

WEST VIRGINIA LEGISLATURE
2018 FIRST EXTRAORDINARY SESSION

Introduced
House Bill 104

BY MR. SPEAKER (MR. ARMSTEAD) AND DELEGATE MILEY

(BY REQUEST OF THE EXECUTIVE)

[Introduced May 20, 2018]

1 A BILL to amend and reenact §15-9A-4 of the Code of West Virginia, 1931, as amended, as
2 contained in Chapter 216, Acts of the Legislature, Regular Session, 2018, relating to
3 modifying the type of businesses and establishments required to post human trafficking
4 assistance notices; modifying the criminal penalties for failure to comply with posting of
5 notices once given notice of lawful duty to post; providing that a business or establishment
6 that does not correct a violation within 30 days from the receipt of notice is guilty of a
7 misdemeanor and, upon a first conviction thereof, shall be fined not more than \$250; and
8 providing that a second or subsequent conviction is punishable by a fine of not less than
9 \$250 nor more than \$500.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9A. DIVISION OF JUSTICE AND COMMUNITY SERVICES.

§15-9A-4. Human trafficking assistance notices.

1 (a) For the purpose of assisting victims of human trafficking to obtain help and services,
2 the following businesses and establishments shall post a notice ~~meeting~~ which meets the
3 requirements of this section:

4 (1) All locations licensed by the Alcohol Beverage Control ~~Commission to allow~~
5 Commissioner that permit on-premises consumption of alcoholic beverages, pursuant to ~~chapter~~
6 ~~60~~ §60-7-1 et seq. of this code;

7 (2) Exotic entertainment facilities, ~~as defined by §60-4-23 of this code~~ which are facilities
8 featuring live nude dancing, nude service personnel or live nude entertainment;

9 (3) Primary airports;

10 (4) Passenger rail stations;

11 (5) Bus stations;

12 (6) Locations where gasoline and diesel fuel are sold;

13 (7) Emergency departments within hospitals;

14 (8) Urgent care centers;

15 (9) Locations at which farm labor contractors and day haulers work, if a physical facility is
16 available at those locations upon or in which notice can be posted;

17 (10) Privately operated job recruitment centers;

18 (11) Rest areas located along interstate highways in this state, operated by the Division
19 of Highways;

20 (12) Hotels; and

21 (13) Any other business or establishment that the director determines, by legislative rule,
22 is an effective location to provide notice to victims of human trafficking.

23 (b) Requirements for posting of notice. – The notice required by this section must be
24 posted in English, Spanish, and any other language determined by legislative rule by the director.
25 The notice must be posted in each public restroom for the business or establishment, and either
26 in a conspicuous place near the public entrance of the business or establishment or in another
27 location in clear view of the public and employees, where similar notices are customarily posted.

28 (c) The director shall provide hyperlinks on the division's website to downloadable ~~posters~~
29 notices that are eight and one-half inches by 11 inches in size that provide information regarding
30 the National Human Trafficking Resource Center and display the telephone number for the
31 National Human Trafficking Resource Center hotline. These downloadable ~~posters~~ notices must
32 be available in English, Spanish, and any other language determined by legislative rule by the
33 director. These downloadable ~~posters~~ notices, if printed and posted, will satisfy the notice posting
34 requirements of this section.

35 (d) Any law-enforcement officer, representative of the ~~state health department~~ Bureau for
36 Public Health or of a county health department, representative of the State Alcoholic Beverage
37 Control ~~Commission~~ Commissioner, representative of the Division of Labor, or other state
38 representative inspecting a business or establishment or otherwise lawfully acting under his or
39 her state authority, may notify, in writing, any business or establishment that it has failed to comply
40 with the requirements of this section. ~~If the business or establishment does not correct the~~

41 ~~violation within 30 days from the date of receipt of such written notice, the owner shall be charged~~
42 ~~with a violation of this section and upon conviction, is guilty of a misdemeanor offense and may~~
43 ~~be punished by a fine of not more than \$250. Upon a second or subsequent conviction, the owner~~
44 ~~is guilty of a misdemeanor and shall be punished by a fine of not more than \$500. The notice~~
45 ~~required by this subsection~~ The written notice must be delivered to the noncomplying business or
46 establishment by certified mail, with return receipt requested. A business or establishment that
47 does not correct a violation within 30 days from the receipt of the written notice is guilty of a
48 misdemeanor and, upon a first conviction thereof, shall be fined not more than \$250; and upon a
49 second or subsequent conviction, shall be fined not less than \$250 nor more than \$500.

50 (e) For the purposes of this section, and unless a different meaning is plainly required:

51 (1) "Day hauler" means any person who is employed by a farm labor contractor to
52 transport, or who, for a fee, transports, by motor vehicle, workers to render personal services in
53 connection with the production of any farm products to, for, or under the direction of a third person;
54 *Provided*, That such term shall not include a person engaged in the production of agricultural
55 products;

56 (2) "Farm labor contractor" means any person who, for a fee, employs workers to render
57 personal services in connection with the production of any farm products to, for, or under the
58 direction of a third person, or who recruits, solicits, supplies, or hires workers on behalf of an
59 employer engaged in the growing or producing of farm products, and who, for a fee, provides in
60 connection therewith one or more of the following services: furnishes board, lodging, or
61 transportation for those workers; supervises, times, checks, counts, weighs, or otherwise directs
62 or measures their work; or disburses wage payments to such persons: *Provided*, That such term
63 shall not include a person engaged in the production of agricultural products;

64 (3) "Hospital" shall have the same meaning as set forth in §16-2D-2 (21) of this code.

65 (4) "Hotel" means any establishment which offers overnight accommodations to the public
66 in exchange for a monetary payment;

- 67 (5) "Primary airport" shall have the same meaning as set forth in 49 U.S.C. § 47102(16);
68 and
69 (6) "Production of agricultural products" means raising, growing, harvesting, or storing of
70 crops; feeding, breeding, or managing livestock, equine, or poultry; producing or storing feed for
71 use in the production of livestock.

NOTE: The purpose of this bill is to provide clarifying language and addresses technical issues contained in Enrolled Committee Substitute for HB 4169 (2018). The bill modifies the type of business or establishments required to post human trafficking notices. It also modifies the criminal penalties for violating the section.

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