WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986

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ENROLLED

Com. Sub. for

HOUSE BILL No. 1656

(By Del. Davis & Del. Leary)

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Passed March 8, 1986

In Effect Ninety Days From Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1656
(By Delegate Davis and Delegate Leary)

[Passed March 8, 1986; in effect ninety days from passage]

AN ACT to amend chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article three-a, relating to creating an occupational safety and health division for public employees within the department of labor; providing for the adoption of occupational health and safety standards; authorizing the commissioner of labor to conduct appropriate inspections and investigations; establishing an occupational health and safety review commission to review the commissioner's citations and determinations; authorizing circuit courts to enjoin certain dangerous conditions or practices in places of employment; advisory board; membership; appointment; vacancies; compensation.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article three-a, to read as follows:

ARTICLE 3A. OCCUPATIONAL SAFETY AND HEALTH ACT.

This article shall be known and cited as the "West Virginia Occupational Safety and Health Act."

§21-3A-1a. Legislative policy.

The Legislature finds that the safety and health of public employees in the workplace is of primary public concern. Personal injuries and illnesses arising out of work situations result not only in wage loss and increased medical expenses for public employees, but also in decreased productivity and increased workers' compensation expenses for public employers. The Legislature therefore declares:

(a) That it is the policy of this state to ensure that all public employees be provided with safe and healthful work environments free from recognized and avoidable hazards;

(b) That it is the responsibility of the state to promulgate standards for the protection of the health and safety of its public workforce; and

(c) That it is in the public interest for public employers and public employees to join in a cooperative effort to enforce these standards.


As used in this chapter, unless the context clearly indicates otherwise:

(a) "Commission" means the occupational safety and health review commission established under this article;

(b) "Commissioner" means the labor commissioner or his designated agent;

(c) "Employee" means any public employee of the state, or any state agency;

(d) "Employer" means public employer and shall include the state, or any department, division, bureau, board, council, agency or authority of the state;

(e) "Occupational safety and health standard" means a standard for health or safety which requires conditions or the adoption or use of one or more practices, means,
methods, operations or processes reasonably necessary
or appropriate to provide safe and healthful employment
in places of employment;

(f) "Person" means one or more individuals; and

(g) "Workplace" means a place where public em-
ployees are assigned to work but shall not include any
place where public employees are assigned to work that
is inspected and regulated in accordance with Federal
Occupational Safety and Health standards or Mine
Safety and Health Administration standards.

§21-3A-3. Division of occupational safety and health;
coordination of activities with workers' compensation commissioner.

(a) There is hereby created in the labor department
a division of occupational safety and health, comprised
of a subdivision for safety, a subdivision for health and
such other subdivisions as the commissioner considers
necessary. This division shall administer all matters
pertaining to occupational safety and occupational
health.

(b) The labor commissioner may request the assist-
ance of other state agencies and may enter into
agreements with other state agencies and political
subdivisions of the state for the administration of this
chapter.

(c) The labor commissioner shall provide for coordi-
nation between the division of occupational safety and
health and the workers' compensation commissioner
including, but not limited to, the establishment of
standardized procedures and reportings.

§21-3A-4. Application of article.

(a) This article applies to all public employers, public
employees and public workplaces within the state of
West Virginia.

(b) This article shall not apply to any privately owned
or operated business, or to such privately owned or
operated business location, workplace or establishment,
even if such privately owned or operated business,
business location workplace or establishment shall work for or in any manner, either directly or indirectly, provide services to state government: Provided, That such business, business location, workplace or establishment is regulated in accordance with Federal Occupational Safety and Health standards or Mine Safety and Health Administration standards.

(c) Nothing in this article may be construed to supersede or in any manner affect any workers' compensation law or to diminish in any manner common law or statutory rights, duties or liabilities of employers or employees, under any law with respect to injuries, diseases or death of employees arising out of and in the course of employment.

§21-3A-5. Duties of employer and employee.

(a) Each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards causing or are likely to cause death or serious physical harm or serious illness to his employees.

(b) Each employer shall, upon the written request of any employee, furnish the employee with a written statement listing the substances which the employee uses or with which the employee comes into contact, which substances have been identified as toxic and hazardous by occupational safety and health standards, under Title 29 CFR 1910.1000 "Air Contaminant Code of Federal Regulations" through 1910.1046, or listed in the most recent National Institute for Occupational Safety and Health Registry of the Toxic Effects of Chemical Substances (RTECS).

(c) Each employer shall comply with occupational safety and health standards promulgated under this article.

(d) Each employee shall comply with occupational safety and health standards and all regulations and orders issued pursuant to this article which are applicable to his actions and conduct.

In rules adopted under the authority of this article pursuant to the procedures of chapter twenty-nine-a of this code, the commissioner shall:

(a) Provide for the preparation, adoption, amendment or repeal of rules necessary to effectuate the health and safety purposes of this article;

(b) Provide educational programs to encourage employers and employees in their efforts to reduce the number of safety and health hazards and to stimulate employers and employees to institute new programs, and to perfect existing programs to provide for safe and healthful working conditions;

(c) Provide for appropriate reporting procedures by employers with respect to information relating to conditions of employment which will assist in achieving the objectives of this article.

(d) Provide for the frequency, method and manner of making inspections of workplaces without advance notice: Provided, That in the event of an emergency or unusual situation, the commissioner may give advance notice;

(e) Provide for the publication and dissemination to employers, employees and labor organizations and the posting, where appropriate, by employers of informational, educational or training materials calculated to aid and assist in achieving the objectives of this article; and

(f) Provide for the establishment of new programs, and the perfection and expansion of existing programs for occupational safety and health education for employers and employees and institute methods and procedures to establish a program for voluntary compliance by employers and employees with the requirements of this article and all applicable safety and health standards and regulations promulgated pursuant to the authority of this article.

§21-3A-7. Adoption of federal and state standards; variances.
(a) The commissioner, on or before the first day of
July, one thousand nine hundred eighty-seven, shall
provide at the minimum, for the adoption of all
occupational safety and health standards, amendments
or changes, adopted or recognized by the United States
Secretary of Labor under the authority of the
Occupational Safety and Health Act of 1970. Where no
federal standards are applicable, or where standards
more stringent than the federal standards are deemed
advisable, the commissioner shall provide for the
development of such state standards as will comport
with the purposes of this act. Standards shall be adopted
through state administrative procedures.

(b) No standards may be adopted for products distrib-
uted or used in interstate commerce which are different
from federal standards for those products unless the
standards are required by compelling local conditions
and do not unduly burden interstate commerce.

(c) In the event of emergency or unusual situations,
the commissioner shall provide for an emergency
temporary standard to take effect immediately if he
determines:

(1) Employees are exposed to grave danger from
exposure to substances or agents determined to be toxic
or physically harmful or from new hazards; and

(2) The emergency standard is necessary to protect
employees from such danger.

The emergency standard may be in effect not longer
than one hundred eighty days or, if renewed in com-
pliance with the laws of this state governing the
adoption or extension of rules, not longer than sixty
additional days. On or before the expiration date of the
emergency standard or renewal thereof, the commis-
sioner shall develop a permanent standard to replace the
emergency standard.

(d) Any standard promulgated shall prescribe the use
of labels or other appropriate forms of warning neces-
sary to ensure that employees are apprised of all
hazards to which they are exposed, relevant symptoms
and appropriate emergency treatment and, where appropriate, proper conditions and precautions of safe use or exposure. The standard shall also prescribe suitable protective equipment and control procedures for use in connection with such hazards and shall provide for measuring employee exposure in the manner necessary for the protection of employees. In addition, where appropriate, the standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available to employees exposed to such hazards in order to determine any adverse effect from that exposure.

(e) Any employer may apply to the commissioner for a temporary order granting a variance from a standard, or any provision thereof, promulgated under this section. A temporary order shall be granted if the employer files an application which meets the requirements of subsection (f) of this section and establishes that:

(1) He is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date;

(2) He is taking all available steps to safeguard employees against the hazards covered by the standard; and

(3) He has an effective program for coming into compliance with the standard as quickly as practicable.

Any temporary order issued under this subsection shall prescribe the practices, means, methods, operations and processes which the employer must adopt and use while the order is in effect and state in detail his program for coming into compliance with the standard. A temporary order may be granted only after notice, by the commissioner, to employees, and an opportunity for a hearing before the commissioner: Provided, That the commissioner may issue one interim order to be effective until a decision is made on the basis of the
No temporary order may be in effect for longer than the period needed by the employer to achieve compliance with the standard or one year, whichever is shorter: Provided, however, That an order may be renewed not more than once if the requirements of this subsection are met and if an application for renewal is filed at least ninety days prior to the expiration date of the order. No interim renewal of an order may remain in effect longer than one hundred eighty days.

(f) An application for a temporary variance order shall contain:

(1) A specification of the standard or portion thereof from which the employer seeks a variance;

(2) A representation by the employer, supported by representations from qualified persons who have firsthand knowledge of the facts represented, that he is unable to comply with the standard or portion thereof and a detailed statement of the reasons therefor;

(3) A statement of the steps he has taken and will take, with specific dates, to protect employees against the hazard covered by the standards;

(4) A statement of when he expects to comply with the standard and what steps he has taken and what steps he will take, with dates specified, to come into compliance with the standard; and

(5) A certification that he has informed his employees of the application by giving a copy thereof to their authorized representative, and posting a statement giving a summary of the application and specifying where a copy may be examined at the place or places where notices to employees are normally posted and by other appropriate means. A description of how employees have been informed shall be contained in the certification. The information to employees shall inform them of their right to petition the commissioner for a hearing. The commissioner is authorized to grant a variance from any standard or portion thereof whenever he determines that a variance is necessary to permit an employer to participate in an experiment, approved by
the commissioner, designed to demonstrate or validate
new and improved techniques to safeguard the health
or safety of workers.

(g) Any affected employer may apply to the commis-
ioner for an order granting a variance from a standard
promulgated under this section. Affected employees
shall be given notice of each such application and an
opportunity to participate in a hearing before the
commissioner. The commissioner shall issue such order
if he determines on the record, after opportunity for an
inspection where appropriate and a hearing, that the
proponent of the variance has demonstrated by a
preponderance of the evidence that the conditions,
practices, means, methods, operations or processes used
or proposed to be used by an employer will provide
employment and places of employment which are as safe
and healthful as those which would prevail if he
complied with the standard. The order issued shall
prescribe the conditions the employer must maintain,
and the practices, means, methods, operations and
processes which he must adopt and utilize to the extent
they differ from the standard in question. The order
may be modified or revoked upon application by an
employer or employees, or by the commissioner on his
own motion, in the manner prescribed for its issuance
under this subsection at any time after six months from
its issuance.

(h) Any employee who may be adversely affected by
a standard or variance or regulation issued under this
section may challenge the validity or applicability of a
standard or variance or regulation by bringing an action
for a declaratory judgment.

§21-3A-8. Inspections and investigations; records.

(a) In order to carry out the purposes of this article,
the commissioner or his agent, upon presenting appro-
priate credentials to the employer, is authorized:

(1) To enter without advance notice, except as pro-
vided in subsection (d) of section six, and at reasonable
times may enter any workplace or environment where
work is performed by an employee of an employer; and
(2) To inspect and investigate, during regular working hours and at other reasonable times and within reasonable limits and in a reasonable manner, any place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment and the materials therein, and to question privately any employer or employee. No public employer may refuse to allow a representative of the commissioner to inspect a place of employment. If an employer attempts to prevent a representative of the department from conducting an inspection, the commissioner may obtain an inspection warrant from the circuit court of Kanawha County or the circuit court of the circuit where the employer is located.

(b) In making his inspections and investigations under this entire article the commissioner may require the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of this state. In case of contumacy or failure or refusal of any person to obey such an order, the circuit court for the judicial district wherein the person resides, is found or transacts business has jurisdiction to issue to the person an order requiring the person to appear, to produce evidence if asked, and when so ordered, and to give testimony relating to the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof.

(c) (1) Each employer shall make, keep, preserve and make available to the commissioner and the United States secretary of labor records regarding his activities relating to this entire article as the commissioner may prescribe by rule as necessary or appropriate for the enforcement of this article or for developing information regarding the causes and prevention of occupational accidents and illnesses. In order to carry out the provisions of this subdivision, these rules may include provisions requiring employers to conduct periodic inspections. The commissioner shall also issue rules requiring that employers, through posting of notices or
other appropriate means, keep their employees informed
of their protections and obligations under this entire
article, including the provisions of applicable standards.

(2) The commissioner shall prescribe rules requiring
employers to maintain accurate records of and to make
periodic reports on work-related deaths, injuries and
illnesses other than minor injuries requiring only first-
aid treatment and not involving medical treatment, loss
of consciousness, restriction of work or motion, or
transfer to another job.

(3) The commissioner shall issue rules requiring
employers to maintain accurate records of employee
exposures to potentially toxic materials or harmful
physical agents which are required to be monitored or
measured under any occupational safety and health
standard adopted under this entire chapter. These
regulations shall provide employees or their
representatives an opportunity to observe the monitor-
ing or measuring and to have access to the records. The
regulations shall also make appropriate provisions for
each employee or former employee to have such access
to the records as will indicate his own exposure to toxic
materials or harmful physical agents. Each employer
shall promptly notify any employee who has been or is
being exposed to toxic materials or harmful physical
agents in concentrations or at levels which exceed those
prescribed by an applicable occupational safety and
health standard promulgated under section six of this
article and shall inform any employee who is being thus
exposed of the corrective action being taken.

(d) Any information obtained by the commissioner
under this entire article shall be obtained with a
minimum burden upon employers. Unnecessary duplica-
tion of efforts in obtaining information shall be
eliminated to the maximum extent feasible.

(e) Subject to rules issued by the commissioner, a
representative of the employer and a representative
authorized by the employees of the employer shall be
given an opportunity to accompany the commissioner or
his authorized representative during the physical
inspection of any workplace for the purpose of aiding the
inspection. Where there is no authorized employee
representative, the commissioner or his authorized
representative shall consult with a reasonable number
of employees concerning matters of health and safety in
the workplace.

(f) (1) Any employee or representative of employees
who believes that there is a violation of an occupational
safety or health standard or that there is an imminent
danger of physical harm may request an inspection by
giving notice to the commissioner or his authorized
representative of the violation or danger. The notice
shall be reduced to writing, shall set forth with
reasonable particularity the grounds for the notice and
shall be signed by the employees or their representative.
A copy of the notice shall be provided the employer or
his agent no later than the time of the inspection:
Provided, That upon the request of the person giving the
notice, his name and the names of individual employees
referred to therein shall not appear in the copy or on
any record published, released or made available
pursuant to subsection (g) of this section. If, upon receipt
of the notification, the commissioner determines there
are reasonable grounds to believe that such violation or
danger exists, he shall make an inspection in accordance
with the provisions of this section as soon as practicable
to determine if the violation or danger exists. The
commissioner shall maintain records of the results of
any such investigation, which shall be made available
to the public upon request. The authority of the
commissioner to inspect any premises for purposes of
investigating an alleged violation of safety standards
shall not be limited to the alleged violation but shall
extend to any other area of the premises in which he
has reason to believe that a violation of the safety
standards promulgated under this act exists. If the
commissioner determines there are no reasonable
grounds to believe that the violation or danger exists,
he shall notify the employer, employee or representative
of employees in writing of the determination. The
notification does not preclude future enforcement action
if conditions change.
(2) Prior to or during any inspection of a workplace, any employees or representative of employees employed in the workplace may notify the commissioner, or any representative of the commissioner responsible for conducting the inspection, in writing of any violation of this entire article which they have reason to believe exists in the workplace. The commissioner shall by rule establish procedures for review of any refusal by a representative of the commissioner to issue a citation with respect to any alleged violation and shall furnish the employer and the employees or representative of employees requesting the review a written statement of the reasons for the commissioner's final disposition of the case. The notification does not preclude future enforcement action if conditions change.

(g) (1) The commissioner is authorized to compile, analyze and publish in either summary or detail form all reports or information obtained under this section.

(2) The commissioner shall prescribe such rules as he considers necessary to carry out his responsibilities under this article, including rules dealing with the inspection of an employer's or owner's establishment.

§21-3A-9. Citation for violation.

(a) If, upon inspection or investigation, the commissioner or his authorized representative believes that an employer or employee has violated any safety and health standards or variance or the commissioner finds a condition which poses a recognized hazard likely to cause death or serious physical harm or illness, the commissioner shall, with reasonable promptness issue a citation to the employer or employee. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this article, or the standard, rule or order alleged to have been violated. The citation shall fix a reasonable time for the abatement of the violation.

(b) Each citation issued under this section or a copy or copies thereof shall be prominently posted as prescribed in rules issued by the commissioner at or near each place a violation referred to in the citation.
§21-3A-10. Occupational safety and health review commission.

(a) There is hereby created a West Virginia occupational safety and health review commission within the labor department for administrative purposes only. The commission shall consist of three members appointed by the governor, by and with consent of the Senate, from among persons who, by reason of training, education or experience, are qualified to carry out the functions of the commission under this article. The governor shall designate one of the members of the commission to serve as chairman.

(b) Members of the review commission shall serve terms of four years and until their successors are appointed.

(c) The review commission shall hold monthly meetings and such additional meetings as necessary. A majority of the review commission shall constitute a quorum for the transaction of business. Special meetings of the review commission may be called upon reasonable notice by the commissioner or by any two members of the commission.

(d) The review commission shall hear and rule on appeals from citations, variances and notifications issued under the provisions of this article and shall adopt and promulgate rules with respect to the procedural aspects of its hearings. The rules shall provide affected employees and their representatives an opportunity to participate as parties at hearings under this section. Such employees shall be given time off by their employers to participate in these hearings.

(e) The review commission may employ a secretary, and such other employees as may be necessary.

(f) The chairman of the commission and each of the other two members shall be paid a per diem allowance for days in performance of their duties at the rate of one hundred dollars per diem, together with their expenses at a rate determined by law.
(g) The salaries, per diem, compensation or wages of all employees of the commission shall be determined by the commissioner of labor.

(h) The commissioners and the secretary and employees of the commission shall be reimbursed for necessary expenses actually incurred in the performance of their duties.

(i) To conduct hearings, the review commission or chairman may subpoena and examine witnesses, require the production of evidence, administer oaths and take testimony and depositions.

(j) After hearing an appeal the review commission may sustain, modify or dismiss a citation.

§21-3A-11. Notice to employer of contest period; action by commissioner; action by review commission.

(a) If, after inspection or investigation, the commissioner issues a citation pursuant to section nine, he shall, within a reasonable time after the termination of the inspection or investigation, notify the employer or employee by certified mail. The notification shall inform the employer or employee that he has fifteen working days from the receipt of notice within which to notify the commissioner that he wishes to contest the citation or to seek a variance. If the employer or employee fails to so notify the commissioner within fifteen days, and if no notice is filed by any employee or representative of employees pursuant to subsection (c) of this section within fifteen days, the citation, as proposed, becomes a final order and not subject to review by any court or agency.

(b) If the commissioner has reason to believe that an employer or employee has failed to correct a violation for which a citation has been issued within the period permitted for correction, the commissioner shall notify the employer or employee by certified mail or personal service of such failure and the commissioner shall seek judicial enforcement of such citation order: Provided, That in the case of a review proceeding initiated by the employer or employee under this section in good faith
and not solely for delay, the period permitted for

correction of the violation does not begin to run until the
	entry of a final order by the review commission. The

notification by the commissioner shall inform the

employer or employee that he has fifteen working days

from the receipt of the notice within which to notify the

commissioner that he wishes to contest the notification.

If, within fifteen days from receipt of notification under

this section, the employer or employee fails to notify the

commissioner that he intends to contest the notification,

the notification and assessment as proposed become a

final order of the commission and not subject to review

by any court or agency.

(c) An employer or employee may notify the commis-

sioner within five working days of receipt of the

certified letter that he intends to contest the notification

issued under subsection (b) of this section. The commis-
sioner shall immediately advise the commission of the

notification and the commission shall afford an oppor-
tunity for a hearing. Upon a showing by an employer

or employee of a good faith effort to comply with the

abatement requirements of a citation and a showing that

abatement has not been completed because of factors

beyond his reasonable control, the commissioner, after

an opportunity for a hearing as provided in this

subsection, shall issue an order affirming or modifying

the abatement requirements in the citation. The rules

of procedure prescribed by the commission shall provide

affected employees or representatives of affected

employees an opportunity to participate as parties to

hearings under this subsection.

(d) If the employer or employee at a hearing under

subsection (c) of this section, does not prove he made a

good faith effort to comply, the commission shall seek

judicial enforcement to compel compliance.

§21-3A-12. Appeal from review commission.

Any employer or employee, or the commissioner, adversely affected or aggrieved by an order of the review commission, after all administrative remedies provided by this article have been exhausted, is entitled
to judicial review pursuant to section four, article five, chapter twenty-nine-a of this code.


(a) No employer may discharge or in any manner discriminate against any employee because the employee has filed any complaint, instituted or caused to be instituted or participated in any proceedings under or related to this article or has testified or is about to testify in any such proceedings or because of the exercise by such employee on behalf of himself or others of any right afforded by this article.

(b) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of this section may, within thirty days after the violation occurs, file a complaint with the commissioner alleging such discrimination. Upon receipt of the complaint the commissioner shall cause the investigation to be made. If upon such investigation the commissioner determines that the provisions of this section have been violated, he shall bring an action in the circuit court for Kanawha County against the employer. In any such action the court has jurisdiction, for cause shown, to restrain violations of subsection (a) of this section and to order all appropriate relief including rehiring or reinstatement of the employee to his former position with back pay plus interest at the statutory rate in this state.

(c) Within thirty days of the receipt of a complaint filed under this section, the commissioner shall notify the complainant and the employer of his determination concerning the complaint.

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

(a) The circuit court 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, 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.


The commissioner shall conduct research and undertake demonstration projects, relating to occupational safety and health issues and problems, either within the labor department or by grants or contracts. The commissioner may prescribe rules requiring employers to measure, record and make reports on exposure of employees to toxic substances which he believes may endanger the health or safety of employees. The commissioner shall cooperate with the director of the national institute for occupational safety and health of the department of health and human services of the United States in establishing programs of medical
examinations and tests necessary to determine the incidence of occupational illness and employee susceptibility to such illnesses. Such programs, on the request of the employer, may be paid for by the commissioner, together with such other assistance as may be required. Information obtained under this section shall be made public without revealing the names of individual workers covered by physical examination or special studies and shall be made available to employers, employees and their authorized representative.

§21-3A-16. Education program.

(a) The commissioner shall conduct directly or by grants or contracts education programs to provide an adequate supply of qualified personnel to carry out the purposes of this article and information programs on the importance and proper use of adequate safety and health equipment.

(b) The commissioner is authorized to conduct directly or by grants or contracts short-term training of personnel engaged in work related to this responsibility under this article.

(c) The commissioner shall provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance and prevention of unsafe or unhealthful working conditions in employment covered by this article. The commissioner shall consult with and advise employers, employees and organizations representing employers, and employees as to effective means of preventing occupational injuries and illnesses.

§21-3A-17. Reports to United States secretary of labor.

In regard to the administration and enforcement of this article, the commissioner shall make reports to the secretary of labor of the United States in such form and containing such information as the secretary shall from time to time require.

§21-3A-18. Occupational safety and health advisory board created; qualifications of members; members appointed by governor; term;
There is created a public employees occupational safety and health advisory board to assist the commissioner in establishing standards for the occupational safety and health of public employees. The board shall make itself available to receive information regarding matters of concern to public employees in the areas of occupational safety and health.

The board shall be composed of nine members in addition to the commissioner of labor who shall be an ex officio member and shall sit as chairman of the advisory board. The members of the board shall be citizens and residents of this state, who shall be selected on the basis of their responsibility, experience, competence and commitment in the field of public employee occupational safety and health.

The members of the board shall be appointed by, and serve at the will and pleasure of, the governor. There shall be three members representing public employers, three members who are public employees in the various areas of state and local government, and three members who are not employers or employees as defined in this section and do not represent by their occupation either party. No more than five members appointed by the governor shall be from the same political party.

The terms of all members shall commence on the first day of July, one thousand nine hundred eighty-six. The terms of one member representing public employers, one member representing public employees, and one member representing the general public shall run through the thirtieth day of June, one thousand nine hundred eighty-seven. The terms of one other member representing public employers, one other member representing public employees, and one other member representing the general public shall run through the thirtieth day of June, one thousand nine hundred eighty-eight. The terms of the remaining member representing public employers, the remaining member representing public employees, and the remaining member representing the general public shall run through the thirtieth
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day of June, one thousand nine hundred eighty-nine.
Thereafter, terms of members shall be for three years.

All members shall be eligible for reappointment by the governor. A member shall, unless sooner removed, continue to serve until his term expires and his successor has been appointed by the governor and has qualified. A vacancy caused by the death, resignation, or removal of a member prior to the expiration of his term shall be filled by the governor and only for the remainder of such term.

The members of the advisory board shall serve without compensation but shall be entitled to reimbursement for their necessary expenses actually incurred in the performance of their duties.


The governing body of any county or municipality or any department, division, bureau, board, council, agency or authority of any county or municipality or of any school district or special purposes district created pursuant to law may by ordinance, resolution or other procedure explicitly elect that some or all of its workplaces or employees shall be covered by the provisions of this article. The commissioner shall issue rules and regulations and prescribe forms and procedures regarding such optional coverage. The commissioner may issue rules and regulations providing for variances from the procedural and substantive requirements of this article in the case of the optional coverage described herein.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within ....... this the 26th
day of ............ March, 1986.

Governor
TO THE

GOVERNOR

Date 3/21/86

Time 4:15 P.M.