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"N.J. gov hikes mine safety violation fines," The Trentonian, 8-22-07, p.7

"Corzine signs law for higher mine fines," Home News Tribune, 8-22-07, p.\_\_\_\_

P.L. 2007, CHAPTER 155, *approved August 21, 2007*  
Assembly, No. 3937 (*First Reprint*)

1 AN ACT concerning mine safety, increasing certain fees and  
2 penalties and amending P.L.1954, c.197.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 2 of P.L.1954, c.197 (C.34:6-98.2) is amended is read  
8 as follows:

9 2. **[Definitions.]**

10 As used in this act:

11 "Approved" means approved by the commissioner.

12 **["Bureau" means the Bureau of Engineering and Safety,  
13 Division of Labor, Department of Labor and Industry.]**

14 "Commissioner" means the Commissioner of Labor and  
15 **[Industry] Workforce Development** or any of his authorized  
16 representatives.

17 **["Deputy director" means the deputy director in charge of the  
18 bureau.]**

19 **"Department" means the Department of Labor and Workforce  
20 Development.**

21 "Excavations" or "workings" means shafts, tunnels, entries,  
22 winzes, raises, stopes, open cut and any and all working places and  
23 parts of a mine, either above ground or underground, excavated or  
24 being excavated, whether abandoned or in use.

25 "Face" means the advancing breast of any place of work.

26 "Mine" includes any mines within the State, whether on the  
27 surface or underground and any mining plant, material, equipment  
28 or explosives on the surface or underground, which may contribute  
29 to the mining or handling of ore or other metalliferous or  
30 nonmetalliferous products. The term "mine" shall also include  
31 quarry, sand pit, gravel pit, clay pit and shale pit.

32 "Operator" means the person, firm, association, company,  
33 corporation or any officers or agents thereof, in immediate  
34 possession of any mine or mining claim or its accessories as owner  
35 or lessee and, as such, responsible for its management and  
36 condition.

37 **"Section" means mine safety section within the Department of  
38 Labor and Workforce Development.**

39 "Superintendent" means the person who has immediate  
40 supervision of a mine for an operator.

41 Words used in the singular shall include the plural, and the plural  
42 shall include the singular.

43 (cf: P.L.1954, c.197, s.2)

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

**<sup>1</sup>Assembly ALA committee amendments adopted May 14, 2007.**

1       2. Section 3 of P.L.1954, c.197 (C.34:6-98.3) is amended is read  
2 as follows:

3       3. **【Mine safety section.】**

4       a. There is hereby created within the **【bureau】** Department of  
5 Labor and Workforce Development a mine safety section **【under**  
6 **the direction and general supervision of the deputy director】**.

7       b. The mine safety section shall be under the immediate  
8 supervision of a **【mine safety engineer, serving as】** section chief,  
9 who shall be responsible **【to the head of the bureau】** for the  
10 efficient, effective administration of the work of the section. The  
11 section chief shall be assisted by and supervise such other **【mine**  
12 **safety engineers,】** mine safety inspectors, technicians and other  
13 employees as may be necessary to perform the work.

14       c. **【Under the direction of the head of the bureau, the】** The  
15 section chief shall personally or by assignment to employees of the  
16 section, inspect, investigate, inquire and examine into the operation,  
17 workings, methods, safety devices and appliances, machinery,  
18 sanitation, ventilation, means of ingress and egress, means taken to  
19 protect the lives and insure the safety and health of miners, together  
20 with the causes of accidents, injuries and fatalities and means taken  
21 to comply with the law; conduct scientific tests to determine  
22 amount and condition of air together with contaminants therein or  
23 for any purpose that shall provide for the maintenance of safe,  
24 sanitary and healthful conditions, furnish such reports and do other  
25 related work as **【the deputy director may require】** required.

26       d. Employees of the **【bureau】** section shall have the power and  
27 authority, upon exhibition of official credentials, at all reasonable  
28 hours to enter and examine any part of a mine, mining plant,  
29 equipment or workings. All operators and their employees shall  
30 render all assistance necessary to facilitate such examination.

31       e. **【The mine safety engineer, serving as section chief, shall be**  
32 **physically able to discharge his duties and shall have at least 4**  
33 **years' experience in mining, including experience in quarry**  
34 **operations, mine safety work and accident prevention. He shall be**  
35 **a graduate engineer from a recognized school of engineering.】**  
36 (Deleted by amendment, P.L. , c. ) (pending before the  
37 Legislature as this bill)

38       f. **【The qualifications for a mine safety engineer, other than the**  
39 **section chief, shall be the same, excepting that he shall have had a**  
40 **minimum of 3 years' experience in mining.】** (Deleted by  
41 amendment, P.L. , c. ) (pending before the Legislature as this  
42 bill)

43       g. **【Mine safety inspectors shall have had at least 4 years'**  
44 **experience in mining.】** (Deleted by amendment, P.L. , c. )  
45 (pending before the Legislature as this bill)

1 h. No employee of the department shall make public, directly or  
2 indirectly to any person any knowledge or information obtained by  
3 him in the exercise of his official duties concerning ores, ore  
4 bodies or values of any mine or part thereof. Any employee who  
5 shall violate any of the provisions of this **[paragraph]** subsection  
6 shall be guilty of a crime of the fourth degree and, on conviction,  
7 shall be punished by a fine of not less than \$500.00 nor more than  
8 \$1,000.00 or imprisonment in the county jail not to exceed 1 year,  
9 or both, and shall be dismissed from his position.

10 i. It shall be the duty of the **[bureau]** section to cause to have  
11 inspected at least once in every 3 months, every underground mine  
12 in this State, and every other working mine at least twice each year,  
13 and **[oftener]** more often, if it is deemed necessary for the safety of  
14 the **[men employed in]** persons involved with the mine.

15 j. After every inspection, the mine safety inspector shall enter  
16 forthwith in a book to be kept at the mine and designated as the  
17 "record of mine safety inspection," the portion of the mine  
18 inspected, the nature of the inspection and the dangers and defects  
19 observed. This record shall be open at all reasonable hours to the  
20 examination of the operator, any employee or the designated  
21 representative of the employees of the mine inspected. Nothing  
22 contained in or omitted from any entry in such record shall limit or  
23 affect the duty and obligations of the operator, superintendent or  
24 employee.

25 (cf: P.L.1981, c.458, s.1)

26  
27 3. Section 4 of P.L.1954, c.197 (C.34:6-98.4) is amended is read  
28 as follows:

29 4. **[Authority and duties of the commissioner.]**

30 a. The commissioner shall administer the provisions of this act  
31 and may promulgate, make, amend and repeal necessary and  
32 reasonable rules and regulations not inconsistent with the provisions  
33 of this act. Such rules and regulations shall have the force and  
34 effect of law and shall be enforced in the same manner. It is the  
35 policy and intent of this section that the physical plant, operations  
36 and methods of the mining industry or any part thereof including  
37 mines abandoned prior to the passage of this act and mines  
38 abandoned subsequent to the passage of this act shall be so  
39 constructed, equipped, arranged, operated, maintained and  
40 conducted in all respects as to provide for reasonable and adequate  
41 protection to the lives, health and safety of miners, others employed  
42 in the mining industry and frequenting the same, the owners of the  
43 surface of the ground above such mines and the general public, as  
44 well as the protection of property. **[The commissioner shall be**  
45 **guided by the standards and recommendations of the United States**  
46 **Bureau of Mines, and recognized mine safety authorities in the**  
47 **preparation of the rules and regulations.]**

1       b. When requested to do so, the commissioner may make tests,  
2 or have same made, to determine if any device, safeguard or  
3 equipment may be approved for use in connection with any  
4 provisions of this act. **[He]** The commissioner may charge a fee  
5 for such approval, payable by the approval applicant, in any amount  
6 commensurate with the cost to the State for making such tests or  
7 have same made, in which case he may require the applicant to pay  
8 all cost directly to the private agency making the test.

9       c. The commissioner shall appoint all personnel pursuant to the  
10 provisions of Title **[11, Revised Statutes,]** 11A of the New Jersey  
11 Statutes and arrange for all services necessary to administer the  
12 provisions of this act. He shall arrange for operations to be  
13 conducted in branch offices located near the mining centers of the  
14 State if, in his opinion, the effectiveness of the service can be  
15 thereby improved.

16       d. If, upon examination or inspection, it shall appear to an  
17 inspector that a mine or part thereof is, from any cause, in a  
18 dangerous condition, or fails to comply with the provisions of this  
19 act or any rule or regulation promulgated hereunder, he shall so  
20 report to the **[bureau]** section and the commissioner shall at once  
21 notify the operator in charge thereof, such notice to be in writing  
22 and to be served by copy upon the operator. Said notice shall state  
23 in detail in what particular said mine or part thereof is deemed  
24 dangerous, insecure and not in compliance with the provisions of  
25 this act, and provide a reasonable specified time to comply. The  
26 operator of said mine shall forthwith make such change in order to  
27 comply with the requirements of this act.

28       e. In case of any civil or criminal proceedings at law against the  
29 parties so notified, on account of loss of life or bodily injuries  
30 sustained by an employee, subsequent to such notice, and in  
31 consequence of such dangerous condition, and without an  
32 affirmative and diligent effort having been made to remedy the  
33 same to the satisfaction of the commissioner, a certified copy of the  
34 notice served by the commissioner shall be prima facie evidence of  
35 the negligence of such party or parties.

36       f. If it appears from a reexamination of the mine by the inspector  
37 that such changes or compliances have not been made within the  
38 time specified in such notice, and that the mine or part of such mine  
39 is still in an unlawful condition or dangerous to life, health or  
40 property and in the opinion of the commissioner, it is necessary for  
41 the protection of life, health or property that such mine or part of  
42 the mine be vacated, the commissioner shall forthwith order the  
43 cessation of the operation and working of said mine or part of mine,  
44 and order that the employees shall not be permitted therein for any  
45 purpose other than to remedy the defects complained of, until the  
46 provisions of this act are complied with to the satisfaction of the  
47 commissioner. The operator of said mine shall forthwith obey said  
48 order.

1 g. If a representative of the **[bureau]** section finds conditions in  
2 any mine which in his opinion are dangerous to the health and lives  
3 of employees, owners of the surface of the ground above the mine  
4 or the general public, he shall report the facts forthwith to the  
5 **[bureau]** commissioner. The commissioner shall order all  
6 workings stopped in the particular section of the mine in which the  
7 dangerous condition was found, if in his opinion such an action is  
8 necessary to preserve life and limb. Work shall not be resumed  
9 until the commissioner so authorizes.

10 h. The commissioner shall have the power and authority to  
11 require that every mine, pit or quarry of any operator be registered  
12 with him and that a certificate of registration be obtained before the  
13 opening of such mine, pit or quarry. The application and certificate  
14 forms shall be prescribed by the commissioner.

15 A certificate of registration shall expire 1 year from its effective  
16 date, unless sooner revoked or suspended by the commissioner. A  
17 certificate of registration may be renewed upon the filing of an  
18 application of renewal on a form prescribed by the commissioner.  
19 A certificate of registration shall at all times be prominently  
20 displayed at each mine, pit or quarry of the operator.

21 The commissioner shall have the power and authority to charge  
22 an annual registration fee of not less than **[\$15.00]** \$500 nor more  
23 than **[\$50.00]** \$3,000 for each certificate of registration issued 'in  
24 State fiscal year 2006-2007'. Thereafter, 'these' fees 'shall  
25 may' be 'issued] adjusted' by the commissioner in accordance  
26 with fee schedules adopted by regulation.

27 (cf: P.L.1973, c.257, s.2)

28

29 4. Section 5 of P.L.1954, c.197 (C.34:6-98.5) is amended is read  
30 as follows:

31 5. **[Annual report.]** The commissioner shall embody in his  
32 annual report to the Governor a statistical summary and report of  
33 work of the **[mine safety]** section **[of the bureau]** during the year  
34 ending June 30.

35 a. The report shall contain a statement showing for each mine,  
36 the number of **[men]** persons employed underground and above-  
37 ground; the number and nature of fatal, lost-time injuries and  
38 serious accidents; the number of inspections made, complaints filed,  
39 inquests attended, workings ordered vacated and violations found;  
40 and any other information deemed important and relevant to safety  
41 in the mining industry of the State together with such  
42 recommendations as in the judgment of the commissioner are  
43 necessary to enforce the law, insure the safety of **[workmen]**  
44 persons in mines and preserve property. The commissioner may  
45 prepare supplemental reports containing any or all of the above  
46 described statements, from time to time. A copy of any

1 supplemental or annual report shall be made publicly available.  
2 (cf.: P.L.1954, c.197, s.5.)

3

4 5. Section 6 of P.L.1954, c.197 (C.34:6-98.6) is amended is read  
5 as follows:

6 6. **[General requirements.]**

7 a. Every operator shall comply with the provisions of this act  
8 and the rules and regulations issued **[thereunder]** hereunder and  
9 every person shall comply with such provisions **[that may be]** as  
10 applicable to **[him]** that person.

11 b. Every operator before opening a new mine, pit or quarry,  
12 shall report the location of such proposed mine, pit or quarry and  
13 **[his]** the operator's name and address in writing to the  
14 commissioner and to the local governing body of the municipality  
15 in which the mine, pit or quarry is to be located, and make  
16 application in writing to the commissioner for permission to open  
17 such mine, pit or quarry.

18 c. Every operator shall report the location of the mine and the  
19 name and address of the owner of the surface and of the mineral  
20 rights in writing to the commissioner and the local governing bodies  
21 involved before the commencement of operations by him.

22 d. Every operator abandoning or permanently discontinuing any  
23 mine, pit or quarry shall notify the commissioner and the local  
24 governing bodies involved in writing no less than 60 days prior to  
25 such abandonment or discontinuance.

26 e. The operator shall post at the surface entrance, or around the  
27 surface extremities of any mine, pit or quarry, appropriate,  
28 conspicuous and readily legible warning notices of the existence  
29 and dangers thereof and shall also place or cause to be placed  
30 guardrails, fences or other approved means, sufficient to prevent  
31 accidental fallings in any operating or abandoned mine, pit or  
32 quarry as the commissioner may direct.

33 f. The protection shall include adequate fences, when any such  
34 mine or area is declared a hazard as provided by this act, or  
35 effective and secure capping of surface access to mine workings or  
36 other protective measures which in the judgment of the  
37 commissioner are necessary to prevent injury to persons or damage  
38 to property by accidental fallings into the abandoned mine.

39 In any case where an abandoned mine constitutes an imminent  
40 hazard to persons and the order of the commissioner to protect such  
41 mine has not been complied with in the time specified, the  
42 commissioner is authorized to take such steps as may be necessary  
43 to eliminate the imminent hazard. The operator of the mine shall  
44 reimburse the commissioner for the actual cost of whatever  
45 corrective measures have been employed in eliminating the  
46 imminent hazard. The cost of any such corrective measures, until



1 reimbursed, shall constitute a lien on such property and the mineral  
2 rights thereto.

3 The provisions of subsection e. of this section shall be applicable  
4 to mines abandoned prior to the passage of this act when any such  
5 mine is declared a hazard by the municipal governing body or by  
6 the State, after public hearing, and after such protection is requested  
7 by the municipality or State.

8 g. It shall be the duty of the mine operator, superintendent, or  
9 any one in charge of a mine, **[where]** with 10 or more **[men are**  
10 **employed,]** persons, to keep at such places about the mine as may  
11 be designated by the commissioner, a stretcher and a woolen and  
12 waterproof blanket, in good condition, for use in caring for any  
13 person who may be injured at the mine. When more than 50  
14 persons are employed, two or more stretchers with woolen and  
15 waterproof blanket shall be kept, and in all mines, a supply of first-  
16 aid equipment as may be prescribed by the **[bureau]** section shall  
17 be kept readily accessible for the treatment of anyone injured. In all  
18 mines a first-aid corps shall be organized, consisting of the  
19 foreman, shift bosses, and other employees designated by the  
20 operator or superintendent of the mine to cause the organization of  
21 such; and to procure the services of a physician or qualified first-aid  
22 instructor to instruct the members of such first-aid corps from time  
23 to time, not less than once in each calendar month, until a sufficient  
24 number of members of such corps as may be required by the  
25 **[bureau]** section shall be certified by said physician or instructor to  
26 be qualified in the proper handling and treatment of injured persons  
27 before treatment by a physician.

28 h. Adequate medical care or attention shall be provided for all  
29 injuries arising out of and in the course of employment.

30 i. When considered necessary by the **[bureau]** section, and so  
31 ordered by it, the operator of every underground mine shall make  
32 and maintain, or cause to be made and maintained, a reasonably  
33 accurate map of the workings of such mine. At least once in every  
34 6 months, or **[oftener]** more often, if necessary, the operator or  
35 engineer of such mine shall cause to be shown, with reasonable  
36 accuracy on the map of said mine, all the excavations made therein  
37 during the time elapsed since such excavations were last shown on  
38 said map, and all parts of said mine which were worked and  
39 abandoned during said elapsed period of time shall be clearly  
40 indicated on said map, and all underground workings shall be  
41 surveyed and mapped before they are allowed to become  
42 inaccessible. Such maps shall at all times be open to examination  
43 by an inspector of the **[bureau]** section.

44 j. No person shall disobey an order given in pursuance of the  
45 law, or do a willful act whereby the lives or health of persons  
46 working in such mines, or the security of a mine, or the machinery  
47 connected therewith, may be endangered.

1 k. Notices shall be placed by the superintendent, or under his  
2 direction by the mine foreman or shift boss, at the entrance of any  
3 working place deemed dangerous, and at the entrance to old or  
4 abandoned workings; and no person other than those who are  
5 authorized by the operator or superintendent, shall remove or go  
6 beyond any caution board or danger signal so placed.

7 l. At any mine employing 25 or more **[men]** persons  
8 underground, the operator shall provide, and keep in a readily  
9 accessible place, at least 2 approved portable oxygen breathing  
10 **[apparati]** apparatuses in condition to be used in case of  
11 emergency; also, the operator or superintendent of such mine shall  
12 provide training and periodic drills for a mine rescue crew in the  
13 use of such **[apparati]** apparatuses, fire protection methods and  
14 rescue work all in a manner as may be required by the **[bureau]**  
15 section. Tests, at least once monthly, of **[apparati]** apparatuses by  
16 the actual use thereof shall be made.

17 m. It shall be the duty of the superintendent of any mine, within  
18 the provisions of this act, to keep at all times in the office of the  
19 mine and in the timekeeper's office thereof, in an accessible place  
20 and subject to inspection by all **[workmen and]** persons **[interested**  
21 **in the same]**, at least one printed copy of this act.

22 n. No minor under 18 years of age shall be employed, permitted  
23 or suffered to work in, about, or in connection with any mine.

24 o. Strangers and visitors shall not be allowed underground  
25 unless accompanied by the owner, official or employee deputized to  
26 accompany them.

27 p. No **[workman]** person shall be required, without his consent,  
28 to work underground in any mine for more than 8 hours in any  
29 consecutive 24 hours, which 8 hours shall be reckoned from the  
30 time he arrives at his place of work in the mine until he leaves such  
31 place, provided that:

32 (a) A Saturday shift may work longer hours for the purpose of  
33 avoiding work on Sunday or changing shift at the end of the week  
34 or giving any of the **[men]** persons a part holiday;

35 (b) The said limit shall not apply to a foreman, pumpman,  
36 cagetender, or any person engaged solely in surveying or  
37 measuring, nor shall it apply in cases of emergency, where life or  
38 property is in imminent danger, or in any case of repair work.

39 q. No person shall knowingly injure or destroy any equipment or  
40 machinery of any mine; nor, unless lawfully authorized to do so,  
41 obstruct or open an airway, handle or disturb any part of the  
42 machinery of the hoisting engine of the mine, open the door of a  
43 mine and neglect to close it, endanger the mine or those working  
44 therein, disobey an order given in pursuance of the law, or do a  
45 willful act whereby the lives or health of persons working in such  
46 mines, or the security of a mine, or the machinery connected

1 therewith, may be endangered.

2 (cf: P.L.1973, c.257, s.3)

3

4 6. Section 7 of P.L.1954, c.197 (C.34:6-98.7) is amended is read  
5 as follows:

6 7. **[Safety.]**

7 a. Every mine shall be so constructed, equipped, arranged,  
8 operated, maintained and conducted in all respects as to provide  
9 reasonable and adequate protection to the lives, health and safety of  
10 all persons employed therein, or legally frequenting the same, the  
11 owners of the surface of the ground above the mine, the general  
12 public and to provide for the protection of property.

13 b. No person shall work or be permitted to work alone in an  
14 unsafe place.

15 c. No **[men]** person shall be permitted to work in an unsafe  
16 place unless for the purpose of making it safe, and then only after  
17 proper precautions have been taken to protect the **[men]** persons  
18 who are doing the work.

19 No person shall be in solitary employment at a working face  
20 unless he is in communication with another employee at reasonable  
21 intervals as determined by the commissioner.

22 d. An air current sufficient to remove smoke, dust and noxious  
23 gases and to insure the safety of every **[employee]** person shall be  
24 conducted along every passageway and working place in  
25 underground workings in such a manner and in accordance with the  
26 standards established by the **[bureau]** section.

27 e. Every mine shall install and maintain approved washing,  
28 dressing and toilet facilities and every underground mine shall  
29 install and maintain an approved miner's dryhouse for drying the  
30 working clothes of the miners.

31 f. The commissioner shall require that an underground mine,  
32 operating either through a vertical or inclined shaft, or a horizontal  
33 tunnel, and producing from stoping operations shall have not less  
34 than two approved outlets, at least 150 feet apart. Where there is no  
35 such escapement shaft or opening, work thereon must be  
36 commenced as soon as stoping begins, and must be diligently  
37 prosecuted until the escapement shaft, raise, or opening is  
38 completed and continued to and connected with the lowest  
39 workings. The subterranean workings shall connect such outlets  
40 with each other in a safe, approved manner. Such outlets shall at all  
41 times provide safe and separate passage between the subterranean  
42 workings and the surface.

43 g. Every mine shall be properly and sufficiently protected in an  
44 approved manner against the hazards of fire from any cause.

45 h. All working places and travel roads shall be, when necessary,  
46 kept timbered, barricaded, or otherwise guarded to prevent injury to

1 any person from falling material, falling objects or fall of such  
2 person.

3 i. When advancing a drift, exit, level or incline toward a mine  
4 working that is suspected to be filled with water, a bore hole must  
5 be kept at least 20 feet in advance of the breast of the drive, and  
6 also, if necessary, in directions laterally from the course of the  
7 drive. Such additional precautionary measures shall be taken as  
8 may be deemed necessary by the commissioner to obviate the  
9 danger of a sudden break through of water.

10 j. No raise shall be allowed to approach within 10 feet of any  
11 portion of a winze or stope in which there is a dangerous  
12 accumulation of water, unless such winze or stope be first  
13 unwatered by bailing or pumping or by means of a bore from the  
14 raise.

15 k. In every mine where, in the opinion of the **[commissioners]**  
16 commissioner, there is danger of a sudden inrush of water, such  
17 additional raises, drifts or other working shall be constructed as are  
18 necessary to insure the escape of **[workmen]** persons from the  
19 lower workings, and all sumps and places for the storage of water in  
20 mines shall be so constructed as to prevent leakage as far as  
21 possible, and insure the safety of the **[men]** persons working below  
22 the same.

23 l. It shall be unlawful for any operator to impound water or to  
24 keep water impounded within any mine in which **[men]** persons are  
25 working below the water so impounded in such manner as to  
26 endanger the safety of such **[men]** persons, unless the water be  
27 impounded by a dam or dams or wall or walls approved by the  
28 **[bureau]** section.

29 m. Every place where drilling or blasting work is being carried  
30 on in an underground mine shall be adequately supplied at all times  
31 with clean water under pressure or other approved appliances for  
32 controlling dust.

33 n. Potable drinking water shall be available to employees during  
34 **[the]** working hours.

35 o. Approved personal protective equipment shall be worn by all  
36 employees during the course of their work as required by standards  
37 **[and rules and regulations of the bureau]** and the rules and  
38 regulations promulgated pursuant to the provisions of this act.

39 (P.L.1973, c.257, s.4)

40

41 7. Section 8 of P.L.1954, c.197 (C.34:6-98.8) is amended is read  
42 as follows:

43 8. **[Explosives.]**

44 a. When explosives are used in a mine or quarry, the manner of  
45 storing, keeping, handling, moving, charging and firing, or in any  
46 manner using such explosives, shall be in accordance with the  
47 requirements of **[chapter 27 of the laws of 1941]** the "Explosives

1 Act,” P.L.1960, c.55 (C.21:1A-128 et seq.), as amended or  
2 supplemented, and the rules and regulations now in effect or  
3 hereafter issued thereunder, except for the following limitations:

4 b. All explosives in excess of the amount required for the work  
5 of 1-day underground operations may be stored underground in a  
6 safely located secondary storage magazine. The maximum amount  
7 of explosives to be stored in such magazine shall not exceed the  
8 requirements for a 48 hours' supply.

9 c. The commissioner may regulate and limit the amount of  
10 explosives stored in a primary magazine in any underground  
11 portion of a mine with due regard for the safety of miners.

12 d. Any temporary supply for the work of a shift shall be kept in  
13 such a place that its accidental discharge will not endanger the  
14 miners.

15 (P.L.1954, c.197, s.8)

16

17 8. Section 9 of P.L.1954, c.197 (C.34:6-98.9) is amended is read  
18 as follows:

19 9. **[Complaints; serious accidents.]**

20 a. Whenever the commissioner receives a complaint in writing  
21 signed by 2 or more persons employed in a mine, setting forth that  
22 the mine or part thereof in which he or they are working is being  
23 operated contrary to law, or is dangerous in any respect to the  
24 health or lives of those employed therein, he shall cause to be  
25 inspected such mine as soon as possible. The names of the persons  
26 making such complaint shall be kept secret, unless permission to  
27 disclose them be expressly granted by the persons making the  
28 complaint. Such complaint shall in all cases set forth the nature of  
29 the danger existing at the mine, and the time when such danger was  
30 first observed. If, after such inspection, it is found that the  
31 conditions are dangerous to the health or lives of those employed  
32 therein, the commissioner shall serve a notice, setting forth fully the  
33 facts, upon the operator or any person having charge of such mine,  
34 and shall order the operator of said mine or mines to remove such  
35 dangerous or harmful conditions, and the operator of said mine shall  
36 obey said order.

37 b. Whenever loss of life or serious accident shall occur in any  
38 mine, the operator thereof shall forthwith give notice immediately  
39 in the quickest possible manner, and, in addition, shall report the  
40 facts thereof in writing within 24 hours after such occurrence in a  
41 manner prescribed by the **[bureau] section**.

42 The refusal or failure of said owner, agent, manager or operator  
43 to so report shall be a misdemeanor. The **[bureau] section**, upon  
44 receipt of notice of such accident, shall investigate the same and  
45 make, or cause to be made, a report which shall be filed for future  
46 reference. In case of the loss of life, any inspector of the **[bureau]**  
47 section may take testimony of witnesses relative to the same, for the  
48 purpose of ascertaining the cause of such accident, and for his

1 information in filing a report concerning the same. If, after making  
2 such investigation, the **[bureau]** section considers the facts warrant  
3 it, a copy of the report of such accident and all papers relating  
4 thereto shall be forwarded to the county prosecutor of the county in  
5 which the accident or loss of life occurred, together with an  
6 accompanying statement, showing in what particular or particulars  
7 it is believed the law to have been violated, and if upon the receipt  
8 thereof, the prosecuting officer of the said county deems the facts  
9 sufficient to make a prima facie case of criminal action against any  
10 person or persons, he shall present such evidence to the grand jury,  
11 or take such steps for the criminal prosecution of such operator,  
12 employees or persons as may seem advisable.  
13 (P.L.1954, c.197, s.9)

14  
15 9. Section 14 of P.L.1954, c.197 (C.34:6-98.14) is amended is  
16 read as follows:

17 14. **[Penalties.]**

18 Any person violating any of the provisions of this act shall be  
19 liable to a penalty of not **'[less than]'** **['\$25.00]'** **['\$100 nor]'** more  
20 than **['\$500.00]'** **['\$50,000]'** \$2,500 for the first offense, not more  
21 than \$5,000 for the second offense and not more than \$10,000 for  
22 the third and any subsequent offense,<sup>1</sup> to be collected in a civil  
23 action by a summary proceeding under the **[Penalty Enforcement**  
24 **Law, section 2A:58-1 of the New Jersey Statutes]** “Penalty  
25 Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).  
26 <sup>1</sup>Any person violating any provision of this act which results in  
27 serious bodily injury, shall be liable for a penalty of not less than  
28 \$100 nor more than \$25,000 to be collected in a civil action by a  
29 summary proceeding under the “Penalty Enforcement Law of  
30 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).<sup>1</sup> Any violation of the  
31 act by an officer, agent or employee shall also be a violation of the  
32 act by his employer if such employer had knowledge of and actual  
33 control over the cause of such violation. Where the violation is of a  
34 continuing nature each day during which it continues, after the date  
35 given by which the violation must be eliminated in the order by the  
36 commissioner, shall constitute an additional separate and distinct  
37 offense, except during the time an appeal from said order may be  
38 taken or is pending.

39 The commissioner is hereby authorized and empowered to  
40 compromise and settle any claim for a penalty under this section in  
41 such amount in the discretion of the commissioner as may appear  
42 appropriate and equitable under all of the circumstances.  
43 (cf: P.L.1973, c.257, s.5)

44  
45 10. This act shall take effect immediately.

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Increases certain fees and penalties of the Mine Safety Act.

# ASSEMBLY, No. 3937

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JANUARY 25, 2007

**Sponsored by:**

**Assemblyman DOUGLAS H. FISHER**

**District 3 (Salem, Cumberland and Gloucester)**

**SYNOPSIS**

Increases certain fees and penalties of the Mine Safety Act.

**CURRENT VERSION OF TEXT**

As introduced.





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2

1 AN ACT concerning mine safety, increasing certain fees and  
2 penalties and amending P.L.1954, c.197.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 2 of P.L.1954, c.197 (C.34:6-98.2) is amended is read  
8 as follows:

9 2. **[Definitions.]**

10 As used in this act:

11 "Approved" means approved by the commissioner.

12 **["Bureau" means the Bureau of Engineering and Safety,  
13 Division of Labor, Department of Labor and Industry.]**

14 "Commissioner" means the Commissioner of Labor and  
15 **[Industry] Workforce Development** or any of his authorized  
16 representatives.

17 **["Deputy director" means the deputy director in charge of the  
18 bureau.]**

19 **"Department" means the Department of Labor and Workforce  
20 Development.**

21 "Excavations" or "workings" means shafts, tunnels, entries,  
22 winzes, raises, stopes, open cut and any and all working places and  
23 parts of a mine, either above ground or underground, excavated or  
24 being excavated, whether abandoned or in use.

25 "Face" means the advancing breast of any place of work.

26 "Mine" includes any mines within the State, whether on the  
27 surface or underground and any mining plant, material, equipment  
28 or explosives on the surface or underground, which may contribute  
29 to the mining or handling of ore or other metalliferous or  
30 nonmetalliferous products. The term "mine" shall also include  
31 quarry, sand pit, gravel pit, clay pit and shale pit.

32 "Operator" means the person, firm, association, company,  
33 corporation or any officers or agents thereof, in immediate  
34 possession of any mine or mining claim or its accessories as owner  
35 or lessee and, as such, responsible for its management and  
36 condition.

37 **"Section" means mine safety section within the Department of  
38 Labor and Workforce Development.**

39 "Superintendent" means the person who has immediate  
40 supervision of a mine for an operator.

41 Words used in the singular shall include the plural, and the plural  
42 shall include the singular.

43 (cf: P.L.1954, c.197, s.2)

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is  
not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1       2. Section 3 of P.L.1954, c.197 (C.34:6-98.3) is amended is read  
2 as follows:

3       3. **【Mine safety section.】**

4       a. There is hereby created within the **【bureau】** Department of  
5 Labor and Workforce Development a mine safety section **【under**  
6 **the direction and general supervision of the deputy director】**.

7       b. The mine safety section shall be under the immediate  
8 supervision of a **【mine safety engineer, serving as】** section chief,  
9 who shall be responsible **【to the head of the bureau】** for the  
10 efficient, effective administration of the work of the section. The  
11 section chief shall be assisted by and supervise such other **【mine**  
12 **safety engineers,】** mine safety inspectors, technicians and other  
13 employees as may be necessary to perform the work.

14       c. **【Under the direction of the head of the bureau, the】** The  
15 section chief shall personally or by assignment to employees of the  
16 section, inspect, investigate, inquire and examine into the operation,  
17 workings, methods, safety devices and appliances, machinery,  
18 sanitation, ventilation, means of ingress and egress, means taken to  
19 protect the lives and insure the safety and health of miners, together  
20 with the causes of accidents, injuries and fatalities and means taken  
21 to comply with the law; conduct scientific tests to determine  
22 amount and condition of air together with contaminants therein or  
23 for any purpose that shall provide for the maintenance of safe,  
24 sanitary and healthful conditions, furnish such reports and do other  
25 related work as **【the deputy director may require】** required.

26       d. Employees of the **【bureau】** section shall have the power and  
27 authority, upon exhibition of official credentials, at all reasonable  
28 hours to enter and examine any part of a mine, mining plant,  
29 equipment or workings. All operators and their employees shall  
30 render all assistance necessary to facilitate such examination.

31       e. **【The mine safety engineer, serving as section chief, shall be**  
32 **physically able to discharge his duties and shall have at least 4**  
33 **years' experience in mining, including experience in quarry**  
34 **operations, mine safety work and accident prevention. He shall be**  
35 **a graduate engineer from a recognized school of engineering.】**  
36 (Deleted by amendment, P.L. , c. ) (pending before the  
37 Legislature as this bill)

38       f. **【The qualifications for a mine safety engineer, other than the**  
39 **section chief, shall be the same, excepting that he shall have had a**  
40 **minimum of 3 years' experience in mining.】** (Deleted by  
41 amendment, P.L. , c. ) (pending before the Legislature as this  
42 bill)

43       g. **【Mine safety inspectors shall have had at least 4 years'**  
44 **experience in mining.】** (Deleted by amendment, P.L. , c. )  
45 (pending before the Legislature as this bill)

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1 h. No employee of the department shall make public, directly or  
2 indirectly to any person any knowledge or information obtained by  
3 him in the exercise of his official duties concerning ores, ore  
4 bodies or values of any mine or part thereof. Any employee who  
5 shall violate any of the provisions of this **[paragraph]** subsection  
6 shall be guilty of a crime of the fourth degree and, on conviction,  
7 shall be punished by a fine of not less than \$500.00 nor more than  
8 \$1,000.00 or imprisonment in the county jail not to exceed 1 year,  
9 or both, and shall be dismissed from his position.

10 i. It shall be the duty of the **[bureau]** section to cause to have  
11 inspected at least once in every 3 months, every underground mine  
12 in this State, and every other working mine at least twice each year,  
13 and **[oftener]** more often, if it is deemed necessary for the safety of  
14 the **[men employed in]** persons involved with the mine.

15 j. After every inspection, the mine safety inspector shall enter  
16 forthwith in a book to be kept at the mine and designated as the  
17 "record of mine safety inspection," the portion of the mine  
18 inspected, the nature of the inspection and the dangers and defects  
19 observed. This record shall be open at all reasonable hours to the  
20 examination of the operator, any employee or the designated  
21 representative of the employees of the mine inspected. Nothing  
22 contained in or omitted from any entry in such record shall limit or  
23 affect the duty and obligations of the operator, superintendent or  
24 employee.

25 (cf: P.L.1981, c.458, s.1)

26

27 3. Section 4 of P.L.1954, c.197 (C.34:6-98.4) is amended is read  
28 as follows:

29 4. **[Authority and duties of the commissioner.]**

30 a. The commissioner shall administer the provisions of this act  
31 and may promulgate, make, amend and repeal necessary and  
32 reasonable rules and regulations not inconsistent with the provisions  
33 of this act. Such rules and regulations shall have the force and  
34 effect of law and shall be enforced in the same manner. It is the  
35 policy and intent of this section that the physical plant, operations  
36 and methods of the mining industry or any part thereof including  
37 mines abandoned prior to the passage of this act and mines  
38 abandoned subsequent to the passage of this act shall be so  
39 constructed, equipped, arranged, operated, maintained and  
40 conducted in all respects as to provide for reasonable and adequate  
41 protection to the lives, health and safety of miners, others employed  
42 in the mining industry and frequenting the same, the owners of the  
43 surface of the ground above such mines and the general public, as  
44 well as the protection of property. **[The commissioner shall be**  
45 **guided by the standards and recommendations of the United States**  
46 **Bureau of Mines, and recognized mine safety authorities in the**  
47 **preparation of the rules and regulations.]**

1       b. When requested to do so, the commissioner may make tests,  
2 or have same made, to determine if any device, safeguard or  
3 equipment may be approved for use in connection with any  
4 provisions of this act. **[He]** The commissioner may charge a fee  
5 for such approval, payable by the approval applicant, in any amount  
6 commensurate with the cost to the State for making such tests or  
7 have same made, in which case he may require the applicant to pay  
8 all cost directly to the private agency making the test.

9       c. The commissioner shall appoint all personnel pursuant to the  
10 provisions of Title **[11, Revised Statutes,]** 11A of the New Jersey  
11 Statutes and arrange for all services necessary to administer the  
12 provisions of this act. He shall arrange for operations to be  
13 conducted in branch offices located near the mining centers of the  
14 State if, in his opinion, the effectiveness of the service can be  
15 thereby improved.

16       d. If, upon examination or inspection, it shall appear to an  
17 inspector that a mine or part thereof is, from any cause, in a  
18 dangerous condition, or fails to comply with the provisions of this  
19 act or any rule or regulation promulgated hereunder, he shall so  
20 report to the **[bureau]** section and the commissioner shall at once  
21 notify the operator in charge thereof, such notice to be in writing  
22 and to be served by copy upon the operator. Said notice shall state  
23 in detail in what particular said mine or part thereof is deemed  
24 dangerous, insecure and not in compliance with the provisions of  
25 this act, and provide a reasonable specified time to comply. The  
26 operator of said mine shall forthwith make such change in order to  
27 comply with the requirements of this act.

28       e. In case of any civil or criminal proceedings at law against the  
29 parties so notified, on account of loss of life or bodily injuries  
30 sustained by an employee, subsequent to such notice, and in  
31 consequence of such dangerous condition, and without an  
32 affirmative and diligent effort having been made to remedy the  
33 same to the satisfaction of the commissioner, a certified copy of the  
34 notice served by the commissioner shall be prima facie evidence of  
35 the negligence of such party or parties.

36       f. If it appears from a reexamination of the mine by the inspector  
37 that such changes or compliances have not been made within the  
38 time specified in such notice, and that the mine or part of such mine  
39 is still in an unlawful condition or dangerous to life, health or  
40 property and in the opinion of the commissioner, it is necessary for  
41 the protection of life, health or property that such mine or part of  
42 the mine be vacated, the commissioner shall forthwith order the  
43 cessation of the operation and working of said mine or part of mine,  
44 and order that the employees shall not be permitted therein for any  
45 purpose other than to remedy the defects complained of, until the  
46 provisions of this act are complied with to the satisfaction of the  
47 commissioner. The operator of said mine shall forthwith obey said  
48 order.

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1 g. If a representative of the **[bureau]** section finds conditions in  
2 any mine which in his opinion are dangerous to the health and lives  
3 of employees, owners of the surface of the ground above the mine  
4 or the general public, he shall report the facts forthwith to the  
5 **[bureau]** commissioner. The commissioner shall order all  
6 workings stopped in the particular section of the mine in which the  
7 dangerous condition was found, if in his opinion such an action is  
8 necessary to preserve life and limb. Work shall not be resumed  
9 until the commissioner so authorizes.

10 h. The commissioner shall have the power and authority to  
11 require that every mine, pit or quarry of any operator be registered  
12 with him and that a certificate of registration be obtained before the  
13 opening of such mine, pit or quarry. The application and certificate  
14 forms shall be prescribed by the commissioner.

15 A certificate of registration shall expire 1 year from its effective  
16 date, unless sooner revoked or suspended by the commissioner. A  
17 certificate of registration may be renewed upon the filing of an  
18 application of renewal on a form prescribed by the commissioner.  
19 A certificate of registration shall at all times be prominently  
20 displayed at each mine, pit or quarry of the operator.

21 The commissioner shall have the power and authority to charge  
22 an annual registration fee of not less than **[\$15.00]** \$500 nor more  
23 than **[\$50.00]** \$3,000 for each certificate of registration issued in  
24 State fiscal year 2006-2007. Thereafter, fees shall be issued by the  
25 commissioner in accordance with fee schedules adopted by  
26 regulation.

27 (cf: P.L.1973, c.257, s.2)

28

29 4. Section 5 of P.L.1954, c.197 (C.34:6-98.5) is amended is read  
30 as follows:

31 5. **[Annual report.]** The commissioner shall embody in his  
32 annual report to the Governor a statistical summary and report of  
33 work of the **[mine safety]** section **[of the bureau]** during the year  
34 ending June 30.

35 a. The report shall contain a statement showing for each mine,  
36 the number of **[men]** persons employed underground and above-  
37 ground; the number and nature of fatal, lost-time injuries and  
38 serious accidents; the number of inspections made, complaints filed,  
39 inquests attended, workings ordered vacated and violations found;  
40 and any other information deemed important and relevant to safety  
41 in the mining industry of the State together with such  
42 recommendations as in the judgment of the commissioner are  
43 necessary to enforce the law, insure the safety of **[workmen]**  
44 persons in mines and preserve property. The commissioner may  
45 prepare supplemental reports containing any or all of the above  
46 described statements, from time to time. A copy of any

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1 supplemental or annual report shall be made publicly available.  
2 (cf.: P.L.1954, c.197, s.5.)

3

4 5. Section 6 of P.L.1954, c.197 (C.34:6-98.6) is amended is read  
5 as follows:

6 6. **【General requirements.】**

7 a. Every operator shall comply with the provisions of this act  
8 and the rules and regulations issued **【thereunder】** hereunder and  
9 every person shall comply with such provisions **【that may be】** as  
10 applicable to **【him】** that person.

11 b. Every operator before opening a new mine, pit or quarry,  
12 shall report the location of such proposed mine, pit or quarry and  
13 **【his】** the operator's name and address in writing to the  
14 commissioner and to the local governing body of the municipality  
15 in which the mine, pit or quarry is to be located, and make  
16 application in writing to the commissioner for permission to open  
17 such mine, pit or quarry.

18 c. Every operator shall report the location of the mine and the  
19 name and address of the owner of the surface and of the mineral  
20 rights in writing to the commissioner and the local governing bodies  
21 involved before the commencement of operations by him.

22 d. Every operator abandoning or permanently discontinuing any  
23 mine, pit or quarry shall notify the commissioner and the local  
24 governing bodies involved in writing no less than 60 days prior to  
25 such abandonment or discontinuance.

26 e. The operator shall post at the surface entrance, or around the  
27 surface extremities of any mine, pit or quarry, appropriate,  
28 conspicuous and readily legible warning notices of the existence  
29 and dangers thereof and shall also place or cause to be placed  
30 guardrails, fences or other approved means, sufficient to prevent  
31 accidental fallings in any operating or abandoned mine, pit or  
32 quarry as the commissioner may direct.

33 f. The protection shall include adequate fences, when any such  
34 mine or area is declared a hazard as provided by this act, or  
35 effective and secure capping of surface access to mine workings or  
36 other protective measures which in the judgment of the  
37 commissioner are necessary to prevent injury to persons or damage  
38 to property by accidental fallings into the abandoned mine.

39 In any case where an abandoned mine constitutes an imminent  
40 hazard to persons and the order of the commissioner to protect such  
41 mine has not been complied with in the time specified, the  
42 commissioner is authorized to take such steps as may be necessary  
43 to eliminate the imminent hazard. The operator of the mine shall  
44 reimburse the commissioner for the actual cost of whatever  
45 corrective measures have been employed in eliminating the  
46 imminent hazard. The cost of any such corrective measures, until

1 reimbursed, shall constitute a lien on such property and the mineral  
2 rights thereto.

3 The provisions of subsection e. of this section shall be applicable  
4 to mines abandoned prior to the passage of this act when any such  
5 mine is declared a hazard by the municipal governing body or by  
6 the State, after public hearing, and after such protection is requested  
7 by the municipality or State.

8 g. It shall be the duty of the mine operator, superintendent, or  
9 any one in charge of a mine, **[where]** with 10 or more **[men are**  
10 **employed,]** persons, to keep at such places about the mine as may  
11 be designated by the commissioner, a stretcher and a woolen and  
12 waterproof blanket, in good condition, for use in caring for any  
13 person who may be injured at the mine. When more than 50  
14 persons are employed, two or more stretchers with woolen and  
15 waterproof blanket shall be kept, and in all mines, a supply of first-  
16 aid equipment as may be prescribed by the **[bureau]** section shall  
17 be kept readily accessible for the treatment of anyone injured. In all  
18 mines a first-aid corps shall be organized, consisting of the  
19 foreman, shift bosses, and other employees designated by the  
20 operator or superintendent of the mine to cause the organization of  
21 such; and to procure the services of a physician or qualified first-aid  
22 instructor to instruct the members of such first-aid corps from time  
23 to time, not less than once in each calendar month, until a sufficient  
24 number of members of such corps as may be required by the  
25 **[bureau]** section shall be certified by said physician or instructor to  
26 be qualified in the proper handling and treatment of injured persons  
27 before treatment by a physician.

28 h. Adequate medical care or attention shall be provided for all  
29 injuries arising out of and in the course of employment.

30 i. When considered necessary by the **[bureau]** section, and so  
31 ordered by it, the operator of every underground mine shall make  
32 and maintain, or cause to be made and maintained, a reasonably  
33 accurate map of the workings of such mine. At least once in every  
34 6 months, or **[oftener]** more often, if necessary, the operator or  
35 engineer of such mine shall cause to be shown, with reasonable  
36 accuracy on the map of said mine, all the excavations made therein  
37 during the time elapsed since such excavations were last shown on  
38 said map, and all parts of said mine which were worked and  
39 abandoned during said elapsed period of time shall be clearly  
40 indicated on said map, and all underground workings shall be  
41 surveyed and mapped before they are allowed to become  
42 inaccessible. Such maps shall at all times be open to examination  
43 by an inspector of the **[bureau]** section.

44 j. No person shall disobey an order given in pursuance of the  
45 law, or do a willful act whereby the lives or health of persons  
46 working in such mines, or the security of a mine, or the machinery  
47 connected therewith, may be endangered.

1 k. Notices shall be placed by the superintendent, or under his  
2 direction by the mine foreman or shift boss, at the entrance of any  
3 working place deemed dangerous, and at the entrance to old or  
4 abandoned workings; and no person other than those who are  
5 authorized by the operator or superintendent, shall remove or go  
6 beyond any caution board or danger signal so placed.

7 l. At any mine employing 25 or more **[men]** persons  
8 underground, the operator shall provide, and keep in a readily  
9 accessible place, at least 2 approved portable oxygen breathing  
10 **[apparati]** apparatuses in condition to be used in case of  
11 emergency; also, the operator or superintendent of such mine shall  
12 provide training and periodic drills for a mine rescue crew in the  
13 use of such **[apparati]** apparatuses, fire protection methods and  
14 rescue work all in a manner as may be required by the **[bureau]**  
15 section. Tests, at least once monthly, of **[apparati]** apparatuses by  
16 the actual use thereof shall be made.

17 m. It shall be the duty of the superintendent of any mine, within  
18 the provisions of this act, to keep at all times in the office of the  
19 mine and in the timekeeper's office thereof, in an accessible place  
20 and subject to inspection by all **[workmen and]** persons **[interested**  
21 **in the same]**, at least one printed copy of this act.

22 n. No minor under 18 years of age shall be employed, permitted  
23 or suffered to work in, about, or in connection with any mine.

24 o. Strangers and visitors shall not be allowed underground  
25 unless accompanied by the owner, official or employee deputized to  
26 accompany them.

27 p. No **[workman]** person shall be required, without his consent,  
28 to work underground in any mine for more than 8 hours in any  
29 consecutive 24 hours, which 8 hours shall be reckoned from the  
30 time he arrives at his place of work in the mine until he leaves such  
31 place, provided that:

32 (a) A Saturday shift may work longer hours for the purpose of  
33 avoiding work on Sunday or changing shift at the end of the week  
34 or giving any of the **[men]** persons a part holiday;

35 (b) The said limit shall not apply to a foreman, pumpman,  
36 cagetender, or any person engaged solely in surveying or  
37 measuring, nor shall it apply in cases of emergency, where life or  
38 property is in imminent danger, or in any case of repair work.

39 q. No person shall knowingly injure or destroy any equipment or  
40 machinery of any mine; nor, unless lawfully authorized to do so,  
41 obstruct or open an airway, handle or disturb any part of the  
42 machinery of the hoisting engine of the mine, open the door of a  
43 mine and neglect to close it, endanger the mine or those working  
44 therein, disobey an order given in pursuance of the law, or do a  
45 willful act whereby the lives or health of persons working in such  
46 mines, or the security of a mine, or the machinery connected



1 therewith, may be endangered.

2 (cf: P.L.1973, c.257, s.3)

3

4 6. Section 7 of P.L.1954, c.197 (C.34:6-98.7) is amended is read  
5 as follows:

6 7. **[Safety.]**

7 a. Every mine shall be so constructed, equipped, arranged,  
8 operated, maintained and conducted in all respects as to provide  
9 reasonable and adequate protection to the lives, health and safety of  
10 all persons employed therein, or legally frequenting the same, the  
11 owners of the surface of the ground above the mine, the general  
12 public and to provide for the protection of property.

13 b. No person shall work or be permitted to work alone in an  
14 unsafe place.

15 c. No **[men]** person shall be permitted to work in an unsafe  
16 place unless for the purpose of making it safe, and then only after  
17 proper precautions have been taken to protect the **[men]** persons  
18 who are doing the work.

19 No person shall be in solitary employment at a working face  
20 unless he is in communication with another employee at reasonable  
21 intervals as determined by the commissioner.

22 d. An air current sufficient to remove smoke, dust and noxious  
23 gases and to insure the safety of every **[employee]** person shall be  
24 conducted along every passageway and working place in  
25 underground workings in such a manner and in accordance with the  
26 standards established by the **[bureau]** section.

27 e. Every mine shall install and maintain approved washing,  
28 dressing and toilet facilities and every underground mine shall  
29 install and maintain an approved miner's dryhouse for drying the  
30 working clothes of the miners.

31 f. The commissioner shall require that an underground mine,  
32 operating either through a vertical or inclined shaft, or a horizontal  
33 tunnel, and producing from stoping operations shall have not less  
34 than two approved outlets, at least 150 feet apart. Where there is no  
35 such escapement shaft or opening, work thereon must be  
36 commenced as soon as stoping begins, and must be diligently  
37 prosecuted until the escapement shaft, raise, or opening is  
38 completed and continued to and connected with the lowest  
39 workings. The subterranean workings shall connect such outlets  
40 with each other in a safe, approved manner. Such outlets shall at all  
41 times provide safe and separate passage between the subterranean  
42 workings and the surface.

43 g. Every mine shall be properly and sufficiently protected in an  
44 approved manner against the hazards of fire from any cause.

45 h. All working places and travel roads shall be, when necessary,  
46 kept timbered, barricaded, or otherwise guarded to prevent injury to

1 any person from falling material, falling objects or fall of such  
2 person.

3 i. When advancing a drift, exit, level or incline toward a mine  
4 working that is suspected to be filled with water, a bore hole must  
5 be kept at least 20 feet in advance of the breast of the drive, and  
6 also, if necessary, in directions laterally from the course of the  
7 drive. Such additional precautionary measures shall be taken as  
8 may be deemed necessary by the commissioner to obviate the  
9 danger of a sudden break through of water.

10 j. No raise shall be allowed to approach within 10 feet of any  
11 portion of a winze or stope in which there is a dangerous  
12 accumulation of water, unless such winze or stope be first  
13 unwatered by bailing or pumping or by means of a bore from the  
14 raise.

15 k. In every mine where, in the opinion of the **[commissioners]**  
16 commissioner, there is danger of a sudden inrush of water, such  
17 additional raises, drifts or other working shall be constructed as are  
18 necessary to insure the escape of **[workmen]** persons from the  
19 lower workings, and all sumps and places for the storage of water in  
20 mines shall be so constructed as to prevent leakage as far as  
21 possible, and insure the safety of the **[men]** persons working below  
22 the same.

23 l. It shall be unlawful for any operator to impound water or to  
24 keep water impounded within any mine in which **[men]** persons are  
25 working below the water so impounded in such manner as to  
26 endanger the safety of such **[men]** persons, unless the water be  
27 impounded by a dam or dams or wall or walls approved by the  
28 **[bureau]** section.

29 m. Every place where drilling or blasting work is being carried  
30 on in an underground mine shall be adequately supplied at all times  
31 with clean water under pressure or other approved appliances for  
32 controlling dust.

33 n. Potable drinking water shall be available to employees during  
34 **[the]** working hours.

35 o. Approved personal protective equipment shall be worn by all  
36 employees during the course of their work as required by standards  
37 **[and rules and regulations of the bureau]** and the rules and  
38 regulations promulgated pursuant to the provisions of this act.

39 (P.L.1973, c.257, s.4)

40

41 7. Section 8 of P.L.1954, c.197 (C.34:6-98.8) is amended is read  
42 as follows:

43 8. **[Explosives.]**

44 a. When explosives are used in a mine or quarry, the manner of  
45 storing, keeping, handling, moving, charging and firing, or in any  
46 manner using such explosives, shall be in accordance with the  
47 requirements of **[chapter 27 of the laws of 1941]** the "Explosives

1 Act,” P.L.1960, c.55 (C.21:1A-128 et seq.), as amended or  
2 supplemented, and the rules and regulations now in effect or  
3 hereafter issued thereunder, except for the following limitations:

4 b. All explosives in excess of the amount required for the work  
5 of 1-day underground operations may be stored underground in a  
6 safely located secondary storage magazine. The maximum amount  
7 of explosives to be stored in such magazine shall not exceed the  
8 requirements for a 48 hours' supply.

9 c. The commissioner may regulate and limit the amount of  
10 explosives stored in a primary magazine in any underground  
11 portion of a mine with due regard for the safety of miners.

12 d. Any temporary supply for the work of a shift shall be kept in  
13 such a place that its accidental discharge will not endanger the  
14 miners.

15 (P.L.1954, c.197, s.8)

16

17 8. Section 9 of P.L.1954, c.197 (C.34:6-98.9) is amended is read  
18 as follows:

19 9. **[Complaints; serious accidents.]**

20 a. Whenever the commissioner receives a complaint in writing  
21 signed by 2 or more persons employed in a mine, setting forth that  
22 the mine or part thereof in which he or they are working is being  
23 operated contrary to law, or is dangerous in any respect to the  
24 health or lives of those employed therein, he shall cause to be  
25 inspected such mine as soon as possible. The names of the persons  
26 making such complaint shall be kept secret, unless permission to  
27 disclose them be expressly granted by the persons making the  
28 complaint. Such complaint shall in all cases set forth the nature of  
29 the danger existing at the mine, and the time when such danger was  
30 first observed. If, after such inspection, it is found that the  
31 conditions are dangerous to the health or lives of those employed  
32 therein, the commissioner shall serve a notice, setting forth fully the  
33 facts, upon the operator or any person having charge of such mine,  
34 and shall order the operator of said mine or mines to remove such  
35 dangerous or harmful conditions, and the operator of said mine shall  
36 obey said order.

37 b. Whenever loss of life or serious accident shall occur in any  
38 mine, the operator thereof shall forthwith give notice immediately  
39 in the quickest possible manner, and, in addition, shall report the  
40 facts thereof in writing within 24 hours after such occurrence in a  
41 manner prescribed by the **[bureau] section**.

42 The refusal or failure of said owner, agent, manager or operator  
43 to so report shall be a misdemeanor. The **[bureau] section**, upon  
44 receipt of notice of such accident, shall investigate the same and  
45 make, or cause to be made, a report which shall be filed for future  
46 reference. In case of the loss of life, any inspector of the **[bureau]**  
47 section may take testimony of witnesses relative to the same, for the  
48 purpose of ascertaining the cause of such accident, and for his

1 information in filing a report concerning the same. If, after making  
2 such investigation, the **[bureau]** section considers the facts warrant  
3 it, a copy of the report of such accident and all papers relating  
4 thereto shall be forwarded to the county prosecutor of the county in  
5 which the accident or loss of life occurred, together with an  
6 accompanying statement, showing in what particular or particulars  
7 it is believed the law to have been violated, and if upon the receipt  
8 thereof, the prosecuting officer of the said county deems the facts  
9 sufficient to make a prima facie case of criminal action against any  
10 person or persons, he shall present such evidence to the grand jury,  
11 or take such steps for the criminal prosecution of such operator,  
12 employees or persons as may seem advisable.  
13 (P.L.1954, c.197, s.9)

14  
15 9. Section 14 of P.L.1954, c.197 (C.34:6-98.14) is amended is  
16 read as follows:

17 14. **[Penalties.]**

18 Any person violating any of the provisions of this act shall be  
19 liable to a penalty of not less than **[\$25.00]** \$100 nor more than  
20 **[\$500.00]** \$50,000 to be collected in a civil action by a summary  
21 proceeding under the **[Penalty Enforcement Law, section 2A:58-1**  
22 **of the New Jersey Statutes]** “Penalty Enforcement Law of 1999,”  
23 P.L.1999, c.274 (C.2A:58-10 et seq.). Any violation of the act by  
24 an officer, agent or employee shall also be a violation of the act by  
25 his employer if such employer had knowledge of and actual control  
26 over the cause of such violation. Where the violation is of a  
27 continuing nature each day during which it continues, after the date  
28 given by which the violation must be eliminated in the order by the  
29 commissioner, shall constitute an additional separate and distinct  
30 offense, except during the time an appeal from said order may be  
31 taken or is pending.

32 The commissioner is hereby authorized and empowered to  
33 compromise and settle any claim for a penalty under this section in  
34 such amount in the discretion of the commissioner as may appear  
35 appropriate and equitable under all of the circumstances.  
36 (cf: P.L.1973, c.257, s.5)

37  
38 10. This act shall take effect immediately.  
39  
40

#### 41 STATEMENT

42  
43 This bill amends the Mine Safety Act to remove the educational  
44 and experience requirements of certain mine safety engineers and  
45 mine safety inspectors. Currently the law requires mine safety  
46 engineers serving as section chiefs to be physically able to  
47 discharge their duties, have at least 4 years' experience in mining,

**A3937 FISHER**

14

1 including experience in quarry operations, mine safety work and  
2 accident prevention and be a graduate engineer from a recognized  
3 school of engineering. The law also sets forth requirements for  
4 other mine safety personnel. The provisions of the bill remove  
5 some educational requirements for certain positions including  
6 degree requirements and the number of years experience in mining.

7 The bill further increases the mine registration fee. Currently the  
8 commissioner has the authority to charge an annual registration fee  
9 of not less than \$15 nor more than \$50 for each certificate of  
10 registration issued. The bill increases those amounts to \$500 and  
11 \$3,000 respectively and allows the commissioner to increase the  
12 fines through regulations, as is necessary.

13 Finally, the bill increases the penalties for violating the  
14 provisions of the Mine Safety Act from a range of \$25 to \$500 to a  
15 new range of \$100 to \$50,000.

# ASSEMBLY LABOR COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3937**

with committee amendments

# STATE OF NEW JERSEY

DATED: MAY 14, 2007

The Assembly Labor Committee reports favorably and with committee amendments Assembly Bill No. 3937.

As amended, this bill amends the "Mine Safety Act" to remove the educational and experience requirements of certain mine safety engineers and mine safety inspectors employed by the Department of Labor and Workforce Development. Currently the law requires mine safety engineers serving as section chiefs to be physically able to discharge their duties, have at least 4 years' experience in mining, including experience in quarry operations, mine safety work and accident prevention and be a graduate engineer from a recognized school of engineering. The provisions of the bill remove those requirements as well as other requirements for other positions, including degree requirements and the number of years experience in mining.

The bill also increases the mine registration fee. Currently the Commissioner of Labor and Workforce Development has the authority to charge an annual registration fee of not less than \$15 nor more than \$50 for each certificate of registration issued. The bill increases those amounts to \$500 and \$3,000 respectively and allows the commissioner to increase the fines through regulations, as is necessary.

The bill provides a tiered penalty system whereby any person violating any provision of the bill is liable to a penalty of not more than \$2,500 for the first offense, not more than \$5,000 for the second offense and not more than \$10,000 for the third and any subsequent offense and, any person violating any provision which results in serious bodily injury, is liable for a penalty of not less than \$100 nor more than \$25,000.

#### COMMITTEE AMENDMENTS

The amendments adopted by the committee:

1. Remove the reference to the current fiscal year with respect to the effective date of the increase in the mine registration fee.
2. Modify the penalty section of the bill for violations of the "Mine Safety Act" to create a tiered penalty system so that any person violating a provision of the act is liable for a penalty of not more than

\$2,500 for the first offense, not more than \$5,000 for the second offense and not more than \$10,000 for the third and any subsequent offense, and eliminates the minimum penalty amount of \$25. Unamended, the bill set, for any violation, a minimum penalty of \$100 and a maximum penalty of \$50,000.

3. Provide that any person who violates any provision which results in serious bodily injury, be liable for a penalty of not less than \$100 nor more than \$25,000.

As reported, the bill is identical to Senate Bill No. 2386 (4R), also reported by the committee.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 3937**

# **STATE OF NEW JERSEY**

DATED: JUNE 14, 2007

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3937 (1R).

The bill amends the "Mine Safety Act" to remove the educational and experience requirements of certain mine safety engineers and mine safety inspectors employed by the Department of Labor and Workforce Development. Currently the law requires mine safety engineers serving as section chiefs to be physically able to discharge their duties, have at least 4 years' experience in mining, including experience in quarry operations, mine safety work and accident prevention and be a graduate engineer from a recognized school of engineering. The provisions of the bill remove those requirements as well as other requirements for other positions, including degree requirements and the number of years experience in mining.

### FISCAL IMPACT:

The bill increases the mine registration fee. Currently the Commissioner of Labor and Workforce Development has the authority to charge an annual registration fee of not less than \$15 nor more than \$50 for each certificate of registration issued. The bill increases those amounts to \$500 and \$3,000 respectively and allows the commissioner to increase the fines through regulations, as is necessary.

The bill provides a tiered penalty system whereby any person violating any provision of the bill is liable to a penalty of not more than \$2,500 for the first offense, not more than \$5,000 for the second offense and not more than \$10,000 for the third and any subsequent offense and, any person violating any provision which results in serious bodily injury, is liable for a penalty of not less than \$100 nor more than \$25,000.



# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

**ASSEMBLY, No. 3937**

## **STATE OF NEW JERSEY 212th LEGISLATURE**

DATED: JULY 9, 2007

### SUMMARY

**Synopsis:** Increases certain fees and penalties of the Mine Safety Act.

**Type of Impact:** Revenue gain – Department of Labor and Workforce Development

**Agencies Affected:** Department of Labor and Workforce Development

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>FY 2007</u></b>	<b><u>FY 2008</u></b>	<b><u>FY 2009</u></b>
Department of Labor and Workforce Development	Indeterminate Increase - See Comments Below		

- This bill increases certain of the fees and penalties under the “Mine Safety Act” for FY 2007 and authorizes the Commissioner of Labor and Workforce Development to implement future increases by regulation.
- This bill increases revenue for the Department of Labor and Workforce Development (department). According to the department, the fee increases are necessary to partially support the public safety and occupational safety and health program costs. The Office of Legislative Services (OLS) notes that the additional revenue resulting from the increases as provided in the bill may offset future General Fund costs for the Division of Workplace Standards.
- The OLS cannot estimate the amount of revenue resulting from increases in fees and penalties under the bill’s provisions. Specifically, the OLS cannot determine the volume or nature of future violations of the “Mine Safety Act” provisions, and of those, the penalty amounts resulting from the violations. The amount by which the commissioner may increase the fees for permits to meet program costs after FY 2007 is also unclear.
- According to the department, “Mine Safety Act” permits accounted for \$9,250 and \$9,010 in FY 2005 and FY 2006, respectively. “Mine Safety Act” penalties accounted for \$1,500 and \$2,000 in FY 2005 and FY 2006, respectively.

## **BILL DESCRIPTION**

Assembly Bill No. 3937 (1R) of 2007 amends the “Mine Safety Act” to remove the educational and experience requirements of certain mine safety engineers and mine safety inspectors employed by the Department of Labor and Workforce Development. Currently, the law requires mine safety engineers serving as sections chiefs to be physically able to discharge their duties, have at least four years’ experience in mining, including experience in quarry operations, mine safety work and accident prevention and be a graduate engineer from a recognized school of engineering. The provisions of the bill remove those requirements, as well as other requirements for other positions, including degree requirements and number of years experience in mining.

The bill increases the mine registration fee. Currently, the Commissioner of Labor and Workforce Development has the authority to charge an annual registration fee of not less than \$15 nor more than \$50 for each certificate of registration issued. The bill increases those amounts to \$500 and \$3,000, respectively, and allows the commissioner to adjust the fees with fee schedules adopted by regulation. The bill creates a tiered penalty system whereby any person violating any provision of the bill would be liable to a penalty of not more than \$2,500 for the first offense, not more than \$5,000 for the second offense and not more than \$10,000 for the third and any subsequent offense, and any person violating any provision which results in permanent bodily injury would be liable for a penalty of not less than \$100 nor more than \$25,000.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

This bill increases the fees and penalties under the “Mine Safety Act” for FY 2007 and authorizes the Commissioner of Labor and Workforce Development to implement future increases by regulation. The bill increases revenue for the Department of Labor and Workforce Development (department). According to the department, the fee increases are necessary to partially support its public safety and occupational safety and health program costs. The OLS notes that the additional revenue resulting from the increases as provided in the bill may offset future General Fund resources for the Division of Workplace Standards. The OLS cannot estimate the amount of revenue resulting from increases in fees and penalties under the bill’s provisions. Specifically, the OLS cannot determine the volume or nature of future violations of the “Mine Safety Act” provisions, and of those, the penalty amounts resulting from the violations. The amount by which the commissioner may increase the fees for permits to meet program costs after FY 2007 is also unclear. According to the department, “Mine Safety Act” permits accounted for \$9,250 and \$9,010 in FY 2005 and FY 2006, respectively. “Mine Safety Act” penalties accounted for \$1,500 and \$2,000 in FY 2005 and FY 2006, respectively.

*Section: Commerce, Labor and Industry*

*Analyst: Gregory L. Williams  
Lead Research Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67.

**SENATE, No. 2386**

**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

INTRODUCED DECEMBER 11, 2006

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Salem, Cumberland and Gloucester)**

**SYNOPSIS**

Increases certain fees and penalties of the Mine Safety Act.

**CURRENT VERSION OF TEXT**

As introduced.



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2

1 AN ACT concerning mine safety, increasing certain fees and  
2 penalties and amending P.L.1954, c.197.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 2 of P.L.1954, c.197 (C.34:6-98.2) is amended is read  
8 as follows:

9 2. **[Definitions.]**

10 As used in this act:

11 "Approved" means approved by the commissioner.

12 **["Bureau" means the Bureau of Engineering and Safety,  
13 Division of Labor, Department of Labor and Industry.]**

14 "Commissioner" means the Commissioner of Labor and  
15 **[Industry] Workforce Development** or any of his authorized  
16 representatives.

17 **["Deputy director" means the deputy director in charge of the  
18 bureau.]**

19 **"Department" means the Department of Labor and Workforce  
20 Development.**

21 "Excavations" or "workings" means shafts, tunnels, entries,  
22 winzes, raises, stopes, open cut and any and all working places and  
23 parts of a mine, either above ground or underground, excavated or  
24 being excavated, whether abandoned or in use.

25 "Face" means the advancing breast of any place of work.

26 "Mine" includes any mines within the State, whether on the  
27 surface or underground and any mining plant, material, equipment  
28 or explosives on the surface or underground, which may contribute  
29 to the mining or handling of ore or other metalliferous or  
30 nonmetalliferous products. The term "mine" shall also include  
31 quarry, sand pit, gravel pit, clay pit and shale pit.

32 "Operator" means the person, firm, association, company,  
33 corporation or any officers or agents thereof, in immediate  
34 possession of any mine or mining claim or its accessories as owner  
35 or lessee and, as such, responsible for its management and  
36 condition.

37 **"Section" means mine safety section within the Department of  
38 Labor and Workforce Development.**

39 "Superintendent" means the person who has immediate  
40 supervision of a mine for an operator.

41 Words used in the singular shall include the plural, and the plural  
42 shall include the singular.

43 (cf: P.L.1954, c.197, s.2)

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1       2. Section 3 of P.L.1954, c.197 (C.34:6-98.3) is amended is read  
2 as follows:

3       3. **【Mine safety section.】**

4       a. There is hereby created within the **【bureau】** Department of  
5 Labor and Workforce Development a mine safety section **【under**  
6 **the direction and general supervision of the deputy director】**.

7       b. The mine safety section shall be under the immediate  
8 supervision of a **【mine safety engineer, serving as】** section chief,  
9 who shall be responsible **【to the head of the bureau】** for the  
10 efficient, effective administration of the work of the section. The  
11 section chief shall be assisted by and supervise such other **【mine**  
12 **safety engineers,】** mine safety inspectors, technicians and other  
13 employees as may be necessary to perform the work.

14       c. **【Under the direction of the head of the bureau, the】** The  
15 section chief shall personally or by assignment to employees of the  
16 section, inspect, investigate, inquire and examine into the operation,  
17 workings, methods, safety devices and appliances, machinery,  
18 sanitation, ventilation, means of ingress and egress, means taken to  
19 protect the lives and insure the safety and health of miners, together  
20 with the causes of accidents, injuries and fatalities and means taken  
21 to comply with the law; conduct scientific tests to determine  
22 amount and condition of air together with contaminants therein or  
23 for any purpose that shall provide for the maintenance of safe,  
24 sanitary and healthful conditions, furnish such reports and do other  
25 related work as **【the deputy director may require】** required.

26       d. Employees of the **【bureau】** section shall have the power and  
27 authority, upon exhibition of official credentials, at all reasonable  
28 hours to enter and examine any part of a mine, mining plant,  
29 equipment or workings. All operators and their employees shall  
30 render all assistance necessary to facilitate such examination.

31       e. **【The mine safety engineer, serving as section chief, shall be**  
32 **physically able to discharge his duties and shall have at least 4**  
33 **years' experience in mining, including experience in quarry**  
34 **operations, mine safety work and accident prevention. He shall be**  
35 **a graduate engineer from a recognized school of engineering.】**  
36 (Deleted by amendment, P.L. , c. )(pending before the  
37 Legislature as this bill)

38       f. **【The qualifications for a mine safety engineer, other than the**  
39 **section chief, shall be the same, excepting that he shall have had a**  
40 **minimum of 3 years' experience in mining.】** (Deleted by  
41 amendment, P.L. , c. ) (pending before the Legislature as this  
42 bill)

43       g. **【Mine safety inspectors shall have had at least 4 years'**  
44 **experience in mining.】** (Deleted by amendment, P.L. , c. )  
45 (pending before the Legislature as this bill)

46       h. No employee of the department shall make public, directly or  
47 indirectly to any person any knowledge or information obtained by

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4

1 him in the exercise of his official duties concerning ores, ore  
2 bodies or values of any mine or part thereof. Any employee who  
3 shall violate any of the provisions of this **[paragraph]** subsection  
4 shall be guilty of a crime of the fourth degree and, on conviction,  
5 shall be punished by a fine of not less than \$500.00 nor more than  
6 \$1,000.00 or imprisonment in the county jail not to exceed 1 year,  
7 or both, and shall be dismissed from his position.

8 i. It shall be the duty of the **[bureau]** section to cause to have  
9 inspected at least once in every 3 months, every underground mine  
10 in this State, and every other working mine at least twice each year,  
11 and **[oftener]** more often, if it is deemed necessary for the safety of  
12 the **[men employed in]** persons involved with the mine.

13 j. After every inspection, the mine safety inspector shall enter  
14 forthwith in a book to be kept at the mine and designated as the  
15 "record of mine safety inspection," the portion of the mine  
16 inspected, the nature of the inspection and the dangers and defects  
17 observed. This record shall be open at all reasonable hours to the  
18 examination of the operator, any employee or the designated  
19 representative of the employees of the mine inspected. Nothing  
20 contained in or omitted from any entry in such record shall limit or  
21 affect the duty and obligations of the operator, superintendent or  
22 employee.

23 (cf: P.L.1981, c.458, s.1)

24

25 3. Section 4 of P.L.1954, c.197 (C.34:6-98.4) is amended is read  
26 as follows:

27 4. **[Authority and duties of the commissioner.]**

28 a. The commissioner shall administer the provisions of this act  
29 and may promulgate, make, amend and repeal necessary and  
30 reasonable rules and regulations not inconsistent with the provisions  
31 of this act. Such rules and regulations shall have the force and  
32 effect of law and shall be enforced in the same manner. It is the  
33 policy and intent of this section that the physical plant, operations  
34 and methods of the mining industry or any part thereof including  
35 mines abandoned prior to the passage of this act and mines  
36 abandoned subsequent to the passage of this act shall be so  
37 constructed, equipped, arranged, operated, maintained and  
38 conducted in all respects as to provide for reasonable and adequate  
39 protection to the lives, health and safety of miners, others employed  
40 in the mining industry and frequenting the same, the owners of the  
41 surface of the ground above such mines and the general public, as  
42 well as the protection of property. **[The commissioner shall be**  
43 **guided by the standards and recommendations of the United States**  
44 **Bureau of Mines, and recognized mine safety authorities in the**  
45 **preparation of the rules and regulations.]**

46 b. When requested to do so, the commissioner may make tests,  
47 or have same made, to determine if any device, safeguard or  
48 equipment may be approved for use in connection with any

1 provisions of this act. **[He]** The commissioner may charge a fee  
2 for such approval, payable by the approval applicant, in any amount  
3 commensurate with the cost to the State for making such tests or  
4 have same made, in which case he may require the applicant to pay  
5 all cost directly to the private agency making the test.

6 c. The commissioner shall appoint all personnel pursuant to the  
7 provisions of Title **[11, Revised Statutes,]** 11A of the New Jersey  
8 Statutes and arrange for all services necessary to administer the  
9 provisions of this act. He shall arrange for operations to be  
10 conducted in branch offices located near the mining centers of the  
11 State if, in his opinion, the effectiveness of the service can be  
12 thereby improved.

13 d. If, upon examination or inspection, it shall appear to an  
14 inspector that a mine or part thereof is, from any cause, in a  
15 dangerous condition, or fails to comply with the provisions of this  
16 act or any rule or regulation promulgated hereunder, he shall so  
17 report to the **[bureau]** section and the commissioner shall at once  
18 notify the operator in charge thereof, such notice to be in writing  
19 and to be served by copy upon the operator. Said notice shall state  
20 in detail in what particular said mine or part thereof is deemed  
21 dangerous, insecure and not in compliance with the provisions of  
22 this act, and provide a reasonable specified time to comply. The  
23 operator of said mine shall forthwith make such change in order to  
24 comply with the requirements of this act.

25 e. In case of any civil or criminal proceedings at law against the  
26 parties so notified, on account of loss of life or bodily injuries  
27 sustained by an employee, subsequent to such notice, and in  
28 consequence of such dangerous condition, and without an  
29 affirmative and diligent effort having been made to remedy the  
30 same to the satisfaction of the commissioner, a certified copy of the  
31 notice served by the commissioner shall be prima facie evidence of  
32 the negligence of such party or parties.

33 f. If it appears from a reexamination of the mine by the inspector  
34 that such changes or compliances have not been made within the  
35 time specified in such notice, and that the mine or part of such mine  
36 is still in an unlawful condition or dangerous to life, health or  
37 property and in the opinion of the commissioner, it is necessary for  
38 the protection of life, health or property that such mine or part of  
39 the mine be vacated, the commissioner shall forthwith order the  
40 cessation of the operation and working of said mine or part of mine,  
41 and order that the employees shall not be permitted therein for any  
42 purpose other than to remedy the defects complained of, until the  
43 provisions of this act are complied with to the satisfaction of the  
44 commissioner. The operator of said mine shall forthwith obey said  
45 order.

46 g. If a representative of the **[bureau]** section finds conditions in  
47 any mine which in his opinion are dangerous to the health and lives  
48 of employees, owners of the surface of the ground above the mine



1 or the general public, he shall report the facts forthwith to the  
2 **[bureau]** commissioner. The commissioner shall order all  
3 workings stopped in the particular section of the mine in which the  
4 dangerous condition was found, if in his opinion such an action is  
5 necessary to preserve life and limb. Work shall not be resumed  
6 until the commissioner so authorizes.

7 h. The commissioner shall have the power and authority to  
8 require that every mine, pit or quarry of any operator be registered  
9 with him and that a certificate of registration be obtained before the  
10 opening of such mine, pit or quarry. The application and certificate  
11 forms shall be prescribed by the commissioner.

12 A certificate of registration shall expire 1 year from its effective  
13 date, unless sooner revoked or suspended by the commissioner. A  
14 certificate of registration may be renewed upon the filing of an  
15 application of renewal on a form prescribed by the commissioner.  
16 A certificate of registration shall at all times be prominently  
17 displayed at each mine, pit or quarry of the operator.

18 The commissioner shall have the power and authority to charge  
19 an annual registration fee of not less than **[\$15.00]** \$500 nor more  
20 than **[\$50.00]** \$3,000 for each certificate of registration issued in  
21 State fiscal year 2006-2007. Thereafter, fees shall be issued by the  
22 commissioner in accordance with fee schedules adopted by  
23 regulation.

24 (cf: P.L.1973, c.257, s.2)

25

26 4. Section 5 of P.L.1954, c.197 (C.34:6-98.5) is amended is read  
27 as follows:

28 5. **[Annual report.]** The commissioner shall embody in his  
29 annual report to the Governor a statistical summary and report of  
30 work of the **[mine safety]** section **[of the bureau]** during the year  
31 ending June 30.

32 a. The report shall contain a statement showing for each mine,  
33 the number of **[men]** persons employed underground and above-  
34 ground; the number and nature of fatal, lost-time injuries and  
35 serious accidents; the number of inspections made, complaints filed,  
36 inquests attended, workings ordered vacated and violations found;  
37 and any other information deemed important and relevant to safety  
38 in the mining industry of the State together with such  
39 recommendations as in the judgment of the commissioner are  
40 necessary to enforce the law, insure the safety of **[workmen]**  
41 persons in mines and preserve property. The commissioner may  
42 prepare supplemental reports containing any or all of the above  
43 described statements, from time to time. A copy of any  
44 supplemental or annual report shall be made publicly available.

45 (cf.: P.L.1954, c.197, s.5.)

46

47 5. Section 6 of P.L.1954, c.197 (C.34:6-98.6) is amended is read  
48 as follows:

1       6. **【General requirements.】**

2       a. Every operator shall comply with the provisions of this act  
3 and the rules and regulations issued **【thereunder】** hereunder and  
4 every person shall comply with such provisions **【that may be】** as  
5 applicable to **【him】** that person.

6       b. Every operator before opening a new mine, pit or quarry,  
7 shall report the location of such proposed mine, pit or quarry and  
8 **【his】** the operator's name and address in writing to the  
9 commissioner and to the local governing body of the municipality  
10 in which the mine, pit or quarry is to be located, and make  
11 application in writing to the commissioner for permission to open  
12 such mine, pit or quarry.

13       c. Every operator shall report the location of the mine and the  
14 name and address of the owner of the surface and of the mineral  
15 rights in writing to the commissioner and the local governing bodies  
16 involved before the commencement of operations by him.

17       d. Every operator abandoning or permanently discontinuing any  
18 mine, pit or quarry shall notify the commissioner and the local  
19 governing bodies involved in writing no less than 60 days prior to  
20 such abandonment or discontinuance.

21       e. The operator shall post at the surface entrance, or around the  
22 surface extremities of any mine, pit or quarry, appropriate,  
23 conspicuous and readily legible warning notices of the existence  
24 and dangers thereof and shall also place or cause to be placed  
25 guardrails, fences or other approved means, sufficient to prevent  
26 accidental fallings in any operating or abandoned mine, pit or  
27 quarry as the commissioner may direct.

28       f. The protection shall include adequate fences, when any such  
29 mine or area is declared a hazard as provided by this act, or  
30 effective and secure capping of surface access to mine workings or  
31 other protective measures which in the judgment of the  
32 commissioner are necessary to prevent injury to persons or damage  
33 to property by accidental fallings into the abandoned mine.

34       In any case where an abandoned mine constitutes an imminent  
35 hazard to persons and the order of the commissioner to protect such  
36 mine has not been complied with in the time specified, the  
37 commissioner is authorized to take such steps as may be necessary  
38 to eliminate the imminent hazard. The operator of the mine shall  
39 reimburse the commissioner for the actual cost of whatever  
40 corrective measures have been employed in eliminating the  
41 imminent hazard. The cost of any such corrective measures, until  
42 reimbursed, shall constitute a lien on such property and the mineral  
43 rights thereto.

44       The provisions of subsection e. of this section shall be applicable  
45 to mines abandoned prior to the passage of this act when any such  
46 mine is declared a hazard by the municipal governing body or by  
47 the State, after public hearing, and after such protection is requested  
48 by the municipality or State.

1 g. It shall be the duty of the mine operator, superintendent, or  
2 any one in charge of a mine, **[where]** with 10 or more **[men are**  
3 **employed,]** persons, to keep at such places about the mine as may  
4 be designated by the commissioner, a stretcher and a woolen and  
5 waterproof blanket, in good condition, for use in caring for any  
6 person who may be injured at the mine. When more than 50  
7 persons are employed, two or more stretchers with woolen and  
8 waterproof blanket shall be kept, and in all mines, a supply of first-  
9 aid equipment as may be prescribed by the **[bureau]** section shall  
10 be kept readily accessible for the treatment of anyone injured. In all  
11 mines a first-aid corps shall be organized, consisting of the  
12 foreman, shift bosses, and other employees designated by the  
13 operator or superintendent of the mine to cause the organization of  
14 such; and to procure the services of a physician or qualified first-aid  
15 instructor to instruct the members of such first-aid corps from time  
16 to time, not less than once in each calendar month, until a sufficient  
17 number of members of such corps as may be required by the  
18 **[bureau]** section shall be certified by said physician or instructor to  
19 be qualified in the proper handling and treatment of injured persons  
20 before treatment by a physician.

21 h. Adequate medical care or attention shall be provided for all  
22 injuries arising out of and in the course of employment.

23 i. When considered necessary by the **[bureau]** section, and so  
24 ordered by it, the operator of every underground mine shall make  
25 and maintain, or cause to be made and maintained, a reasonably  
26 accurate map of the workings of such mine. At least once in every  
27 6 months, or **[oftener]** more often, if necessary, the operator or  
28 engineer of such mine shall cause to be shown, with reasonable  
29 accuracy on the map of said mine, all the excavations made therein  
30 during the time elapsed since such excavations were last shown on  
31 said map, and all parts of said mine which were worked and  
32 abandoned during said elapsed period of time shall be clearly  
33 indicated on said map, and all underground workings shall be  
34 surveyed and mapped before they are allowed to become  
35 inaccessible. Such maps shall at all times be open to examination  
36 by an inspector of the **[bureau]** section.

37 j. No person shall disobey an order given in pursuance of the  
38 law, or do a willful act whereby the lives or health of persons  
39 working in such mines, or the security of a mine, or the machinery  
40 connected therewith, may be endangered.

41 k. Notices shall be placed by the superintendent, or under his  
42 direction by the mine foreman or shift boss, at the entrance of any  
43 working place deemed dangerous, and at the entrance to old or  
44 abandoned workings; and no person other than those who are  
45 authorized by the operator or superintendent, shall remove or go  
46 beyond any caution board or danger signal so placed.

47 l. At any mine employing 25 or more **[men]** persons  
48 underground, the operator shall provide, and keep in a readily

1 accessible place, at least 2 approved portable oxygen breathing  
2 **[apparati]** apparatuses in condition to be used in case of  
3 emergency; also, the operator or superintendent of such mine shall  
4 provide training and periodic drills for a mine rescue crew in the  
5 use of such **[apparati]** apparatuses, fire protection methods and  
6 rescue work all in a manner as may be required by the **[bureau]**  
7 section. Tests, at least once monthly, of **[apparati]** apparatuses by  
8 the actual use thereof shall be made.

9 m. It shall be the duty of the superintendent of any mine, within  
10 the provisions of this act, to keep at all times in the office of the  
11 mine and in the timekeeper's office thereof, in an accessible place  
12 and subject to inspection by all **[workmen and]** persons **[interested**  
13 **in the same]**, at least one printed copy of this act.

14 n. No minor under 18 years of age shall be employed, permitted  
15 or suffered to work in, about, or in connection with any mine.

16 o. Strangers and visitors shall not be allowed underground  
17 unless accompanied by the owner, official or employee deputized to  
18 accompany them.

19 p. No **[workman]** person shall be required, without his consent,  
20 to work underground in any mine for more than 8 hours in any  
21 consecutive 24 hours, which 8 hours shall be reckoned from the  
22 time he arrives at his place of work in the mine until he leaves such  
23 place, provided that:

24 (a) A Saturday shift may work longer hours for the purpose of  
25 avoiding work on Sunday or changing shift at the end of the week  
26 or giving any of the **[men]** persons a part holiday;

27 (b) The said limit shall not apply to a foreman, pumpman,  
28 cagetender, or any person engaged solely in surveying or  
29 measuring, nor shall it apply in cases of emergency, where life or  
30 property is in imminent danger, or in any case of repair work.

31 q. No person shall knowingly injure or destroy any equipment or  
32 machinery of any mine; nor, unless lawfully authorized to do so,  
33 obstruct or open an airway, handle or disturb any part of the  
34 machinery of the hoisting engine of the mine, open the door of a  
35 mine and neglect to close it, endanger the mine or those working  
36 therein, disobey an order given in pursuance of the law, or do a  
37 willful act whereby the lives or health of persons working in such  
38 mines, or the security of a mine, or the machinery connected  
39 therewith, may be endangered.

40 (cf: P.L.1973, c.257, s.3)

41

42 6. Section 7 of P.L.1954, c.197 (C.34:6-98.7) is amended is read  
43 as follows:

44 7. **[Safety.]**

45 a. Every mine shall be so constructed, equipped, arranged,  
46 operated, maintained and conducted in all respects as to provide  
47 reasonable and adequate protection to the lives, health and safety of  
48 all persons employed therein, or legally frequenting the same, the

- 1 owners of the surface of the ground above the mine, the general  
2 public and to provide for the protection of property.
- 3 b. No person shall work or be permitted to work alone in an  
4 unsafe place.
- 5 c. No **[men]** person shall be permitted to work in an unsafe  
6 place unless for the purpose of making it safe, and then only after  
7 proper precautions have been taken to protect the **[men]** persons  
8 who are doing the work.
- 9 No person shall be in solitary employment at a working face  
10 unless he is in communication with another employee at reasonable  
11 intervals as determined by the commissioner.
- 12 d. An air current sufficient to remove smoke, dust and noxious  
13 gases and to insure the safety of every **[employee]** person shall be  
14 conducted along every passageway and working place in  
15 underground workings in such a manner and in accordance with the  
16 standards established by the **[bureau]** section.
- 17 e. Every mine shall install and maintain approved washing,  
18 dressing and toilet facilities and every underground mine shall  
19 install and maintain an approved miner's dryhouse for drying the  
20 working clothes of the miners.
- 21 f. The commissioner shall require that an underground mine,  
22 operating either through a vertical or inclined shaft, or a horizontal  
23 tunnel, and producing from stoping operations shall have not less  
24 than two approved outlets, at least 150 feet apart. Where there is no  
25 such escapement shaft or opening, work thereon must be  
26 commenced as soon as stoping begins, and must be diligently  
27 prosecuted until the escapement shaft, raise, or opening is  
28 completed and continued to and connected with the lowest  
29 workings. The subterranean workings shall connect such outlets  
30 with each other in a safe, approved manner. Such outlets shall at all  
31 times provide safe and separate passage between the subterranean  
32 workings and the surface.
- 33 g. Every mine shall be properly and sufficiently protected in an  
34 approved manner against the hazards of fire from any cause.
- 35 h. All working places and travel roads shall be, when necessary,  
36 kept timbered, barricaded, or otherwise guarded to prevent injury to  
37 any person from falling material, falling objects or fall of such  
38 person.
- 39 i. When advancing a drift, exit, level or incline toward a mine  
40 working that is suspected to be filled with water, a bore hole must  
41 be kept at least 20 feet in advance of the breast of the drive, and  
42 also, if necessary, in directions laterally from the course of the  
43 drive. Such additional precautionary measures shall be taken as  
44 may be deemed necessary by the commissioner to obviate the  
45 danger of a sudden break through of water.
- 46 j. No raise shall be allowed to approach within 10 feet of any  
47 portion of a winze or stope in which there is a dangerous  
48 accumulation of water, unless such winze or stope be first

1 unwatered by bailing or pumping or by means of a bore from the  
2 raise.

3 k. In every mine where, in the opinion of the **[commissioners]**  
4 commissioner, there is danger of a sudden inrush of water, such  
5 additional raises, drifts or other working shall be constructed as are  
6 necessary to insure the escape of **[workmen]** persons from the  
7 lower workings, and all sumps and places for the storage of water in  
8 mines shall be so constructed as to prevent leakage as far as  
9 possible, and insure the safety of the **[men]** persons working below  
10 the same.

11 l. It shall be unlawful for any operator to impound water or to  
12 keep water impounded within any mine in which **[men]** persons are  
13 working below the water so impounded in such manner as to  
14 endanger the safety of such **[men]** persons, unless the water be  
15 impounded by a dam or dams or wall or walls approved by the  
16 **[bureau]** section.

17 m. Every place where drilling or blasting work is being carried  
18 on in an underground mine shall be adequately supplied at all times  
19 with clean water under pressure or other approved appliances for  
20 controlling dust.

21 n. Potable drinking water shall be available to employees during  
22 **[the]** working hours.

23 o. Approved personal protective equipment shall be worn by all  
24 employees during the course of their work as required by standards  
25 **[and rules and regulations of the bureau]** and the rules and  
26 regulations promulgated pursuant to the provisions of this act.

27 (P.L.1973, c.257, s.4)

28

29 7. Section 8 of P.L.1954, c.197 (C.34:6-98.8) is amended is read  
30 as follows:

31 8. **[Explosives.]**

32 a. When explosives are used in a mine or quarry, the manner of  
33 storing, keeping, handling, moving, charging and firing, or in any  
34 manner using such explosives, shall be in accordance with the  
35 requirements of **[chapter 27 of the laws of 1941]** the "Explosives  
36 Act," P.L.1960, c. 55 (C.21:1A-128 et seq.), as amended or  
37 supplemented, and the rules and regulations now in effect or  
38 hereafter issued thereunder, except for the following limitations:

39 b. All explosives in excess of the amount required for the work  
40 of 1-day underground operations may be stored underground in a  
41 safely located secondary storage magazine. The maximum amount  
42 of explosives to be stored in such magazine shall not exceed the  
43 requirements for a 48 hours' supply.

44 c. The commissioner may regulate and limit the amount of  
45 explosives stored in a primary magazine in any underground  
46 portion of a mine with due regard for the safety of miners.

1 d. Any temporary supply for the work of a shift shall be kept in  
2 such a place that its accidental discharge will not endanger the  
3 miners.

4 (P.L.1954, c.197, s.8)

5

6 8. Section 9 of P.L.1954, c.197 (C.34:6-98.9) is amended is read  
7 as follows:

8 9. **【Complaints; serious accidents.】**

9 a. Whenever the commissioner receives a complaint in writing  
10 signed by 2 or more persons employed in a mine, setting forth that  
11 the mine or part thereof in which he or they are working is being  
12 operated contrary to law, or is dangerous in any respect to the  
13 health or lives of those employed therein, he shall cause to be  
14 inspected such mine as soon as possible. The names of the persons  
15 making such complaint shall be kept secret, unless permission to  
16 disclose them be expressly granted by the persons making the  
17 complaint. Such complaint shall in all cases set forth the nature of  
18 the danger existing at the mine, and the time when such danger was  
19 first observed. If, after such inspection, it is found that the  
20 conditions are dangerous to the health or lives of those employed  
21 therein, the commissioner shall serve a notice, setting forth fully the  
22 facts, upon the operator or any person having charge of such mine,  
23 and shall order the operator of said mine or mines to remove such  
24 dangerous or harmful conditions, and the operator of said mine shall  
25 obey said order.

26 b. Whenever loss of life or serious accident shall occur in any  
27 mine, the operator thereof shall forthwith give notice immediately  
28 in the quickest possible manner, and, in addition, shall report the  
29 facts thereof in writing within 24 hours after such occurrence in a  
30 manner prescribed by the **【bureau】** section.

31 The refusal or failure of said owner, agent, manager or operator  
32 to so report shall be a misdemeanor. The **【bureau】** section, upon  
33 receipt of notice of such accident, shall investigate the same and  
34 make, or cause to be made, a report which shall be filed for future  
35 reference. In case of the loss of life, any inspector of the **【bureau】**  
36 section may take testimony of witnesses relative to the same, for the  
37 purpose of ascertaining the cause of such accident, and for his  
38 information in filing a report concerning the same. If, after making  
39 such investigation, the **【bureau】** section considers the facts warrant  
40 it, a copy of the report of such accident and all papers relating  
41 thereto shall be forwarded to the county prosecutor of the county in  
42 which the accident or loss of life occurred, together with an  
43 accompanying statement, showing in what particular or particulars  
44 it is believed the law to have been violated, and if upon the receipt  
45 thereof, the prosecuting officer of the said county deems the facts  
46 sufficient to make a prima facie case of criminal action against any  
47 person or persons, he shall present such evidence to the grand jury,

1 or take such steps for the criminal prosecution of such operator,  
2 employees or persons as may seem advisable.

3 (P.L.1954, c.197, s.9)

4

5 9. Section 14 of P.L.1954, c.197 (C.34:6-98.14) is amended is  
6 read as follows:

7 14. **[Penalties.]**

8 Any person violating any of the provisions of this act shall be  
9 liable to a penalty of not less than **[\$25.00]** \$100 nor more than  
10 **[\$500.00]** \$50,000 to be collected in a civil action by a summary  
11 proceeding under the **[Penalty Enforcement Law, section 2A:58-1**  
12 **of the New Jersey Statutes]** “Penalty Enforcement Law of 1999,”  
13 P.L.1999, c.274 (C.2A:58-10 et seq.). Any violation of the act by  
14 an officer, agent or employee shall also be a violation of the act by  
15 his employer if such employer had knowledge of and actual control  
16 over the cause of such violation. Where the violation is of a  
17 continuing nature each day during which it continues, after the date  
18 given by which the violation must be eliminated in the order by the  
19 commissioner, shall constitute an additional separate and distinct  
20 offense, except during the time an appeal from said order may be  
21 taken or is pending.

22 The commissioner is hereby authorized and empowered to  
23 compromise and settle any claim for a penalty under this section in  
24 such amount in the discretion of the commissioner as may appear  
25 appropriate and equitable under all of the circumstances.  
26 (cf: P.L.1973, c.257, s.5)

27

28 10. This act shall take effect immediately.

29

30

31

#### STATEMENT

32

33 This bill amends the Mine Safety Act to remove the educational  
34 and experience requirements of certain mine safety engineers and  
35 mine safety inspectors. Currently the law requires mine safety  
36 engineers serving as section chiefs to be physically able to  
37 discharge their duties, have at least 4 years' experience in mining,  
38 including experience in quarry operations, mine safety work and  
39 accident prevention and be a graduate engineer from a recognized  
40 school of engineering. The law also sets forth requirements for  
41 other mine safety personnel. The provisions of the bill remove  
42 some educational requirements for certain positions including  
43 degree requirements and the number of years experience in mining.

44 The bill further increases the mine registration fee. Currently the  
45 commissioner has the authority to charge an annual registration fee  
46 of not less than \$15 nor more than \$50 for each certificate of  
47 registration issued. The bill increases those amounts to \$500 and



**S2386 SWEENEY**

14

1 \$3,000 respectively and allows the commissioner to increase the  
2 fines through regulations, as is necessary.

3 Finally, the bill increases the penalties for violating the  
4 provisions of the Mine Safety Act from a range of \$25 to \$500 to a  
5 new range of \$100 to \$50,000.

# SENATE LABOR COMMITTEE

## STATEMENT TO

### **SENATE, No. 2386**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 26, 2007

The Senate Labor Committee reports favorably and with committee amendments Senate Bill No.2386.

This bill amends the Mine Safety Act to remove the educational and experience requirements of certain mine safety engineers and mine safety inspectors. Currently the law requires mine safety engineers serving as section chiefs to be physically able to discharge their duties, have at least 4 years' experience in mining, including experience in quarry operations, mine safety work and accident prevention and be a graduate engineer from a recognized school of engineering. The law also sets forth requirements for other mine safety personnel. The provisions of the bill remove some work experience and education requirements for certain positions, including degree requirements and the number of years experience in mining.

The bill increases the mine registration fee. Currently the commissioner has the authority to charge an annual registration fee of not less than \$15 nor more than \$50 for each certificate of registration issued. The bill increases those amounts to \$500 and \$3,000 respectively and allows the commissioner to increase the fines through regulations, as is necessary.

Moreover, the committee has amended the bill to create a tiered penalty system whereby any person violating any provision of the bill would be liable to a penalty of not more than \$5,000 for the first offense, not more than \$10,000 for the second offense and not more than \$20,000 for the third and any subsequent offense and, any person violating any provision which results in permanent bodily injury, would be liable for a penalty of not less than \$100 nor more than \$50,000.

Finally, the bill as amended, requires a seller or lessor of any residential unit which is located within 1,500 feet of the metes and bounds of a mine to notify any prospective purchaser or lessee of that residential unit of the existence of the mine.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## **SENATE, No. 2386**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 5, 2007

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2386 (1R), with committee amendments.

The bill amends the "Mine Safety Act" to remove the educational and experience requirements of certain mine safety engineers and mine safety inspectors.

Specifically, the provisions of the bill remove certain work experience and education requirements for these mine safety personnel, including degree requirements and required years of experience in mining for these positions.

The bill also increases the mine registration fee and authorizes the Commissioner of Labor and Workforce Development to implement future increases as necessary by regulation. Under current law, the commissioner has the authority to charge an annual registration fee of not less than \$15 nor more than \$50 for each certificate of registration issued. The bill increases those amounts to \$500 and \$3,000, respectively, and provides the commissioner with the ability to regulate future fee increases as of July 1, 2007.

Lastly, the bill creates a tiered penalty system for violations under the Mine Safety Act whereby any person violating its provisions would be liable to a penalty of not more than \$5,000 for the first offense, not more than \$10,000 for the second offense and not more than \$20,000 for the third and any subsequent offense. Moreover, any person violating any provision which results in serious bodily injury, would be liable for a penalty of not less than \$100 nor more than \$50,000.

### AMENDMENTS:

The committee amendments:

- 1) Delete the reference to the current fiscal year with respect to the effective date of the increase in the mine registration fee, and provide that the commissioner may implement future fee increases by regulation on and after July 1, 2007.

- 2) Change from “permanent” to “serious” the type of bodily injury for which penalties would be imposed on violators of the act.
- 3) Delete the requirement that a seller or lessor of any residential unit which is located within 1,500 feet of the metes and bounds of a mine notify any prospective purchaser or lessee of that residential unit of the existence of the mine.

FISCAL IMPACT:

This bill increases revenue for the Department of Labor and Workforce Development. According to the department, the fee increases are necessary to partially support the public safety and occupational safety and health program costs. The Office of Legislative Services (OLS) notes that the additional revenue resulting from the increases provided in the bill may offset future General Fund resources for the Division of Workplace Standards; however, the OLS cannot estimate the amount of revenue that will be derived from the increase in fees and penalties imposed by the bill. Specifically, the OLS cannot determine the volume or nature of future violations of the “Mine Safety Act” provisions, and of those, the penalty amounts resulting from the violations. The amount by which the commissioner may increase the fees for permits to meet program costs after FY 2007 is also unclear.

According to the department, “Mine Safety Act” permits accounted for \$9,250 and \$9,010 in FY 2005 and FY 2006, respectively. “Mine Safety Act” penalties accounted for \$1,500 and \$2,000 in FY 2005 and FY 2006, respectively.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 2386

### STATE OF NEW JERSEY 212th LEGISLATURE

DATED: APRIL 25, 2007

#### SUMMARY

**Synopsis:** Increases certain fees and penalties of the Mine Safety Act.

**Type of Impact:** Revenue gain – Department of Labor and Workforce Development

**Agencies Affected:** Department of Labor and Workforce Development

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>FY 2007</u></b>	<b><u>FY 2008</u></b>	<b><u>FY 2009</u></b>
Department of Labor and Workforce Development	Indeterminate Increase - See Comments Below		

- This bill increases the fees and penalties under the “Mine Safety Act” for FY 2007 and authorizes the Commissioner of Labor and Workforce Development to implement future increases by regulation.
- This bill increases revenue for the Department of Labor and Workforce Development (department). According to the department, the fee increases are necessary to partially support the public safety and occupational safety and health program costs. The Office of Legislative Services (OLS) notes that the additional revenue resulting from the increases as provided in the bill may offset future General Fund resources for the Division of Workplace Standards.
- The OLS cannot estimate the amount of revenue resulting from increases in fees and penalties under the bill’s provisions. Specifically, the OLS cannot determine the volume or nature of future violations of the “Mine Safety Act” provisions, and of those, the penalty amounts resulting from the violations. The amount by which the commissioner may increase the fees for permits to meet program costs after FY 2007 is also unclear.
- According to the department, “Mine Safety Act” permits accounted for \$9,250 and \$9,010 in FY 2005 and FY 2006, respectively. “Mine Safety Act” penalties accounted for \$1,500 and \$2,000 in FY 2005 and FY 2006, respectively.

## **BILL DESCRIPTION**

Senate Bill No. 2386 (1R) of 2007 amends the “Mine Safety Act” to remove the educational and experience requirements of certain mine safety engineers and mine safety inspectors. Currently the law requires mine safety engineers serving as sections chiefs to be physically able to discharge their duties, have at least four years’ experience in mining, including experience in quarry operations, mine safety work and accident prevention and be a graduate engineer from a recognized school of engineering. The law also sets forth requirements for other mine safety personnel. The provisions of the bill remove some work experience and education requirements for certain positions, including degree requirements and number of years experience in mining.

The bill increases the mine registration fee. Currently, the commissioner has the authority to charge an annual registration fee of not less than \$15 nor more than \$50 for each certificate of registration issued. The bill increases those amounts to \$500 and \$3,000, respectively and allows the commissioner to increase the fines through regulations, as necessary. The bill creates a tiered penalty system whereby any person violating any provision of the bill would be liable to a penalty of not more than \$5,000 for the first offense, not more than \$10,000 for the second offense and not more than \$20,000 for the third and any subsequent offense, and any person violating any provision which results in permanent bodily injury would be liable for a penalty of not less than \$100 nor more than \$50,000.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

This bill increases the fees and penalties under the “Mine Safety Act” for FY 2007 and authorizes the Commissioner of Labor and Workforce Development to implement future increases by regulation. The bill increases revenue for the Department of Labor and Workforce Development (department). According to the department, the fee increases are necessary to partially support the public safety and occupational safety and health program costs. The OLS notes that the additional revenue resulting from the increases as provided in the bill may offset future General Fund resources for the Division of Workplace Standards. The OLS cannot estimate the amount of revenue resulting from increases in fees and penalties under the bill’s provisions. Specifically, the OLS cannot determine the volume or nature of future violations of the “Mine Safety Act” provisions, and of those, the penalty amounts resulting from the violations. The amount by which the commissioner may increase the fees for permits to meet program costs after FY 2007 is also unclear. According to the department, “Mine Safety Act” permits accounted for \$9,250 and \$9,010 in FY 2005 and FY 2006, respectively. “Mine Safety Act” penalties accounted for \$1,500 and \$2,000 in FY 2005 and FY 2006, respectively.

*Section: Commerce, Labor and Industry*

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.