER,
WESTFALL, GUTHRIE, PETHTEL AND B. WHITE

[Introduced January 25, 2016; referred to the
committee on Banking and Insurance then the
Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §23-2-19; and to amend said code by adding thereto a new section,
 3 designated §33-1-23, all relating generally to workers' compensation; providing that
 4 unenforceable waivers may not be offered by employers; providing that policies that offer
 5 no coverage are against public policy; and establishing misdemeanor penalties.

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 new
 2 section, designated §23-2-19; and that said code be amended by adding thereto a new section,
 3 designated §33-1-23, all to read as follows:

CHAPTER 23. WORKERS' COMPENSATION.

**ARTICLE 2. EMPLOYERS AND EMPLOYEES SUBJECT TO CHAPTER;
 EXTRATERRITORIAL COVERAGE.**

§23-2-19. Waivers of coverage.

1 No employer or other person covered by this chapter may offer a waiver to anyone
 2 performing work or services for that employer or person when such waivers have been
 3 determined by a court of competent jurisdiction to be unenforceable.

CHAPTER 33. INSURANCE.

ARTICLE 1. DEFINITIONS.

§33-1-23. Ghost policies against public policy; penalties.

1 A ghost policy is a specific type of workers' compensation insurance that does not directly
 2 cover any individual workers. The ghost policy provides potential clients with documented proof
 3 of insurance, while not actually offering any real insurance protection. This type of policy is against
 4 public policy and is null and void. An insurer who offers or provides such a policy, or provides a
 5 certificate of insurance stating that a policy exists when that policy does not provide any coverage,
 6 is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$10,000. Any

- 7 individual who violates this section is guilty of a misdemeanor and, upon conviction, shall be fined
8 in his or her individual capacity not more than \$10,000.

NOTE: The purpose of this bill is to provide that unenforceable waivers may not be offered by employers. The bill provides that policies that offer no coverage are against public policy. The bill establishes misdemeanor penalties.

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