

1 **Senate Bill No. 187**

2 (By Senator Sypolt)

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4 [Introduced January 18, 2011; referred to the Committee on

5 Energy, Industry and Mining; and then to the Committee on the

6 Judiciary.]

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9 A BILL to amend and reenact §22A-2-66 of the Code of West Virginia,

10 1931, as amended, relating to providing the Director of the

11 Office of Miners' Health, Safety and Training some discretion

12 in determining the penalty to impose upon operators failing to

13 provide immediate notice upon the occurrence of a mining

14 accident; and increasing allowable reporting time.

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

16 That §22A-2-66 of the Code of West Virginia, 1931, as amended,

17 be amended and reenacted to read as follows:

18 **ARTICLE 2. UNDERGROUND MINES.**

19 **§22A-2-66. Accident; notice; investigation by Office of Miners'**

20 **Health, Safety and Training.**

21 (a) For the purposes of this section, the term "accident"

22 means:

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

17 (A) Requires emergency action in order to prevent failure;

18 (B) ~~or which~~ Causes individuals to evacuate an area; or ~~the~~

19 (C) Constitutes a failure of an impoundment, refuse pile or
20 culm bank;

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

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

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

21 (c) The Director of the Office of Miners' Health, Safety and
22 Training shall impose, pursuant to rules authorized in this
23 section, a civil administrative penalty of up to \$100,000 on the
24 operator if it is determined that the operator or the mine ~~foremen~~
25 foreman in charge of the mine failed to give immediate notice as

1 required in this section. ~~Provided, That~~ The director may waive
2 imposition of the civil administrative penalty at any time if he or
3 she finds that the failure to give immediate notice was caused by
4 circumstances wholly outside the control of the operator.

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

NOTE: The purpose of this bill is to provide the Director of the Office of Miners' Health, Safety and Training some discretion in determining the penalty to impose against operators who fail to provide immediate notice upon the occurrence of a mining accident and, also to provide a longer period of time during which to report an accident.

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