

Mine and Industrial Rapid Response System

This Act:

- creates a Mine and Industrial Accident Rapid Response System;
- provides requirements for protective equipment in underground mines;
- provides for criminal penalties for the unauthorized removal of or tampering with certain protective equipment;
- provides for notification requirements in the event of an accident in or about any mine and imposing a civil administrative penalty for the failure to comply with such notification requirements;
- provides rule-making authority; and
- clarifies the responsibilities of county answering points.

Submitted as:

West Virginia

[SB247 \(enrolled version\)](#)

Status: Enacted into law in 2006.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “An Act to Establish a Mine and
2 Industrial Accident Rapid Response System.”

3
4 Section 2. [*Legislative Intent.*]

5 (a) The [Legislature] finds that the health and safety of people working in and around the
6 mining industry and other industries is of paramount concern to the people of this state and that
7 deaths and serious injuries resulting from dangerous working conditions cause grief and suffering
8 to workers and their families.

9 (b) The [Legislature] further finds that there is an urgent need to provide more effective
10 means and measures for improving emergency response and communications for dealing with
11 mine and industrial accidents.

12 (c) The [Legislature] declares that it is in the best interest of the citizens of this state to
13 designate an emergency telephone number for mining or industrial personnel to initiate a rapid
14 emergency response to any mine or industrial accident. Provision of a single, primary emergency
15 number through which emergency services can be quickly and efficiently obtained and through
16 which the response of various state agencies charged by law with responding to mine and
17 industrial emergencies can be coordinated will significantly contribute to the public good. The
18 Mine and Industrial Accident Rapid Response System will provide a vital resource to the citizens
19 of this state by providing a critical connection between the [Director of the Office of Miners’
20 Health, Safety and Training], the [Division of Homeland Security and Emergency Management],
21 local and regional emergency services organizations and other responsible agencies.

22
23 Section 2. [*Mine and Industrial Accident Rapid Response System Established.*] A Mine and
24 Industrial Accident Rapid Response System is hereby created and shall consist of:

25 (1) a Mine and Industrial Accident Emergency Operations Center established in
26 section 3 of this Act; and

27 (2) a 24-hour-a-day statewide telephone number established by the [Director of the
28 Division of Homeland Security and Emergency Management].
29

30 Section 3. [*Mine and Industrial Accident Emergency Operations Center.*]

31 (a) The [Director of the Division of Homeland Security and Emergency Management],
32 working in conjunction with the [Office of Miners' Health, Safety and Training], shall maintain
33 the [Mine and Industrial Accident Emergency Operations Center (Emergency Operations Center)],
34 which shall be the official and primary state government 24-hour-a-day communications center for
35 dealing with mine and industrial accidents.

36 (b) The [emergency operations center] shall be operated [twenty-four hours a day, seven
37 days a week] by emergency service personnel employed by the [director] to provide emergency
38 assistance and coordination to mine and industrial accidents or emergencies.

39 (c) The [emergency operations center] shall be readily accessible twenty-four hours a day
40 at a statewide telephone number established and designated by the [director].
41

42 Section 4. [*Emergency Mine Response.*]

43 (a) To assist the [Division of Homeland Security and Emergency Management] in
44 implementing and operating the Mine and Industrial Accident Rapid Response System, the [Office
45 of Miners' Health, Safety and Training] shall, on a [quarterly] basis, provide the [emergency
46 operations center] with a mine emergency contact list. In the event of any change in the
47 information contained in the mine emergency contact list, such changes shall be provided
48 immediately to the emergency operations center. The mine emergency contact list shall include the
49 following information:

50 (1) the names and telephone numbers of the [Director of the Office of Miners'
51 Health, Safety and Training], or his or her designee, including at least one telephone number at
52 which the [Director] or designee may be reached at any time;

53 (2) the names and telephone numbers of all district mine inspectors, including at
54 least one telephone number for each inspector at which each inspector may be reached at any time;

55 (3) a current listing of all regional offices or districts of the [Office of Miners'
56 Health, Safety and Training], including a detailed description of the geographical areas served by
57 each regional office or district; and

58 (4) the names, locations and telephone numbers of all mine rescue stations,
59 including at least one telephone number for each station that may be called twenty-four hours a
60 day and a listing of all mines that each mine rescue station serves in accordance with the
61 provisions of [insert citation].

62 (b) Upon the receipt of an emergency call regarding any accident, as defined in section 8 of
63 this Act, in or about any mine, the [emergency operations center] shall immediately notify:

64 (1) the [Director of the Office of Miners' Health, Safety and Training] or his or her
65 designee;

66 (2) the [district mine inspector] assigned to the district or region in which the
67 accident occurred; and

68 (3) local emergency service personnel in the area in which the accident occurred.

69 (c) The [director] or his or her designee shall determine the necessity for and contact all
70 mine rescue stations that provide rescue coverage to the mine in question.

71 (d) In the event that an emergency call regarding any accident, as defined in [insert
72 citation], in or about any mine, is initially received by a county answering point, as defined in
73 [insert citation], the call shall be immediately forwarded to the [Mine and Industrial Accident
74 Emergency Operations Center].

75 (e) Nothing in this section shall be construed to relieve an operator, as defined in [insert
76 citation], from any reporting or notification obligation under federal law.

77 (f) The Mine and Industrial Accident Rapid Response System and the [emergency
78 operations center] are designed and intended to provide communications assistance to emergency
79 responders and other responsible people. Nothing in this section shall be construed to conflict with
80 the responsibility and authority of an operator to provide mine rescue coverage in accordance with
81 the provisions of [insert citation] or the authority of the [Director of the Office of Miners' Health,
82 Safety and Training] to assign mine rescue teams under the provisions of [insert citation] or to
83 exercise any other authority provided in [insert citation].
84

85 Section 5. [*Study of Other Industrial Emergencies.*] The [Director of the Division of
86 Homeland Security and Emergency Management] shall immediately cause a study to be conducted
87 to determine the feasibility of providing emergency coverage to other industrial, manufacturing,
88 chemical or other emergencies through the Mine and Industrial Accident Rapid Response System.
89 On or before the [first day of November, two thousand six], the [director] shall submit a report to
90 the [Governor, the President of the Senate and the Speaker of the House of Delegates] setting forth
91 the findings of his or her study and recommendations for legislation consistent with the purposes
92 of this Act.
93

94 Section 6. [*Rule-Making Authority.*] The [Director of the Division of Homeland Security
95 and Emergency Management] shall propose emergency and legislative rules for promulgation in
96 accordance with [insert citation] regarding the implementation and administration of this [Mine
97 and Industrial Accident Rapid Response System]. The requirements of this Act shall not be
98 implemented until the emergency rule authorized herein has been approved.
99

100 Section 7. [*Protective Equipment and Clothing.*]

101 (a) Welders and helpers shall use proper shields or goggles to protect their eyes. All
102 employees shall have approved goggles or shields and use the same where there is a hazard from
103 flying particles or other eye hazards.

104 (b) Employees engaged in haulage operations and anyone employed around moving
105 equipment on the surface and underground shall wear snug-fitting clothing.

106 (c) Protective gloves shall be worn when material which may injure hands is handled, but
107 gloves with gauntleted cuffs shall not be worn around moving equipment.

108 (d) Safety hats and safety-toed shoes shall be worn by everyone in or around a mine,
109 provided that metatarsal guards are not required to be worn by people when working in those areas
110 of underground mine workings which average less than [forty-eight inches in height as measured
111 from the floor to the roof of the underground mine workings].

112 (e) Approved eye protection shall be worn by anyone being transported in open-type man
113 trips.

114 (f) (1) A self-contained self-rescue device approved by the [director] shall be worn by
115 each person underground or kept within his immediate reach and the device shall be provided by
116 the operator. The self-contained self-rescue device shall be adequate to protect a miner for one
117 hour or longer. Each operator shall train each miner in the use of such device and refresher
118 training courses for all underground employees shall be held during each calendar year.

119 (2) In addition to the requirements of subdivision (1) this subsection, the operator
120 shall also provide caches of additional self-contained self-rescue devices throughout the mine in
121 accordance with a plan approved by the [director]. Each additional self-contained self-rescue
122 device shall be adequate to protect a miner for one hour or longer. The total number of additional
123 self- contained self-rescue devices, the total number of storage caches and the placement of each

124 cache throughout the mine shall be established by rule pursuant to subsection (i) of this section.
125 Intrinsically safe battery-powered strobe lights shall be affixed to each cache and shall be capable
126 of automatic activation in the event of an emergency. A luminescent sign with the words “SELF-
127 CONTAINED SELF-RESCUER” or “SELF-CONTAINED SELF-RESCUERS” shall be
128 conspicuously posted at each cache and luminescent direction signs shall be posted leading to each
129 cache. Lifeline cords or other similar device, with reflective material at 25-foot intervals, shall be
130 attached to each cache from the last open crosscut to the surface. The operator shall conduct
131 weekly inspections of each cache, the affixed strobe lights and each lifeline cord or other similar
132 device to ensure operability.

133 (3) Any person that, without the authorization of the operator or the [director],
134 knowingly removes or attempts to remove any self-contained self-rescue device or battery-
135 powered strobe light from the mine or mine site with the intent to permanently deprive the
136 operator of the device or light or knowingly tampers with or attempts to tamper with such device
137 or light shall be guilty of a [felony] and, upon conviction thereof, shall be imprisoned in a state
138 correctional facility for not [less than one year nor more than ten years or fined not less than ten
139 thousand dollars nor more than one hundred thousand dollars, or both].

140 (g) (1) A wireless emergency communication device approved by the [director] and
141 provided by the operator shall be worn by each person underground. The wireless emergency
142 communication device shall, at a minimum, be capable of receiving emergency communications
143 from the surface at any location throughout the mine. Each operator shall train each miner in the
144 use of the device and provide refresher training courses for all underground employees during
145 each calendar year. The operator shall install in or around the mine any and all equipment
146 necessary to transmit emergency communications from the surface to each wireless emergency
147 communication device at any location throughout the mine.

148 (2) Any person that, without the authorization of the operator or the director,
149 knowingly removes or attempts to remove any wireless emergency communication device or
150 related equipment, from the mine or mine site with the intent to permanently deprive the operator
151 of the device or equipment or knowingly tampers with or attempts to tamper with the device or
152 equipment shall be guilty of a [felony] and, upon conviction thereof, shall be imprisoned in a state
153 correctional facility for not [less than one year nor more than ten years or fined not less than ten
154 thousand dollars nor more than one hundred thousand dollars, or both].

155 (h) (1) A wireless tracking device approved by the [director] and provided by the
156 operator shall be worn by each person underground. In the event of an accident or other
157 emergency, the tracking device shall, at a minimum, be capable of providing real-time monitoring
158 of the physical location of each person underground, provided that no person shall discharge or
159 discriminate against any miner based on information gathered by a wireless tracking device during
160 nonemergency monitoring. Each operator shall train each miner in the use of the device and
161 provide refresher training courses for all underground employees during each calendar year. The
162 operator shall install in or around the mine all equipment necessary to provide real-time
163 emergency monitoring of the physical location of each person underground.

164 (2) Any person that, without the authorization of the operator or the director,
165 knowingly removes or attempts to remove any wireless tracking device or related equipment,
166 approved by the director, from a mine or mine site with the intent to permanently deprive the
167 operator of the device or equipment or knowingly tampers with or attempts to tamper with the
168 device or equipment shall be guilty of a [felony] and, upon conviction thereof, shall be imprisoned
169 in a state correctional facility for not [less than one year nor more than ten years or fined not less
170 than ten thousand dollars nor more than one hundred thousand dollars, or both].

171 (i) The [director] may promulgate emergency and legislative rules to implement and
172 enforce this section of this Act.

173 (j) The penalties set forth in this Act become effective [insert date].
174

175 Section 8. [*Accident; Notice; Investigation by Office of Miners' Health, Safety and*
176 *Training.*]

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

- 178 (1) the death of an individual at a mine;
179 (2) an injury to an individual at a mine which has a reasonable potential to cause
180 death;
181 (3) the entrapment of an individual;
182 (4) the unplanned inundation of a mine by a liquid or gas;
183 (5) the unplanned ignition or explosion of gas or dust;
184 (6) the unplanned ignition or explosion of a blasting agent or an explosive;
185 (7) an unplanned fire in or about a mine not extinguished within five minutes of
186 ignition;
187 (8) an unplanned roof fall at or above the anchorage zone in active workings where
188 roof bolts are in use or an unplanned roof or rib fall in active workings that impairs ventilation or
189 impedes passage;
190 (9) a coal or rock outburst that causes withdrawal of miners or which disrupts
191 regular mining activity for more than one hour;
192 (10) an unstable condition at an impoundment, refuse pile or culm bank which
193 requires emergency action in order to prevent failure, or which causes people to evacuate an area,
194 or the failure of an impoundment, refuse pile or culm bank;
195 (11) damage to hoisting equipment in a shaft or slope which endangers an
196 individual or which interferes with use of the equipment for more than thirty minutes; and
197 (12) an event at a mine which causes death or bodily injury to an individual not at
198 the mine at the time the event occurs.

199 (b) Whenever any accident occurs in or about any coal mine or the machinery connected
200 therewith, it is the duty of the operator or the mine foreman in charge of the mine to give notice,
201 within [fifteen minutes] of ascertaining the occurrence of an accident, to the [Mine and Industrial
202 Accident Emergency Operations Center] at the statewide telephone number established by the
203 [Director of the Division of Homeland Security and Emergency Management] pursuant to this Act
204 stating the particulars of the accident, provided that the operator or the mine foreman in charge of
205 the mine may comply with this notice requirement by immediately providing notice to the
206 appropriate local organization for emergency services as defined in [insert citation] or the
207 appropriate local emergency telephone system operator as defined in [insert citation], provided
208 however, that nothing in this subsection shall be construed to relieve the operator from any
209 reporting or notification requirement under federal law.

210 (c) The [Director of the Office of Miners' Health, Safety and Training] shall impose,
211 pursuant to rules authorized in this section, a [civil administrative penalty of one hundred thousand
212 dollars] on the operator if it is determined that the operator or the mine foremen in charge of the
213 mine failed to give immediate notice as required in this section provided that the [director] may
214 waive imposition of the [civil administrative penalty] at any time if he or she finds that the failure
215 to give immediate notice was caused by circumstances wholly outside the control of the operator.

216 (d) If anyone is killed, the inspector shall immediately go to the scene of the accident and
217 make recommendations and render assistance as he or she may deem necessary for the future
218 safety of the men and investigate the cause of the explosion or accident and make a record. He or
219 she shall preserve the record with the other records in his or her office. The cost of the
220 investigation records shall be paid by the [Office of Miners' Health, Safety and Training]. A copy
221 shall be furnished to the operator and other interested parties. To enable him or her to make an

222 investigation, he or she has the power to compel the attendance of witnesses and to administer
223 oaths or affirmations. The [director] has the right to appear and testify and to offer any testimony
224 that may be relevant to the questions and to cross-examine witnesses.

225

226 Section 9. [*Notification of Mining Accidents.*] Each county answering point that receives a
227 call reporting an accident in or about any mine shall immediately route the call to the [Mine and
228 Industrial Accident Emergency Operations Center] created pursuant to this Act.

229

230 Section 10. [*Severability.*] [Insert severability clause.]

231

232 Section 11. [*Repealer.*] [Insert repealer clause.]

233

234 Section 12. [*Effective Date.*] [Insert effective date.]