

§21-3-22. OSHA construction safety program.

(a) For the purposes of this section:

(1) "Business entity" means any firm, partnership, association, company, corporation, limited partnership, limited liability company or other entity.

(2) "Commissioner" means the Commissioner of Labor or his or her designee.

(3) "Public authority" has the same meaning as in section two, article one-d of this chapter.

(4) "Public improvement" has the same meaning as in section two, article one-d of this chapter.

(b) No person or business entity providing services as a contractor or subcontractor under a contract, entered on or after July 1, 2014, for the construction, reconstruction, alteration, remodeling or repairs of any public improvement, by or on behalf of a public authority, where the total contract cost of all work to be performed by all contractors and subcontractors is in excess of \$50,000, may use, employ or assign any person to a public improvement work site who has not successfully completed a ten-hour construction safety program designed by OSHA, no later than twenty-one calendar days after being employed at or assigned to the public improvement work site.

(c) The training requirement contained in subsection (b) of this section does not apply to a person used, employed or assigned to a public improvement work site for less than twenty-one consecutive calendar days following the person's first day of employment or assignment at the public improvement work site.

(d) During the three hundred sixty-five days following the effective date of this section, a person employed or assigned to a public improvement work site shall have ninety days to complete the training requirement of subsection (b) of this section.

(e) A contractor or subcontractor subject to this section shall make and maintain a record of the persons he or she uses, employs or assigns pursuant to the contract, including the date of the completion of the safety training program required by subsection (b) of this section and the identity of the provider of the training. The records required by this subsection shall be preserved pursuant to section five, article five-c of this chapter and be maintained at the employer's business office.

(f) Upon a finding by the commissioner that a person has been used, employed at or assigned to a public improvement work site in violation of subsection (b) of this section, the commissioner may issue a cease-and-desist order to the person who has not completed the requisite training until the person presents the commissioner with evidence that he or she has successfully completed the training program required by subsection (b) of this section.

(g) The commissioner may assess a civil penalty of not less than \$100 nor more than \$1,000 to any person or business entity for each violation of this section.

(h) Any person with knowledge that a document or other record falsely represents that a person has completed the training program required by subsection (b) of this section and who provides or exhibits the document or record to the commissioner or to an employer shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$250 nor more than \$2,500.

(i) The following persons are exempt from the training requirements of subsection (b) of this section:

(1) Law-enforcement officers involved with traffic control or job-site security;

(2) Federal, state and municipal government employees and inspectors; and

(3) Suppliers of materials and persons whose sole responsibility is to deliver materials to the work site.

(j) The Commissioner shall report to the Joint Committee on Government and Finance by January 1, 2017, on accident and injury rates at public improvement work sites during the two years prior and following enactment of this section. *Note: WV Code updated with legislation passed through the 2015 Regular Session. The WV Code Online is an unofficial copy of the annotated WV Code, provided as a convenience. It has NOT been edited for publication, and is not in any way official or authoritative.*