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HOUSE BILL 687

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

John A. Heaton

AN ACT

RELATING TO MINES; AMENDING AND ENACTING SECTIONS OF THE NMSA  
1978; PROVIDING FOR EMERGENCY RESPONSE TO MINE ACCIDENTS;  
PROVIDING PENALTIES; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 69, Article 5 NMSA  
1978 is enacted to read:

"[NEW MATERIAL] MINE ACCIDENT RAPID RESPONSE SYSTEM.--

A. The state mine inspector shall:

(1) adopt rules requiring each mine operator  
to prepare an emergency notification plan for its operations  
and, upon the inspector's approval of the plan, shall retain a  
copy of each mine operator's emergency notification plan at the  
emergency operations center; and

(2) establish and maintain the mine accident

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1 emergency operations center as the primary state government  
2 communications center for dealing with mine accidents that:

3 (a) provides emergency assistance and  
4 response coordination for mine accidents or emergencies; and

5 (b) is accessible twenty-four hours a  
6 day, seven days a week, at a statewide telephone number  
7 established and designated by the inspector.

8 B. Upon receipt of an emergency call regarding an  
9 accident, as defined in Section 69-5-17 NMSA 1978, the mine  
10 accident emergency operations center shall immediately notify  
11 the state mine inspector, who will ensure that the emergency  
12 notification plan for the appropriate mine is complied with.

13 C. In the event of an accident or recovery  
14 operation in or about a mine, the state mine inspector may  
15 coordinate the assignment of mine rescue teams to assist with  
16 needed rescues."

17 Section 2. Section 69-5-17 NMSA 1978 (being Laws 1933,  
18 Chapter 153, Section 23, as amended) is amended to read:

19 "69-5-17. FATAL AND SERIOUS MINE ACCIDENTS--ASSISTANCE--  
20 INVESTIGATION--NOTIFICATION--CIVIL PENALTY.--

21 A. The state mine inspector shall proceed  
22 immediately upon notification to the site of any mine accident  
23 causing the loss of life or ~~[imminent danger]~~ requiring  
24 activation of a mine rescue team and shall assist in the rescue  
25 of persons within the mine, investigate the causes of the

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1 accident, conduct a closeout conference and make necessary  
2 recommendations for the present and future safety of the  
3 miners. So far as possible, the operator shall not change the  
4 surroundings of an accident until the state mine inspector has  
5 made [~~his~~] an investigation; provided, however, that [~~such~~] the  
6 investigation is made within a reasonable time.

7 B. Whenever an accident occurs in or about a mine  
8 or the machinery connected to a mine, the operator of the mine  
9 shall give notice within thirty minutes of ascertaining the  
10 occurrence of the accident to the mine accident emergency  
11 operations center at the statewide telephone number established  
12 by the state mine inspector stating the particulars of the  
13 accident.

14 C. Nothing in this section shall be construed to  
15 relieve the operator of the mine from any reporting or  
16 notification requirement under federal law.

17 D. As used in this section, "accident" means  
18 "accident" as provided in 30 C.F.R. 50.2.

19 E. The state mine inspector shall impose a civil  
20 penalty of up to one hundred thousand dollars (\$100,000) on the  
21 operator of the mine if it is determined that the operator  
22 failed to give immediate notice as required in this section.  
23 The inspector may waive imposition of the civil penalty at any  
24 time if the inspector finds that the failure to give immediate  
25 notice was caused by circumstances outside the control of the

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1 operator."

2 Section 3. Section 69-8-1 NMSA 1978 (being Laws 1961,  
3 Chapter 136, Section 1) is amended to read:

4 "69-8-1. SHORT TITLE.--~~[This act]~~ Chapter 69, Article 8  
5 NMSA 1978 may be cited as the "Mining Safety Act"."

6 Section 4. A new section of the Mining Safety Act is  
7 enacted to read:

8 "[NEW MATERIAL] UNDERGROUND MINE SAFETY REQUIREMENTS--  
9 PENALTIES.--In addition to requirements pursuant to federal law  
10 for underground mines:

11 A. a self-contained self-rescue device approved by  
12 the state mine inspector shall be worn by each person while  
13 underground or kept within the person's immediate reach while  
14 underground. The device shall be provided by the employer.  
15 The self-contained self-rescue device shall be adequate to  
16 protect a miner for one hour or longer or, alternatively,  
17 sufficient to allow the employee time to reach an additional  
18 self-contained self-rescue device. Each employer shall train  
19 each miner in the use of the device, and refresher training  
20 courses for all underground employees shall be held during each  
21 calendar year;

22 B. the employer shall provide caches of additional  
23 self-contained self-rescue devices throughout the mine in  
24 accordance with a plan approved by the state mine inspector.  
25 Each additional self-contained self-rescue device shall be

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1 adequate to protect a miner for one hour or longer. Battery-  
2 powered strobe lights or permanently activated strobe lights  
3 shall be affixed to each cache. A luminescent sign with the  
4 words "SELF-CONTAINED SELF-RESCUER" or "SELF-CONTAINED SELF-  
5 RESCUERS" shall be conspicuously posted at each cache, and  
6 luminescent direction signs shall be posted leading to each  
7 cache. The employer shall conduct weekly inspections of each  
8 cache and the affixed strobe lights to ensure operability;

9 C. a wireless emergency communication device or a  
10 two-way radio system approved by the state mine inspector and  
11 provided by the employer shall be available to each person in  
12 the active working section of an underground mine. Each  
13 employer shall train each miner in the use of the device and  
14 provide refresher training courses for all underground  
15 employees during each calendar year. The employer shall  
16 install in or around the mine any and all equipment necessary  
17 to transmit emergency communications from the surface to each  
18 wireless emergency communication device or two-way radio system  
19 in active working sections of the underground mine;

20 D. a wireless tracking device approved by the state  
21 mine inspector and provided by the employer shall be worn by  
22 each person in an underground coal mine. In the event of an  
23 accident or other emergency, the tracking device shall be  
24 capable of providing the approximate physical location of each  
25 person who is underground. Each employer shall train each

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1 employee in the use of the device and provide refresher  
2 training courses for all underground employees during each  
3 calendar year. The employer shall install in or around the  
4 mine all equipment necessary to provide the approximate  
5 physical location of each person who is underground;

6 E. a person who, without the authorization of the  
7 employer or the state mine inspector, knowingly removes or  
8 attempts to remove any device or related equipment, required by  
9 this section and approved by the inspector, from a mine or mine  
10 site with the intent to permanently deprive the employer of the  
11 device or equipment or knowingly tampers with or attempts to  
12 tamper with the device or equipment shall be guilty of a fourth  
13 degree felony and shall be sentenced pursuant to the provisions  
14 of Section 31-18-15 NMSA 1978; and

15 F. the state mine inspector shall, within ninety  
16 days of the effective date of this section, approve an  
17 implementation plan for each mine covered by this section that  
18 includes a schedule for meeting the requirements of this  
19 section."

20 Section 5. A new section of the Mining Safety Act is  
21 enacted to read:

22 "[NEW MATERIAL] EMPLOYEE RIGHTS.--An employer shall not  
23 discharge or in any manner discriminate against, cause to be  
24 discharged or cause discrimination against an employee,  
25 representative of employees or applicant for employment in a

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1 mine subject to the Mining Safety Act because the employee,  
2 representative of employees or applicant for employment has  
3 filed or made a complaint under or related to that act or  
4 Chapter 69, Article 5 NMSA 1978, including a complaint  
5 notifying the operator, the operator's agent or the state mine  
6 inspector of an alleged danger or a safety or health violation  
7 in a mine, or because the employee, representative of employees  
8 or applicant for employment has instituted or caused to be  
9 instituted a proceeding under or related to the Mining Safety  
10 Act or has testified or is about to testify in any such  
11 proceeding."

12 Section 6. EMERGENCY.--It is necessary for the public  
13 peace, health and safety that this act take effect immediately.

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