

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 114

FISCAL
NOTE

BY SENATORS TRUMP, BOSO, PREZIOSO, PLYMALE, AND

WOELFEL

[Introduced January 10, 2018; Referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §61-14-10, relating to requiring posting of notice providing the National Human
 3 Trafficking Resource Center hotline phone number for help for anyone being sold for sex
 4 or made or forced to work for little or no pay and cannot leave; and providing penalties.

Be it enacted by the Legislature of West Virginia:

ARTICLE 14. HUMAN TRAFFICKING.

§61-14-10. Establishments required to post notice; model notice; enforcement; penalties.

1 (a) As used in this code section, the term:

2 (1) "Adult entertainment establishment" means any place of business or commercial
 3 establishment wherein:

4 (A) The entertainment or activity therein consists of nude or substantially nude persons
 5 dancing with or without music or engaged in movements of a sexual nature or movements
 6 simulating sexual intercourse, oral copulation, sodomy, or masturbation;

7 (B) The patron directly or indirectly is charged a fee or required to make a purchase in
 8 order to view entertainment or activity which consists of persons exhibiting or modeling lingerie
 9 or similar undergarments; or

10 (C) The patron directly or indirectly is charged a fee to engage in personal contact by
 11 employees, devices, or equipment, or by personnel provided by the establishment. The term shall
 12 include, but shall not be limited to, bathhouses, lingerie modeling studios, and related or similar
 13 activities. The term shall not include businesses or commercial establishments which have as
 14 their sole purpose the improvement of health and physical fitness through special equipment and
 15 facilities, rather than entertainment.

16 (2) "Agricultural products" means raising, growing, harvesting, or storing of crops; feeding,
 17 breeding, or managing livestock, equine, or poultry; producing or storing feed for use in the
 18 production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep,
 19 equine, and rabbits, or for use in the production of poultry, including, but not limited to, chickens,

20 hens, ratites, and turkeys; producing plants, trees, Christmas trees, fowl, equine, or animals; or
21 the production of aquacultural, horticultural, viticultural, silvicultural, grass sod, dairy, livestock,
22 poultry, egg, and apiarian products.

23 (3) "Bar" means an establishment that is devoted to the serving of alcoholic beverages for
24 consumption by guests on the premises and in which the serving of food is only incidental to the
25 consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail
26 lounges, and cabarets.

27 (4) "Day hauler" means any person who is employed by a farm labor contractor to
28 transport, or who for a fee transports, by motor vehicle, workers to render personal services in
29 connection with the production of any farm products to, for, or under the direction of a third person;
30 provided, however, that the term does not include a person who produces agricultural products.

31 (5) "Farm labor contractor" means any person who, for a fee, employs workers to render
32 personal services in connection with the production of any farm products to, for, or under the
33 direction of a third person, or who recruits, solicits, supplies, or hires workers on behalf of an
34 employer engaged in the growing or producing of farm products, and who, for a fee, provides in
35 connection therewith one or more of the following services: furnishes board, lodging, or
36 transportation for those workers; supervises, times, checks, counts, weighs, or otherwise directs
37 or measures their work; or disburses wage payments to the workers: *Provided*, That the term
38 does not include a person who produces agricultural products.

39 (6) "Hotel" means any hotel, inn, or other establishment which offers overnight
40 accommodations to the public for hire.

41 (7) "Massage therapist" means a person licensed pursuant to §30-37-1 *et seq.* of this
42 code.

43 (8) "Primary airport" shall have the same meaning as set forth in 49 U.S.C. Section
44 47102(16).

45 (9) "Substantially nude" means dressed in a manner which displays any portion of the
46 female breast below the top of the areola or displaying any portion of any person's pubic hair,
47 anus, cleft of the buttocks, vulva, or genitals.

48 (10) "Truck stop" means a privately owned and operated facility that provides food, fuel,
49 shower or other sanitary facilities, and lawful overnight truck parking.

50 (b) Effective September 15, 2018, the following businesses and other establishments shall
51 post the notice described in subsection (c) of this section, or a substantially similar notice, in
52 English, Spanish, and any other language deemed appropriate by the Superintendent of the West
53 Virginia State Police, in each public restroom for the business or establishment and either in a
54 conspicuous place near the public entrance of the business or establishment or in another
55 conspicuous location in clear view of the public and employees where similar notices are
56 customarily posted:

57 (1) Adult entertainment establishments;

58 (2) Bars;

59 (3) Night clubs;

60 (4) Primary airports;

61 (5) Passenger rail or light rail stations;

62 (6) Bus stations;

63 (7) Truck stops;

64 (8) Emergency rooms within general acute care hospitals;

65 (9) Urgent care centers;

66 (10) Farm labor contractors and day haulers;

67 (11) Privately operated job recruitment centers;

68 (12) Safety rest areas located along interstate highways in this state;

69 (13) Hotels;

70 (14) Businesses and establishments that offer massage or bodywork services by a person

71 who is not a massage therapist; and

72 (15) Major sporting events or conventions.

73 (c) On or before August 1, 2018, the Superintendent of the West Virginia State Police shall
74 develop a model notice that complies with the requirements of this subsection and make the
75 model notice available for download on the agency's Internet website. The notice shall be at least
76 8 ½ inches by 11 inches in size, printed in a 16-point font in English, Spanish, and any other
77 language deemed appropriate by the superintendent, and state the following:

78 "Are you or someone you know being sold for sex or made or forced to work for little or no
79 pay and cannot leave? Call the National Human Trafficking Resource Center at 1-888-373-7888
80 for help. All victims of slavery and human trafficking have rights and are protected by international,
81 federal, and state law."

82 The hotline is:

83 (1) Anonymous and confidential;

84 (2) Available twenty-four hours a day, seven days a week;

85 (3) Able to provide help, referral to services, training, and general information;

86 (4) Accessible in one hundred and seventy languages;

87 (5) Operated by a nonprofit, nongovernmental organization; and

88 (6) Toll free.

89 (d) A law-enforcement officer shall notify, in writing, any business or establishment owner
90 or manager that has failed to comply with the requirements of this section to post the National
91 Human Trafficking Resource Center hotline phone number, and shall notify the owner or manager
92 that if the violation is not corrected within thirty days from the date of receipt of the notice, the
93 owner or manager of the business or establishment is guilty of a misdemeanor and, upon
94 conviction there of shall be fined not more than \$500; but the provisions of any other law
95 notwithstanding, the costs of prosecution shall not be taxed nor shall any additional penalty, fee,
96 or surcharge to a fine for the offense be assessed against an owner or manager for conviction

97 thereof. Upon a second or subsequent conviction, the owner shall be guilty of a misdemeanor
98 and, shall be fined not more than \$5,000. The notice required by this subsection may be hand
99 delivered to the noncomplying business or establishment or mailed to the address of the business
100 or establishment.

NOTE: The purpose of this bill is to require certain establishments to post notice of the hotline phone number of the National Human Trafficking Resource Center; penalties for noncompliance.

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