

WEST VIRGINIA CODE: §21-3A-14

§21-3A-14. Enjoining of conditions or practices at places of employment; mandamus against commissioner for failure to act.

(a) The circuit court of Kanawha County or the circuit court in the county wherein the workplace is located has jurisdiction, upon petition by the commissioner, to restrain or enjoin any conditions or practices in any workplace which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of the danger can be eliminated through the enforcement procedures otherwise provided by this article. Any order issued under this section may require such steps to be taken as are necessary to avoid, correct or remove the imminent danger and prohibit the employment or presence of any individual in locations or under conditions where the imminent danger exists, except the presence of those individuals whose presence is necessary to avoid, correct or remove such imminent danger, or to maintain the capacity of a continuous process operation, or to resume normal operations without a complete cessation of operations or, where a cessation of operation is necessary, to permit such to be accomplished in a safe and orderly manner. No temporary restraining order issued without notice may be effective for more than five days.

(b) Whenever and as soon as an inspector concludes that conditions or practices described in subsection (a) of this section exist in any place of employment, he shall inform the affected employees and employer of the danger and shall further inform those persons that he is recommending to the commissioner that relief be sought. If the commissioner fails to seek relief under this section within forty-eight hours of being notified of such conditions, any employee who may have been injured by reason of such failure or the authorized representative of such employee may seek injunctive relief.