

1 **H. B. 2807**

2  
3 (By Delegates Craig, Stowers, Kominar, Morgan,  
4 C. Miller, Andes and Reynolds)

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6 [Introduced January 24, 2011; referred to the  
7 Committee on Energy, Industry and Labor, Economic  
8 Development and Small Business then the Judiciary.]  
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10 A BILL to amend and reenact §22A-2-66 of the Code of West Virginia,  
11 1931, as amended, relating to allowing the Director of the  
12 Office of Miners' Health, Safety and Training flexibility when  
13 determining the appropriate penalty to impose against  
14 operators who fail to provide immediate notice upon the  
15 occurrence of a mining accident.

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

17 That §22A-2-66 of the Code of West Virginia, 1931, as amended,  
18 be amended and reenacted to read as follows:

19 **ARTICLE 2. UNDERGROUND MINES**

20 **§22A-2-66. Accident; notice; investigation by Office of Miners'**  
21 **Health, Safety and Training.**

22 (a) For the purposes of this section, the term "accident"  
23 means:

24 (1) The death of an individual at a mine;

25 (2) An injury to an individual at a mine which has a

1 reasonable potential to cause death;

2 (3) The entrapment of an individual;

3 (4) The unplanned inundation of a mine by a liquid or gas;

4 (5) The unplanned ignition or explosion of gas or dust;

5 (6) The unplanned ignition or explosion of a blasting agent or  
6 an explosive;

7 (7) An unplanned fire in or about a mine not extinguished  
8 within five minutes of ignition;

9 (8) An unplanned roof fall at or above the anchorage zone in  
10 active workings where roof bolts are in use or an unplanned roof or  
11 rib fall in active workings that impairs ventilation or impedes  
12 passage;

13 (9) A coal or rock outburst that causes withdrawal of miners  
14 or which disrupts regular mining activity for more than one hour;

15 (10) An unstable condition at an impoundment, refuse pile or  
16 culm bank which requires emergency action in order to prevent  
17 failure, or which causes individuals to evacuate an area, or the  
18 failure of an impoundment, refuse pile or culm bank;

19 (11) Damage to hoisting equipment in a shaft or slope which  
20 endangers an individual or which interferes with use of the  
21 equipment for more than thirty minutes; and

22 (12) An event at a mine which causes death or bodily injury to  
23 an individual not at the mine at the time the event occurs.

24 (b) Whenever any accident occurs in or about any coal mine or

1 the machinery connected ~~therewith~~ with the mine, it is the duty of  
2 the operator or the mine foreman in charge of the mine to give  
3 notice, within fifteen minutes of ascertaining the occurrence of an  
4 accident, to the Mine and Industrial Accident Emergency Operations  
5 Center at the statewide telephone number established by the  
6 Director of the Division of Homeland Security and Emergency  
7 Management pursuant to the provisions of article five-b, chapter  
8 fifteen of this code stating the particulars of the accident.  
9 ~~Provided, That~~ The operator or the mine foreman in charge of the  
10 mine may comply with this notice requirement by immediately  
11 providing notice to the appropriate local organization for  
12 emergency services as defined in section eight, article five of  
13 said chapter, or the appropriate local emergency telephone system  
14 operator as defined in article six, chapter twenty-four of this  
15 code. ~~Provided, however, That~~ However, nothing in this subsection  
16 ~~shall be construed to relieve~~ relieves the operator from any  
17 reporting or notification requirement under federal law.

18 (c) The Director of the Office of Miners' Health, Safety and  
19 Training shall impose, pursuant to rules authorized in this  
20 section, a civil administrative penalty of up to \$100,000 on the  
21 operator if it is determined that the operator or the mine foremen  
22 in charge of the mine failed to give immediate notice as required  
23 in this section. ~~Provided, That~~ The director may waive imposition  
24 of the civil administrative penalty at any time if he or she finds

1 that the failure to give immediate notice was caused by  
2 circumstances wholly outside the control of the operator.

3 (d) If anyone is killed, the inspector shall immediately go to  
4 the scene of the accident and make recommendations and render  
5 assistance as he or she ~~may deem~~ determines necessary for the  
6 future safety of the ~~men~~ individuals and investigate the cause of  
7 the explosion or accident and make a record. He or she shall  
8 preserve the record with the other records in his or her office.  
9 The cost of the investigation records shall be paid by the Office  
10 of Miners' Health, Safety and Training. A copy shall be furnished  
11 to the operator and other interested parties. To enable him or her  
12 to make an investigation, he or she has the power to compel the  
13 attendance of witnesses and to administer oaths or affirmations.  
14 The director has the right to appear and testify and to offer any  
15 testimony that may be relevant to the questions and to cross-  
16 examine witnesses.

NOTE: The purpose of this bill is to allow the Director of the Office of Miners' Health, Safety and Training flexibility when determining the appropriate penalty to impose against operators who fail to provide immediate notice upon the occurrence of a mining accident.

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