

CHAPTER 68 (HB 404)

AN ACT relating to training and education of coal miners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.102 is amended to read as follows:

- (1) No person shall be assigned~~[to work]~~ duties by a licensee as a laborer or supervisor working~~[underground]~~ for the purpose of mining coal unless the person holds a valid certificate of competency and qualification or a valid permit as trainee issued in accordance with this section.
- (2) A permit as trainee miner shall be issued by the commissioner to any person who has completed a program of education of a minimum of forty (40) hours **for underground mining or sixteen (16) hours for surface mining** or who has completed a certified mine technology program and has passed an examination approved by the commissioner. An additional eight (8) hours of mine-specific training shall be administered to the trainee miner by the licensee, which training shall be documented on a form **approved**~~[prepared]~~ by the **commissioner**~~[department]~~. This education and training program shall be determined and established by the board, as provided in KRS 351.105.
- (3) Trainee miners shall work within the sight and sound of a certified miner.
- (4) Any miner holding a certificate of competency and qualification may have one (1) person working with him and under his direction as a trainee miner. Any person certified as a mine foreman **or**~~[,]~~ assistant mine foreman **shall**~~[, or fire boss may]~~ have no more than five (5) persons working~~[with him and]~~ under his supervision or direction as trainee miners for the purpose of learning and being instructed in the duties of underground coal mining.
- (5) A certificate of competency and qualification as **a**~~[an underground]~~ miner shall be issued by the commissioner to any person who has~~[in total]~~ a minimum of forty-five (45) working days' experience **within a thirty-six (36) month period** as a trainee miner and demonstrated competence as a miner.
- (6) All examinations for the certification of a miner shall be of a practical nature and shall determine the competency and qualification of the applicant to engage in the mining of coal with reasonable safety to himself and his fellow employees. The examination **shall**~~[may]~~ be given orally if the miner is unable to read or comprehend a written examination.
- (7) Examinations shall be held in any district office during regular business hours~~[after whatever public notice and at the time that the commissioner finds necessary to enable all applicants for certificates to have an opportunity to qualify for certification].~~
- ~~[(8) Notice of the time and place of the examination for the certification of miners shall be given to management at the mine and to the miners or their representatives at the mine, and notice shall be posted at the places in the vicinity of the mine where notices to employees are posted.]~~
- ~~(8)~~~~[(9)]~~ If the commissioner or his **authorized** representative finds that an applicant is not qualified and competent, he shall notify the applicant not more than ten (10) days after the date of examination.
- ~~(9)~~~~[(10)]~~ Any applicant aggrieved by an action of the commissioner **or his authorized representative** in failing or refusing to issue a certificate of qualification and competency

~~shall~~~~may~~, within ten (10) days of notice of the action complained of, appeal to the commissioner who shall ~~schedule an informal hearing and~~ either affirm the action or issue the certificate to the applicant.

~~(10)~~~~(11)~~ If the applicant is ~~still~~ aggrieved by the action of the commissioner, he may appeal to the board which shall hold a hearing on the matter in accordance with KRS Chapter 13B.

~~(11)~~~~(12)~~ The applicant may appeal from the final order of the board by filing in the Circuit Court in the judicial circuit in which he resides a petition for appeal in accordance with KRS Chapter 13B.

Section 2. KRS 351.106 is amended to read as follows:

- (1) The board shall establish criteria and standards for a program of education and training to be required of prospective miners ~~of coal mines~~, miners ~~of coal mines~~, and all certified persons. This education and training shall be provided in a manner determined by the commissioner to be adequate to meet the standards established by the board, which shall include as a minimum the requirements of KRS 351.102 and the requirements of the federal government for the training of miners for new work assignments, ~~but in no case less than twenty (20) hours training for new work assignments,~~ and at least eight (8) hours of annual retraining and reeducation for all certified persons.
- (2) Beginning with the first full calendar year after the effective date established by the board and during each calendar year thereafter, each certified miner shall receive at least eight (8) hours of retraining and reeducation.
- (3) Newly-hired experienced miner training shall satisfy the miner's annual retraining requirement if a time lapse occurs between the miner's last training anniversary date and the next scheduled training anniversary date for the mine where he is newly employed, if the miner has complied with the annual retraining requirements within the last twelve (12) months from the date of his newly hired experienced miner training.
- (4) Retraining and reeducation sessions shall be conducted at times and in numbers to reasonably assure each certified miner an opportunity to attend. ~~Each licensee shall annually submit to the department the dates on which the annual retraining and reeducation sessions were conducted and the names and corresponding miner identification numbers of those persons receiving training and reeducation on a form prescribed by the commissioner.~~
- (5) The licensee shall pay all certified *miners*~~persons~~ their regular wages and benefits while they receive~~required~~ training *required* by the department.
- (6) Willful failure of a working miner to complete annual retraining and reeducation requirements shall constitute grounds for revocation, suspension, or probation of his certificate.
- (7) If the department discovers a miner working without proper training ~~or~~~~and~~ the licensee cannot provide proof of training, the miner shall be withdrawn from the mine and the licensee shall pay the miner his regular wages until the training is administered and properly documented.
- (8) When employment is terminated, the licensee shall provide the employee a copy of his training records, upon request. If the employee does not request his training records immediately, the licensee shall, within fifteen (15) days, provide the employee with those training records.

- (9) The board may, upon its own motion or whenever requested to do so by the commissioner, deem applicable certificates issued by other states to be proof of training and education equal to the requirements of KRS 351.102 or deem training provided by appropriate federal agencies to be adequate to meet training and education requirements established by the board, if the training and education meet the minimum requirements of this chapter.
- (10) The commissioner may promulgate reasonable administrative regulations necessary to establish a program to implement the provisions of this chapter according to the criteria and standards established by the board. This program shall include, but not be limited to, implementation of a program of instruction and the conduct of examinations to test each applicant's knowledge and understanding of the training and instruction.
- (11) The commissioner shall keep and maintain records of board meetings, activities of the board, and current records on all certified *miners*~~[persons]~~, all of which shall be maintained by computer for ready access.
- (12) The commissioner is authorized and directed to utilize state mine inspectors, mine safety instructors, the state mine foreman examiner, private and public institutions of education, and other qualified persons available to him in implementing the program of instruction and examination.
- (13) The commissioner may make recommendations or supply information to the board as he may deem appropriate. The commissioner is authorized and directed to utilize state and federal moneys and personnel that may be available to the department for educational and training purposes in the implementation of the provisions of this chapter.
- (14) All training and education required by this chapter may be conducted in classrooms, on the job, or in simulated mines.

Approved March 6, 2000