

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2987

2015 Carryover

(BY DELEGATE FAST)

[Introduced January 13, 2016; referred to the
Committee on Energy then Finance.]

1 A BILL to amend and reenact §15-5B-6 of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §22A-2-66 of said code, all relating to mine safety; mine safety tip
 3 hotline; and civil administrative penalties for failure to notify the Director of the Office of
 4 Miners' Health, Safety and Training of underground mine accidents.

Be it enacted by the Legislature of West Virginia:

1 That §15-5B-6 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted; and that §22A-2-66 of said code be amended and reenacted, all to read as follows:

ARTICLE 5B. MINE AND INDUSTRIAL ACCIDENT RAPID RESPONSE SYSTEM.

§15-5B-6. Mine Safety Anonymous Tip Hotline.

1 The Director of the Division of Homeland Security and Emergency Management shall
 2 maintain a toll free number that allows callers to report mine safety violations and hazardous coal
 3 mining conditions and practices. The information collected shall be provided to the Office of
 4 Miners' Health, Safety and Training. No information may be submitted to the Office of Miners'
 5 Health, Safety and Training that would allow identification of the person placing the call. The
 6 calls are confidential and any documentation thereof or related thereto is not subject to release
 7 and is exempt from the provisions of article one, chapter twenty-nine-b of this code. The director
 8 shall distribute printed information to all state mining operations alerting miners to the existence
 9 of the toll free line. Each mining operation shall post this notice at the location used to post
 10 notices pursuant to section eighteen, article one, chapter twenty-two-a of this code.

ARTICLE 2. UNDERGROUND MINES.

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

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

- 2 (1) The death of an individual at a mine;
- 3 (2) An injury to an individual at a mine which has a reasonable potential to cause death;
- 4 (3) The entrapment of an individual;
- 5 (4) The unplanned inundation of a mine by a liquid or gas;
- 6 (5) The unplanned ignition or explosion of gas or dust;
- 7 (6) The unplanned ignition or explosion of a blasting agent or an explosive;
- 8 (7) An unplanned fire in or about a mine not extinguished within five minutes of ignition;
- 9 (8) An unplanned roof fall at or above the anchorage zone in active workings where roof
- 10 bolts are in use or an unplanned roof or rib fall in active workings that impairs ventilation or
- 11 impedes passage;
- 12 (9) A coal or rock outburst that causes withdrawal of miners or which disrupts regular
- 13 mining activity for more than one hour;
- 14 (10) An unstable condition at an impoundment, refuse pile or culm bank which requires
- 15 emergency action in order to prevent failure, or which causes individuals to evacuate an area, or
- 16 the failure of an impoundment, refuse pile or culm bank;
- 17 (11) Damage to hoisting equipment in a shaft or slope which endangers an individual or
- 18 which interferes with use of the equipment for more than thirty minutes; and
- 19 (12) An event at a mine which causes death or bodily injury to an individual not at the mine
- 20 at the time the event occurs.
- 21 (b) Whenever any accident occurs in or about any coal mine or the machinery connected
- 22 therewith, it is the duty of the operator or the mine foreman in charge of the mine to give notice,
- 23 within fifteen minutes of ascertaining the occurrence of an accident, to the Mine and Industrial
- 24 Accident Emergency Operations Center at the statewide telephone number established by the
- 25 Director of the Division of Homeland Security and Emergency Management pursuant to the

26 provisions of article five-b, chapter fifteen of this code stating the particulars of the accident:
27 *Provided*, That the operator or the mine foreman in charge of the mine may comply with this notice
28 requirement by immediately providing notice to the appropriate local organization for emergency
29 services as defined in section eight, article five of said chapter, or the appropriate local emergency
30 telephone system operator as defined in article six, chapter twenty-four of this code: *Provided*,
31 *however*, That if, immediately upon ascertaining the occurrence of an accident, the operator or
32 the mine foreman in charge of the mine provides notice to the local organization for emergency
33 services as defined in section eight, article five, chapter fifteen of this code, or the appropriate
34 local emergency telephone system operator as defined in article six, chapter twenty-four of this
35 code, then, in order to comply with this subsection, the operator or mine foreman in charge of the
36 mine shall also give notice to the Mine and Industrial Accident Emergency Operations Center at
37 the statewide number identified in this subsection within fifteen minutes of completing the
38 telephone call to the local organization for emergency services or the appropriate local emergency
39 telephone system operator, as applicable: *Provided further*, That nothing in this subsection shall
40 be construed to relieve the operator from any reporting or notification requirement under federal
41 law.

42 (c) The Director of the Office of Miners' Health, Safety and Training, if he or she determines
43 that the operator or mine foreman in charge of the mine failed to comply with this section, shall
44 may impose, pursuant to rules authorized in this section, a civil administrative penalty of up to
45 \$100,000 on the operator if it is determined that the operator or the mine foremen in charge of the
46 mine failed to give immediate notice as required in this section: *Provided*, That the director may
47 waive imposition of the civil administrative penalty at any time if he or she finds that the failure to
48 give immediate notice was caused by circumstances wholly outside the control of the operator:
49 *Provided, however*, That the assessment of the civil administrative penalty set forth in this

50 subsection may be appealed to the Board of Appeals, and the Board of Appeals may, by
51 unanimous vote, reduce the amount of the civil administrative penalty upon a finding of mitigating
52 circumstances warranting the imposition of a lesser amount.

53 (d) If anyone is fatally injured, the inspector shall immediately go to the scene of the
54 accident and make recommendations and render assistance as he or she may deem necessary
55 for the future safety of the men and investigate the cause of the explosion or accident and make
56 a record. He or she shall preserve the record with the other records in his or her office. The cost
57 of the investigation records shall be paid by the Office of Miners' Health, Safety and Training. A
58 copy shall be furnished to the operator and other interested parties. To enable him or her to make
59 an investigation, he or she has the power to compel the attendance of witnesses and to administer
60 oaths or affirmations. The director has the right to appear and testify and to offer any testimony
61 that may be relevant to the questions and to cross-examine witnesses.

NOTE: The purpose of this bill is to change the "Mine Safety Anonymous Tip Hotline" to the "Mine Safety Tip Hotline"; and to make permissive the civil administrative penalties for failure to notify the Director of the Office of Miners' Health, Safety and Training of underground mine accidents rather than mandatory.

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