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# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000



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COMMITTEE SUBSTITUTE  
FOR  
**House Bill No. 4298**

(By Delegates Hatfield, Leach, Rowe,  
Spencer, Kelley, Perdue and L. Smith)



Passed March 10, 2000

In Effect Ninety Days from Passage

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## H. B. 4298

(BY DELEGATES HATFIELD, LEACH, ROWE,  
SPENCER, KELLEY, PERDUE AND L. SMITH)

[Passed March 10, 2000; in effect ninety days from passage.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article thirty-six, relating to creating a needlestick injury prevention program in hospitals, nursing homes, public health departments and home health agencies, including those staffed by public employees; requiring the proposal of rules by the director of the division of health; making compliance with rules a condition of licensure; requirements for facilities to use needleless systems; keeping sharps injury logs; maintaining list of existing needleless systems; establishing a needlestick injury prevention advisory committee; and exceptions to requirements.

*Be it enacted by the Legislature of West Virginia:*

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

**ARTICLE 36. NEEDLESTICK INJURY PREVENTION.**

**§16-36-1. Definitions.**

1 As used in this article:

2 (a) "Director" means the director of the division of health;

3 (b) "Engineering controls" means sharps prevention  
4 technology including, but not limited to, systems not using  
5 needles and needles with engineered sharps injury protection;

6 (c) "Facility" means every hospital licensed under the  
7 provisions of article five-b of this chapter; every nursing home  
8 licensed under the provisions of article five-c of this chapter;  
9 every local health department, every home health agency  
10 certified by the office of health facility licensure and certifica-  
11 tion, all hospitals and nursing homes operated by the state or  
12 any agency of the state and all hospitals, nursing homes, local  
13 health departments and home health agencies which are staffed,  
14 in whole or in part, by public employees;

15 (d) "Health care worker" means any person working in a  
16 facility;

17 (e) "Needleless system" means a device that does not utilize  
18 needles for the withdrawal of body fluids after initial venous or  
19 arterial access is established, the administration of medication  
20 or fluids, or any other procedure involving the potential for an  
21 exposure incident; and,

22 (f) "Needlestick injury" means the parenteral introduction  
23 into the body of a health care worker, during the performance  
24 of his or her duties, of blood or other potentially infectious

25 material by a hollow-bore needle or sharp instrument, includ-  
26 ing, but not limited to, needles, lancets, scalpels and contami-  
27 nated broken glass.

28 (g) "Sharps" means hollow-bore needles or sharp instru-  
29 ments. including but limited to , needles, lancets and scalpels.

**§16-36-2. Needlestick injury prevention rules.**

1 (a) On or before the first day of July, two thousand, the  
2 director shall, with the advice and cooperation of the advisory  
3 committee established under this article, propose rules for  
4 legislative approval in accordance with the provisions of article  
5 three, chapter twenty-nine-a of this code requiring facilities, as  
6 a condition of licensure, certification or operation, to minimize  
7 the risk of needlestick and sharps injuries to health care  
8 workers. In developing the rules the director shall take into  
9 consideration the most recent guidelines of the occupational  
10 safety and health administration that relate to prevention of  
11 needlestick and sharps injuries.

12 (b) The rules shall include, but not be limited to, the  
13 following provisions:

14 (1) A requirement that facilities utilize needleless systems  
15 or other engineering controls designed to prevent needlestick or  
16 sharps injuries, except in cases where the facility can demon-  
17 strate circumstances in which the technology does not promote  
18 employee or patient safety or interferes with a medical proce-  
19 dure. Those circumstances shall be specified by the facility and  
20 shall include, but not be limited to, circumstances where the  
21 technology is medically contraindicated or not more effective  
22 than alternative measures used by the facility to prevent  
23 exposure incidents: *Provided*, That no specific device may be  
24 mandated;

25 (2) A requirement that information concerning exposure  
26 incidents be recorded in a sharps injury log, to be kept within

27 the facility and reported annually to the director. Information  
28 recorded in the log shall contain, at a minimum:

29 (A) The date and time of the exposure incident;

30 (B) The type and brand of sharp involved in the incident;  
31 and

32 (C) A description of the exposure incident which shall at a  
33 minimum include:

34 (i) The job classification of the exposed worker;

35 (ii) The department or work area where the exposure  
36 incident occurred;

37 (iii) The procedure that the exposed worker was performing  
38 at the time of the incident;

39 (iv) How the incident occurred;

40 (v) The body part involved in the exposure incident;

41 (vi) If the sharp had engineered sharps injury protection,  
42 whether the protective mechanism was activated and whether  
43 the injury occurred before the protective mechanism was  
44 activated, during activation of the mechanism or after activation  
45 of the mechanism, if applicable; and,

46 (vii) Any suggestions by the injured employee as to  
47 whether or how protective mechanisms or work practice control  
48 could be utilized to prevent such injuries;

49 (3) A provision for maintaining a list of existing needless  
50 systems and needles and sharps with engineered injury  
51 protections. The director shall make the list available to assist  
52 employers in complying with the requirements of the standards  
53 adopted in accordance with this article; and,

54 (4) Any additional provisions consistent with the purposes  
55 of this article, including, but not limited to, training and  
56 educational requirements, measures to increase vaccinations,  
57 strategic placement of sharps containers as close to the work  
58 area as is practical and increased use of protective equipment.

**§16-36-3. Needlestick injury prevention advisory committee.**

1 (a) There is established a needlestick injury prevention  
2 advisory committee to advise the director in the development of  
3 rules required under this article.

4 (b) The committee shall meet at least four times a year for  
5 the initial two years after the effective date of this article and on  
6 the call of the director thereafter. The director shall serve as the  
7 chair and shall appoint thirteen members, one representing each  
8 of the following groups:

9 (1) A representative of the health insurance industry;

10 (2) The commissioner of the bureau of employment  
11 programs, or his or her designee from the division of workers'  
12 compensation;

13 (3) Five nurses who work primarily providing direct patient  
14 care in a hospital or nursing home, at least one of which is  
15 employed in a state operated facility;

16 (4) A phlebotomist employed in a hospital or nursing home;

17 (5) Two administrators of different hospitals operating  
18 within the state;

19 (6) A director of nursing employed in a nursing home  
20 within the state;

21 (7) A licensed physician practicing in the state; and

22       (8) An administrator of a nursing home operating within the  
23 state.

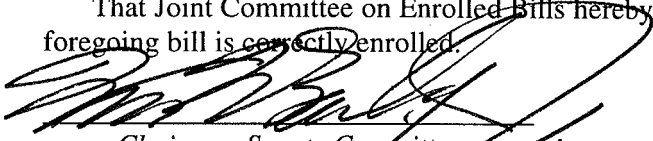
24       (c) Members of the committee serve without compensation.  
25 Each member shall be reimbursed for actual and necessary  
26 expenses incurred for each day or portion thereof engaged in  
27 the discharge of official duties, in a manner consistent with  
28 guidelines of the travel management office of the department of  
29 administration.

30       (d) A majority of all members constitutes a quorum for the  
31 transaction of all business. Members serve for two-year terms  
32 and may not serve for more than two consecutive terms.


**§16-36-4. Exception.**

1       Until the first day of July, two thousand five, drugs and  
2 biologics regulated by the food and drug administration whose  
3 packaging, on the effective date of this article, includes needles  
4 and syringes, are considered to meet any standards promulgated  
5 under this article.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



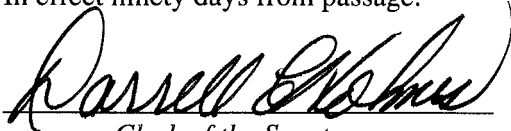
Chairman Senate Committee



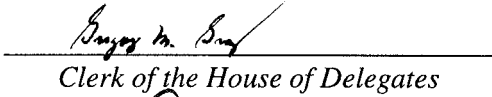
Chairman House Committee

Originating in the House.

In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

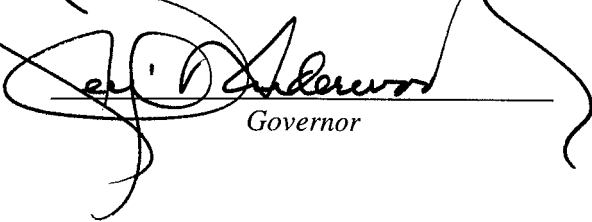


President of the Senate



Speaker of the House of Delegates

The within approved this the 3rd  
day of April, 2000.



Governor



PRESENTED TO:

GOVERNOR

Date 3/29/00

Time 3:05 pm