

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

**Introduced**

### **House Bill 2979**

**FISCAL  
NOTE**

BY DELEGATES MILLER, CAPUTO, PAYNTER, TOMBLIN,

MAYNARD AND PYLES

[Introduced February 11, 2019; Referred  
to the Committee on Energy.]

1 A BILL to amend and reenact §22A-2-64 of the Code of West Virginia, 1931, as amended; and to  
 2 amend said code by adding thereto a new section, designated §61-3-10, all relating to  
 3 abandoned mines; establishing responsibility of the mine owner to seal mines;  
 4 establishing liability for failure to seal mines; prohibiting entry into an active, sealed or  
 5 abandoned mine; establishing criminal penalties; establishing civil liability for costs  
 6 associated with rescue from a mine.

*Be it enacted by the Legislature of West Virginia*

**CHAPTER 22A. MINERS' HEALTH SAFETY AND TRAINING.**

**ARTICLE 2. UNDERGROUND MINES.**

**§22A-2-64. Sealing permanently closed or abandoned mines.**

1 (a) After July 1, 1971, when any coal mine is worked out or indefinitely closed, ~~such~~ all  
 2 mine openings shall be properly sealed within 90 days after the mine is abandoned.

3 (b) Mines temporarily inactive for less than 90 days shall be adequately fenced with  
 4 conspicuous signs prohibiting the possible entrance of unauthorized persons.

5 (c) Shaft openings shall be effectively capped or filled. Filling shall be for the entire depth  
 6 of the shaft. Caps shall consist of a six inch thick concrete cap or other equivalent means  
 7 approved by the director.

8 (d) Caps shall be equipped with a vent pipe at least two inches in diameter extending for  
 9 a distance of at least 15 feet above the surface shaft.

10 (e) Any mine operator found in violation of this section and who installs any seals not  
 11 approved by the director or otherwise not in compliance with the provisions of this article may be  
 12 held civilly liable for the cost of injury, recovery or rescue of persons resulting from the failure to  
 13 properly seal the mine.

**CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

**ARTICLE 3. CRIMES AGAINST PROPERTY.**

**§61-3-10. Unlawful entry in underground mines.**

1           (a) Any person knowingly and unlawfully entering any active mine, idled or abandoned  
2 mine secured in the manner prescribed in §22A-2-64 of this code is guilty of a misdemeanor and,  
3 upon conviction thereof, shall be confined in a state correctional facility not more than one year,  
4 or fined not to exceed \$2,500, or both fined and imprisoned.

5           (1) Any person violating this subsection who is armed with a firearm or other dangerous  
6 weapon while in a mine is guilty of a felony and, upon conviction thereof, shall be confined in a  
7 state correctional facility not less than one nor more than three years, or fined not to exceed  
8 \$10,000, or both fined and imprisoned.

9           (b) Any person violating any provision of this section and costs are incurred to search for  
10 or recover such person from a mine, he or she may be held civilly liable for the cost of the rescue  
11 or removal operation from that mine, including those costs incurred by the mine operator, the  
12 state or any political subdivision thereof.

NOTE: The purpose of this bill is to establish responsibility of the mine owner to seal mines; establish liability for failure to seal mines; prohibit entry into an active, sealed or abandoned mine; establish criminal penalties; and establish civil liability for costs associated with rescue from a mine.

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