

CHAPTER 104**(HB 436)**

AN ACT relating to coal mining.

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

Section 1. KRS 351.010 is amended to read as follows:

- (1) As used in this chapter, unless the context requires otherwise:
 - (a) "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department of Mines and Minerals;
 - (b) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;
 - (c) "Board" means the Mining Board created in KRS 351.105;
 - (d) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;
 - (e) "Commissioner" means commissioner of the Department of Mines and Minerals;
 - (f) "Department" means the Department of Mines and Minerals;
 - (g) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;
 - (h) "Excavations and workings" means the excavated portions of a mine;
 - (i) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;
 - (j) "Gassy mine" means any mine in which there is a record of methane having been ignited, or having been detected with a permissible flame safety lamp, or where methane in the amount of twenty-five hundredths percent (0.25%) or more has been found not less than twelve (12) inches from the roof, face, or rib, using approved methane testers or detectors or by analysis. However on and after June 19, 1976, all mines shall be classified as gassy or gaseous;
 - (k) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) oxygen, nor more than one-half of one percent (0.5%) of carbon dioxide, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;
 - (l) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;
 - (m) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the

ground, used in connection with the workings. Workings that are adjacent to each other and under the same management, **but** ~~and~~ which are administered as distinct units shall be considered a separate mine;

- (n) "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of the persons employed therein;
- (o) "Open-pit mine" shall include open excavations and open-cut workings including **but not limited to** *auger operations and highwall mining systems* ~~mines~~ for the extraction of coal;
- (p) "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;
- (q) "Permissible" *refers to* ~~means that~~ any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration **and that** meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification by the *approving agency* ~~bureau~~;
- (r) "Preshift examination" means the examination of ~~a~~ ~~an underground~~ mine or any portion thereof where miners are scheduled to work or travel, which shall be conducted not more than three (3) hours before any on-coming shift;
- (s) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;
- (t) "Shaft" means a vertical opening through the strata that is ~~or may be~~ used in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;
- (u) "Slope" means an inclined opening used for the same purpose as a shaft;
- (v) "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines; and
- (w) "Supervisory personnel" means a person ~~or persons~~ certified under the provisions of this chapter to assist in the supervision of a portion or the whole of the mine or of the persons employed therein.

- (2) Except as the context otherwise requires, this chapter applies only to commercial coal mines.
- (3) The definitions in KRS 352.010 apply also to this chapter, unless the context requires otherwise.

Section 2. KRS 351.020 is amended to read as follows:

- (1) The Department of Mines and Minerals shall be headed by the commissioner of the Department of Mines and Minerals.
- (2) The department shall administer all laws of *the Commonwealth* ~~this state~~ relating to mines.

Section 3. KRS 351.030 is amended to read as follows:

~~The department shall hold one (1) or more hearings on each matter brought before it.]~~ All administrative hearings conducted by the department shall be conducted in accordance with KRS Chapter 13B. Following the hearing, the department shall decide each matter in controversy. No

person shall be discharged or otherwise discriminated against *by his or her employer* for testifying, or for his failure to testify, at these hearings.

Section 4. KRS 351.040 is amended to read as follows:

- (1) Any party in interest dissatisfied with an order of the department may commence an equitable action against the department and other interested parties as defendants, to vacate or set aside, in whole or in part, any such order. The action ~~shall~~~~may~~ be brought in the Circuit Court of the county where the subject matter involved in the order, or the well or workable coal bed or part thereof, is located. The court may grant relief from any unlawful or unreasonable order of the department, and render such judgment as appears to it to be equitable and just.
- (2) The pendency of the action shall not of itself suspend the operation of the order of the department, but during the pendency of the action any party may secure from the court an order suspending or staying the operation of the order of the department pending the action by giving to the other parties adequate security, approved by the court, against loss due to the delay in enforcement of the order, in case the order under review is not set aside, and the court may, without security being given, suspend the operation of the order, in whole or in part, on such terms as it deems just and in accordance with the practice of courts of equity; provided, however, that the operation of an order pertaining to safety in coal mines shall not be suspended temporarily pending final decision of the court.
- (3) Appeals may be taken to the Court of Appeals as in other cases.

Section 5. KRS 351.090 is amended to read as follows:

- (1) The Governor shall appoint an adequate number of mine inspectors to insure at least two (2) inspections annually, provided the mine is in operation the entire year or the proportionate thereof, of all mines in the *Commonwealth*~~[state]~~ and sufficient additional inspectors to enable the commissioner to provide adequate surveillance of ~~those underground~~ coal mines where conditions or management policy dictate that more inspections are needed to insure the safety of miners. One (1) or more of the appointees may be designated as electrical mine inspectors. The Governor shall also appoint an adequate number of mine safety analysts and mine safety instructors. The term of office of each mine inspector, each mine safety analyst, each electrical inspector, and each mine safety instructor shall be during the period of capable, efficient service and good behavior.
- (2) All mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall have a thorough knowledge of first aid and mine rescue and be able to instruct in first aid and mine rescue, and shall possess thoroughly the knowledge required of the commissioner by KRS 351.060, and shall have a thorough and practical knowledge of mining gained by at least five (5) years' experience in coal mines in *the Commonwealth*~~[this state]~~. All surface mine safety analysts shall have at least five (5) years' experience in surface mines in *the Commonwealth*~~[this state]~~. For the purposes of this subsection, a degree in mining engineering from a recognized institution shall be deemed equivalent to two (2) years of practical experience in coal mines or an associate degree in mining technology from a recognized institution shall be deemed equivalent to one (1) year practical experience in coal mines. A ~~person~~~~Persons~~ desiring to use ~~a~~~~their~~ mining engineering or technology degree for practical experience credit shall file proof of having received ~~a~~~~their~~ degree prior to examination.

- (3) No person shall be appointed to the office of mine inspector, underground mine safety analyst, electrical inspector, or mine safety instructor unless he holds a current mine foreman's certificate. No person shall be appointed to the office of surface mine safety analyst unless he holds a current surface mine foreman's certificate. A *person*~~{Persons}~~ appointed as mine *inspector*~~{inspectors}~~, mine safety *analyst*~~{analysts}~~, electrical *inspector*~~{inspectors}~~, and mine safety *instructor*~~{instructors}~~ shall pass an examination administered by the board. The commissioner may recommend to the Governor applicants for the positions of mine inspector, mine safety analyst, electrical inspector, or mine safety instructor who have successfully passed the examination and are proved by worth, training, and experience to be the most competent of the applicants.
- (4) Mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall be of good moral character and temperate habits and shall not, while holding office, act in any official capacity in operating any coal mine.
- (5) No reimbursement for traveling expenses shall be made except on an itemized accounting for the expenses submitted by inspectors, analysts, and safety instructors who shall verify upon oath that the expenses were incurred in the discharge of their official duties.
- (6) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate, shall be filed in the office of the Secretary of State.
- (7) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall give bond with surety approved by the Governor.
- (8) Persons, other than those employed by a company, who by contractual or other rights, perform mine inspection work in any capacity, shall be familiar with mining and possess experience equal to that required of a state mine inspector. They shall also be held responsible for their conduct in the performance of their inspections and related acts. This subsection shall not apply to persons excluded by other laws or those who by agreement with the licensee make mine visits for technical and investigative work.

Section 6. KRS 351.103 is amended to read as follows:

- (1) All persons possessing valid certificates as mine inspectors, electrical inspectors, mine safety instructors, assistant mine foreman, mine foreman,~~{ fire boss, }~~ shotfirer, and other mining specialties as established by the board, or *certified* miner shall be eligible to work at any time as miners, provided they fulfill the annual requirements for retraining and reeducation as provided in KRS 351.105.
- (2) Supervisory, clerical, and technically-trained employees of the mine operator whose work contributes only indirectly to mine operations shall not be required to possess a miner's certificate of competency and qualification.

Section 7. KRS 351.105 is amended to read as follows:

- (1) The Board of Miner Training, Education, and Certification is abolished and shall be immediately replaced by the Mining Board.
- (2) The board shall be made up of eight (8) persons, all of whom shall be citizens of Kentucky and from the coal industry in Kentucky. The board's membership shall reflect a fair representation from eastern Kentucky and western Kentucky, large and small operations,

and union and nonunion coal production. The Governor shall appoint the members of the board to include:

- (a) Three (3) members representing management; the Alliance of Kentucky Coal shall submit three (3) nominees for each management position on the board;
- (b) Three (3) members representing labor; the United Mine Workers of America shall submit three (3) nominees for each labor position on the board;
- (c) The commissioner of the Department of Mines and Minerals; and
- (d) The director of the Division of Miner Training, Education, and Certification.

The commissioner of the department shall serve as chairman. The director of the Division of Miner Training, Education, and Certification shall be a nonvoting member.

- (3) Excluding the commissioner and the director of the Division of Miner Training, Education, and Certification, initial appointments to the board shall be made in the following manner and shall reflect equal representation as to number and term regarding both the management and the labor positions: two (2) members for a period of two (2) years; two (2) members for a period of three (3) years; and two (2) members for a period of four (4) years. After the initial appointments, members of the board shall be appointed to four (4)-year terms. Members of the board, including members of the Board of Miner Training, Education, and Certification abolished by this section, may be reappointed at the expiration of their previous appointment at the pleasure of the Governor. Members shall continue to serve until a successor is appointed and qualified.
- ~~(4) As soon as practicable after the members of the board have been appointed, the commissioner shall call an organizational meeting to implement the provisions of this section.~~
- ~~(5)~~ Two (2) of the persons appointed to the board shall be employed in nonsupervisory positions at mines in this *Commonwealth*~~[state]~~ and shall have a minimum of five (5) years' underground experience in the industry and a mine foreman's certificate. Two (2) of the persons shall be employed in supervisory positions by coal companies operating in the *Commonwealth*~~[state]~~ and shall have a minimum of five (5) years' experience in the coal mining industry and a mine foreman's certificate. One (1) of each of the members holding supervisory and nonsupervisory mine positions shall have a minimum of five (5) years' practical experience working in a surface or underground coal mine. The director of the Division of Miner Training, Education, and Certification shall have a minimum of five (5) years' practical underground mining experience.
- ~~(5)~~~~(6)~~ Whenever a vacancy on the board occurs, appointments shall be made in the manner prescribed in this section. The vacancy shall be filled by the Governor within thirty (30) days from the date the vacancy occurs.
- ~~(6)~~~~(7)~~ A quorum of the board shall be five (5) voting members; the board may act officially by a majority of those members who are present, except that no action shall be taken without a majority of affirmative votes. Action concerning revocation, suspension, or probation of a mine's license or a miner's certification shall require two-thirds (2/3) of the voting members present. When necessary for the commissioner to be absent *or to recuse himself*, he is empowered to name an alternate to serve as chairman.

- (7)~~(8)~~ Each member of the board shall receive one hundred fifty dollars (\$150) each day while actually engaged in the performance of the work of the board, shall receive mileage at the rate provided by the state's travel regulation for each mile actually traveled from the home of the member to the place of the meeting and returning therefrom, and shall receive reimbursement for food and lodging at a reasonable and customary rate, which shall be paid out of the State Treasury upon proper requisition approved by the commissioner.
- (8)~~(9)~~ The board shall act on all matters brought before it by the department and, after hearing, issue orders with respect to these matters.
- (9)~~(10)~~ The board shall meet periodically at the direction of the commissioner to review *this chapter and KRS Chapter*~~Chapters 351 and~~ 352 and make recommendations regarding the amendment of those chapters.
- (10)~~(11)~~ The board shall review and approve all administrative regulations proposed by the department *that relate to the mining of coal or the certification of miners* before those *administrative regulations*~~proposals~~ are promulgated in accordance with KRS Chapter 13A.
- (11)~~(12)~~ No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.
- (12)~~(13)~~ The board may conduct hearings, compel the attendance of witnesses, administer oaths, and conduct oversight activities as may be required to ensure the full implementation of its programs and standards.

Section 8. KRS 351.107 is amended to read as follows:

- (1) A *person*~~Persons~~ desiring to obtain experience as a shotfirer may not charge or detonate explosives in *an underground*~~a~~ mine unless *he or she is*~~they are~~ under the direction and within sight and sound of a certified shotfirer. No person shall charge or detonate explosives within *an underground*~~a~~ mine unless that person has successfully completed a training program and passed a test administered by the department. The test shall include at a minimum a determination of the person's ability to test for mine gases and to safely handle and detonate explosives in an underground coal mine.
- (2) The commissioner shall issue a shotfirer's certificate to the person upon successfully passing the test.
- ~~(3) The board shall determine when the training program for shotfirers is sufficiently available to the work force in the state and thereafter shall establish the effective date after which the requirements of this section shall apply to all persons detonating explosives in underground coal mines.~~

Section 9. KRS 351.108 is amended to read as follows:

Mine superintendents shall hold a mine foreman certificate *issued by the commissioner*.

Section 10. KRS 351.109 is amended to read as follows:

- (1) An individual is a qualified and certified person, within the meaning of this chapter, to perform electrical work, other than work on energized surface, high voltage lines, if he has at least one (1) year of experience under direct supervision of a qualified electrician in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a noncoal mine, in the mine equipment

manufacturing industry, or in any other industry using or manufacturing similar equipment, and he attains a satisfactory grade on each of the series of written tests administered by the department and required in subsection (2) of this section.

- (2) The series of written tests shall include, but not be limited to, the following subjects:
 - (a) Direct current theory and application;
 - (b) Alternating current theory and application;
 - (c) Electric equipment and circuits;
 - (d) Permissibility of electric equipment;
 - (e) Requirements of both federal and state laws; and
 - (f) Pertinent sections of the National Electrical Code.
- (3) A score of at least eighty (80) percent on each of the written tests shall be deemed to be a satisfactory grade. Recognition shall be given to practical experience in that one (1) percentage point shall be added to an individual's score in each test for each additional year of experience beyond the one (1) year minimum requirement specified in subsection (1) of this section; however, in no case shall an individual be given more than five (5) percentage points for such practical experience.
- (4) An individual may, within thirty (30) days from the date on which he received notification from the department of his test scores, repeat those *sections* on which he received an unsatisfactory score. If further retesting is necessary after this initial repetition, a minimum of thirty (30) days from the date of receipt of notification of the initial retest scores shall elapse prior to such further retesting, whereupon the entire series of written tests shall be retaken.
- (5) An individual qualified and certified in accordance with this section shall, in order to retain qualification and certification, satisfactorily complete annually a retraining program approved by the department.

Section 11. KRS 351.120 is amended to read as follows:

- (1) The commissioner shall issue a certificate to each person who possesses the qualifications required by law for mine inspector, electrical inspector, surface or underground mine safety instructor, surface mine safety analyst, assistant mine foreman, mine foreman, shotfirer, and other mining specialties as established by the board, or miner who has passed the examination given by direction of the board for that position.
- (2) The certificate shall be in such form as the commissioner prescribes, shall be signed by the commissioner, and shall show that the holder has passed the required examination and possesses the qualifications required by law for mine inspector, electrical inspector, surface or underground mine safety instructor, surface mine safety analyst, assistant mine foreman, mine foreman, shotfirer, and other mining specialties as established by the board, or miner and is authorized to act as such.
- (3) Certificates issued to mine foremen and assistant mine foremen shall be classified as follows:
 - (a) Mine foreman certificates, authorizing the holder to act as foreman for all classes of coal mines; and
 - (b) Assistant mine foreman certificates, authorizing the holder to act as assistant foreman.

- (4) Any mine foreman or assistant mine foreman may act as a fire boss or mine examiner. This shall not apply to persons holding a second class mine foreman certificate issued before June 16, 1972.
- (5) The class of mine foreman's certificate awarded shall be determined by the board according to the experience of the applicant.
- (6) No certificate shall be granted to any person who does not present to the board satisfactory evidence, in the form of affidavits, that the applicant has had the required practical experience in underground or surface coal mines. A data sheet shall be filed by each applicant showing places of employment, beginning month and year and ending month and year employed by each company and list jobs performed, showing at least the number of required years. Affidavit and data sheet forms shall be furnished by the department. For the purpose of this section, persons holding a four (4) year degree in mining engineering from a recognized institution shall be credited with the equivalent of two (2) years of practical experience in coal mines when applying for any mine foreman or assistant mine foreman certificate. Persons holding an associate degree in mining from a recognized institution shall be credited with the equivalent of two (2) years' experience when applying for a mine foreman certificate and one (1) year when applying for an assistant mine foreman certificate. Persons desiring to use their mining engineering or mining technology degree as credit for practical experience toward a mine foreman or assistant mine foreman certificate shall file proof of having received their degree prior to the examination.
- (7) Applicants for an underground mine foreman certificate shall have five (5) years' practical underground coal mining experience acquired after achieving the age of eighteen (18), with at least one (1) year of this experience acquired on an active working section of an underground mine. Applicants for an underground assistant mine foreman certificate shall have three (3) years' practical underground experience acquired after achieving the age of eighteen (18), with at least one (1) year of this experience acquired on an active working section of an underground mine.
- (8) Applicants for surface mine foremen certification shall have three (3) years' practical surface mine experience acquired after achieving the age of eighteen (18); for surface mine foreman certification with a specialty in coal extraction, at least one (1) year of the required practical experience shall have been acquired from direct involvement in the mining or extraction of coal at a surface mine. For a surface mine foreman certification with a specialty in postmining activities, at least one (1) year of the required experience shall have been acquired from direct involvement in the performance of such activities at a surface or underground mine, coal preparation plant, or other coal-handling facility. Notwithstanding any requirement in this subsection to the contrary, a person having three (3) years' of underground or surface mining experience shall qualify for a surface mine foreman certification with a specialty in postmining activities if the person has documented experience of at least one (1) year in the performance of these activities. Persons holding a surface mine foreman certificate prior to July 15, 1998, are not affected by this section.
- (9) Persons possessing certificates of qualifications to act as mine inspector, mine foreman, assistant mine foreman, or fire boss prior to July 15, 1982, are not affected by this section.
- (10) When approved by the commissioner, a person who has successfully completed any mine foreman or assistant mine foreman examination may be granted a temporary certification

that is valid only until the board acts upon his or her certification at its next regularly scheduled meeting.

- (11) A member of the supervisory personnel shall be present at the working section except in cases of emergencies at all times employees under his supervision are at the working section on coal-producing shifts.

Section 12. KRS 351.1291 is amended to read as follows:

- (1) All inexperienced surface coal miners shall complete a sixteen (16) hour course of instruction devised or approved by the department in subjects including, but not limited to: accident prevention, cutting and welding, equipment operation, fire protection, first-aid methods, ground control and transportation, handling and use of explosives, mine communications, mine electrical safety standards, mining law, including *the statutory*~~[miners']~~ rights *of miners*, safety around bins and hoppers, and any other subjects deemed appropriate by the department. For purposes of this section, "inexperienced coal miners" means all persons who have not previously worked at least forty-five (45) days at a surface coal mine in this Commonwealth.
- (2) All surface coal miners shall complete an eight (8) hour course of annual retraining devised or approved by the department in the subjects identified in subsection (1) of this section.
- (3) The commissioner shall certify all surface coal miners who complete the courses of instruction required in subsections (1) and (2) of this section.

Section 13. KRS 351.160 is amended to read as follows:

- (1) The commissioner of the department shall annually make a report to the Governor of his proceedings during the preceding calendar year. The annual report shall be prepared and printed as soon as possible after the close of the calendar year. The annual report shall cover the complete operation of the mines in this *Commonwealth*~~[state]~~ during the preceding calendar year, enumerating all accidents occurring in or about any such mines during that year, and giving such other information as the commissioner deems useful, and making such suggestions as he deems important as to further legislation on the subject of mining.
- (2) The commissioner shall keep and index a permanent record of all inspections made by himself and of all reports relating to inspection of mines furnished to him by mine inspectors. All such records of the department shall be public records and shall, at all times, be open to the inspection of the public, and shall be laid before the Governor upon his request at any time.
- (3) The department shall furnish certified copies of any such records, when requested to do so, upon payment of such fee as is generally charged by courts of record for certified copies. Such fee shall be paid into the Treasury of the state.

Section 14. KRS 351.170 is amended to read as follows:

The licensee of each commercial coal mine shall give at the end of each calendar year accurate information, on *blank forms*~~[blanks]~~ furnished by the commissioner, as to the number of accidents that have occurred, the number of persons employed, the tons of coal mined, and any other related information that the commissioner requests.

Section 15. KRS 351.192 is amended to read as follows:

Any person who is qualified by a federal or state agency to perform mine rescue planning and recovery operations, including mine rescue instructors and mine rescue team members, and any

person designated by an operator furnishing a mine rescue team to supervise, assist in planning, or provide service thereto, who in good faith performs, or fails to perform, any act or service in connection with such mine rescue planning and recovery operations shall not be liable for any civil damages as a result of any such acts or omissions~~], and shall not be required to participate, except voluntarily, in any investigation, including any administrative hearing, in connection therewith; provided however, that nothing contained herein shall be construed to exempt from liability any person responsible for an overall mine rescue operation, including an operator of an affected facility and any person assuming responsibility therefor under federal or state statutes or regulations].~~

Section 16. KRS 352.140 is amended to read as follows:

- (1) No operator or superintendent of any mine worked by shaft, slope, or incline shall place in charge of any engine or drum used for lowering or hoisting any persons employed in the mine any but competent and sober engineers or drum runners. Where automatic elevators are used and all safety devices are provided, the services of a hoisting engineer are not required. Hoisting engineers and drum runners shall pass a test as to their knowledge of hoisting equipment and the precautions to be taken when raising or lowering men or materials. Certification of hoisting engineers and drum runners shall be under such conditions and by tests prescribed by the *commissioner*~~[department]~~.
- (2) No engineer in charge of such machinery shall allow any person except such as may be designated for this purpose by the operator or superintendent to interfere with any part of the machinery.
- (3) No person shall interfere with or intimidate the engineer or drum runner in the discharge of his duties.
- (4) In a mine worked by shaft, slope, or incline, no more than twenty (20) persons shall ride in any cage or car at one (1) time, without the approval of the mine inspector and the commissioner of the department, and no person shall ride on a loaded cage or car, except that where special man-cars or cages are employed to haul workmen on inclines the commissioner may regulate the method and procedure of handling of man-cars, cages, and workmen. Each cage or elevator installed after June 16, 1972, which is used for lowering and raising men shall have at least two and one-half (2-1/2) square feet of floor space for each person.

Section 17. KRS 352.190 is amended to read as follows:

For every fifty (50) men and fraction thereof employed underground, the operator of each mine shall keep on hand at the mine one (1) properly constructed stretcher, one (1) waterproof and one (1) woolen blanket, and all other necessary equipment *required*~~[advised]~~ by the department.

Section 18. KRS 352.220 is amended to read as follows:

- (1) The following shall apply to underground installations:
 - (a) On all haulage roads, landings, and partings where men are required to regularly work or pass under bare power wires placed less than six and one-half (6-1/2) feet above the top of the rail, suitable protection shall be provided. This protection shall consist of channeling the roof, placing boards along the wires and extending below them, or the use of some other approved device that affords protection;
 - (b) All machine feed wires shall be placed on insulators which shall be so placed as to prevent the wires coming in contact with the coal;

- (c) When the machine or feed wires are carried in the same entry as the trolley wire, they shall be placed on the same side as the trolley wire, between the trolley wire and rib, and shall be protected from contact therewith. Positive feed wires crossing places where persons~~[or animals]~~ are required to travel shall be safely guarded or protected from the persons~~[or animals]~~ coming in contact therewith, as provided in paragraph (a) of this subsection;
- (d) All trolley and positive feed wires shall be placed on opposite sides of track from refuge holes or necks of rooms when so ordered by the department, but wires, when protected as provided for in paragraph (a) of this subsection, may be placed across the necks of rooms. Switches or circuit breakers shall be provided to control the current at the mine and all important sections in the mine;
- (e) All power wires and cables in hoisting shafts or manway compartments shall be properly insulated, substantially fixed, and well protected;
- (f) Ground wires for low-voltage circuits shall be at least one-half (1/2) as large as the circuit wires;
- (g) Extra length or long trailing cables shall be spread out in long open loops on clean, well rock-dusted floor where the cable can be protected against mechanical injury, but cables in suspended long loops shall be acceptable;
- (h) One (1) temporary splice may be made in any trailing cable. No temporary splice shall be made in a trailing cable within twenty-five (25) feet of the machine except cable reel equipment. Temporary splices in trailing cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated. Trailing cables or hand cables which have exposed wires or which have splices that heat and spark under load shall not be used;
- (i) Single conductor trailing cables shall not be used on cutting machines;
- (j) Three-phase alternating-current circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from that circuit;
- (k) The frames of hand-held electrically driven tools and portable sump pumps shall be properly grounded, and the hand-held tools and portable pumps shall be properly protected by fuses, circuit breakers, or other no less effective devices to provide the minimum overload and shortcircuit protection required by the department;
- (l) All pump frames and all pipe lines shall be grounded to the rail or the grounding system at~~[about]~~ two hundred (200) foot intervals, except nonmetallic pipes or pipes using insulated type couplings or pipes installed remotely from track or power systems;
- (m) Where track is used for the return circuit, at least one (1) side shall be bonded to the full length of the trolley wire installation. Cross-bonds shall be installed not to exceed two hundred (200) foot intervals along the track;
- (n) ~~{After June 16, 1972,}~~All underground high-voltage transmission cables shall be installed only in regularly inspected air courses and haulageways, and shall be covered,

buried, or placed so as to afford protection against damage, guarded where men regularly work or pass under them unless they are six and one-half (6-1/2) feet or more above the floor or rail, securely anchored, properly insulated, and guarded at ends, and covered, insulated, or placed to prevent contact with trolley wires and other lowvoltage circuits. Underground high-voltage cables used in resistance grounded systems shall be equipped with metallic shields around each power conductor, with one (1) or more ground conductors having a total cross-sectional area of not less than one-half (1/2) the power conductor, and with an insulated internal or external conductor not smaller than No. 8 (AWG) for the ground continuity check circuit;

- (o) High voltage cables shall have disconnecting switches, overload protective devices, and lightning arresters at or near the outside end of the cable;
- (p) Permanent battery charging stations, permanent pump installations, motor generator sets, rotary converters, and oil filled transformers and switches used underground shall be housed in fireproof enclosures ventilated by a separate split of air direct to the main return. Underground stations containing transformers or circuit breakers filled with inflammable oil shall be provided with door sills or their equivalent, which will confine the oil if leakage or rupture occur, and shall be of fireproof construction. Underground transformers purchased after June 16, 1972, shall be air cooled or cooled with noninflammable liquid or inert gas. Sectional type portable power centers, portable transformers, and distribution centers which are essentially fireproof are not required to be placed on separate splits of air but shall be stationed in well ventilated places out by last open crosscuts;
- (q) All mine locomotives shall be fused or otherwise protected at the switch or at the nip;
- (r) Suitable firefighting equipment shall be located at strategic points along the belt conveyor, and proper fire extinguishers shall be provided at the transfer points. The commissioner may prescribe any other safety measures for the prevention and combating of mine fires as they pertain to conveyor belts. ~~{After June 16, 1972,}~~ Only approved flame resistant belting shall be taken into and used inside any mine, and all underground belt conveyors shall be provided with slippage and sequence switches and with controls at locations recommended by the mine inspector. This does not prevent the use of belting which is being used on June 16, 1972, but the use of rubber belting shall be under such conditions as may be prescribed by the commissioner;
- (s) Telephone lines shall be provided with lightning arresters where the lines enter the mine and at the boxes on the outside;
- (t) Telephone lines crossing trolley wires shall be carefully guarded in a nonconductive conduit;
- (u) Insulating mats shall be placed in front of switchboards, beside stationary motors, in decks of locomotives, and all electrical installations where required;
- (v) Ground wires in trailing cables shall be tested periodically for open circuit and high resistance joints;
- (w) Power circuits in tipples, buildings, cleaning plants, etc., and all inside electrical circuits shall be deenergized when not in use over a long period; and

- (x) Where electric circuits cross over or pass under belt conveyors the wiring shall be protected by conduit.
- (2) The following shall apply to surface installations:
- (a) High-voltage lines shall be at least twenty (20) feet above the ground where there is a possibility of contact by traffic passing underneath;
 - (b) Protective barriers shall be so constructed between high-voltage wires and telephone wires, trolley circuits, and any other similar conveyor wires or circuits as to prevent their failure by the falling of the high tension lines across the other circuits, wires, or conveyors;
 - (c) On four (4) wire circuits, the fourth or neutral wire terminating at transformers, or elsewhere, shall be of substantial construction to minimize any possibility of the wire being *severed*~~[cut in two (2)]~~ or damaged mechanically;
 - (d) On low-voltage circuits, wires shall be supported on insulators except when cables made for use without insulators, which are of a design that can be safely used without insulators, are used;
 - (e) Lightning arresters shall be installed on all circuits entering a mine, regardless of voltage. Overload protection and disconnect switches of sizes and ratings approved by the department shall also be provided;
 - (f) Every metallic building in which electricity is used or connected with any circuit shall be effectively grounded;
 - (g) All transformer tanks shall be effectively grounded;
 - (h) Switch boxes, contactors, controllers, and all other similar devices shall be kept free of dust accumulations; and
 - (i) Surface transformer stations shall be housed or fenced in when lower than fifteen (15) feet above the earth, and the fences shall be a minimum of six (6) feet in height.
- (3) (a) Notwithstanding any provisions of subsections (1) or (2) of this section, the department may authorize the construction, maintenance, operation, or conducting of any activity regulated by this section, to be constructed, maintained, operated, or conducted in a different manner than specified in any provision of subsections (1) or (2) of this section, when scientific or engineering information is made available to the department substantially indicating that the different manner would afford equal or greater protection and safety than the manner required in subsections (1) or (2) of this section; and
- (b) The department may prescribe~~[any other]~~ administrative regulations with respect to the aboveground or underground installations in connection with any mine operation when information is made available indicating that regulation is reasonably necessary to prevent injury to, or loss of, life and property.

Section 19. KRS 352.230 is amended to read as follows:

- (1) ~~[After June 16, 1972,]~~All electrical equipment purchased for face use in underground mines shall be of the permissible type. The commissioner or his authorized representative shall reject any modification to mining equipment which would endanger the health or safety of employees.

- (2) No person shall be placed in charge of electrical face equipment in any mine unless he is a qualified person, capable of determining the safety of the roof, face, and ribs of the working places and detecting the presence of explosive gas ~~where necessary~~. Operators of electrical face equipment shall undergo an examination to determine their fitness to detect explosive gas before they are permitted to have charge of electric face equipment and shall have a minimum of forty-five (45) days of actual mining experience. Safety committeemen, shotfirers, and others whose duty may require them to make examination for gas shall undergo and pass an examination or possess a mine foreman's certificate before using a flame-safety lamp underground. The examination shall be given by the mine inspector, blank forms therefor to be furnished by the department. A copy shall be retained on file at the mine office and the original shall be sent to the department fully made out and signed by the applicant and approved by the mine inspector.
- (3) No electric face equipment shall be brought *inby*~~within~~ the last breakthrough next to the working face until the equipment operator has made an inspection for explosive gas using a flame-safety lamp or other approved device or instrument in the place where the equipment is to work, unless the examination is then made by some other competent person authorized and appointed for that purpose by the mine foreman. If any explosive gas is found in the place, the electric equipment shall not be taken in until the gas is removed.
- (4) While the electric equipment is operating at the face, an examination for gas shall be made at not more than twenty (20) minute intervals. If gas is found in excess of one percent (1%), the power shall be disconnected from the equipment and left disconnected until the gas is removed and the place reported safe by a certified official.
- (5) Headlights shall be installed and maintained in a permissible and working order on all mobile and face equipment at all times the equipment is in operation.
- (6) Headlights shall be mounted to provide maximum illumination where it will be most effective and shall be protected from damage by guarding or locations.
- (7) At all times when mining equipment is being used, it shall be maintained in safe working order.

Section 20. KRS 352.260 is amended to read as follows:

- (1) Any operator of a mine shall designate only certified persons as shotfirers to prepare the cartridge and set off and discharge the shots.
- (2) Shotfirers shall at all times be under the direction of *a certified*~~the~~ mine foreman.
- (3) The following conditions apply when shooting coal from the solid:
 - (a) *All licensees*~~After July 15, 1982, all coal mine operators~~ engaged in shooting coal from the solid shall submit an application for a permit to the commissioner on a form prescribed by the department.
 - (b) Before said permit is issued by the commissioner he shall have an investigation conducted of the mine to determine the adequacy of the proposed solid blasting plan in complying with *KRS Chapter 351 and this chapter*~~all state laws~~ and *administrative*~~all state laws~~ regulations applicable to blasting *coal in an* underground *mine*~~coal~~.

- (c) The mine inspector shall have the authority to stop production at the mine by the issuance of a closure order to any operator who fails to obtain a permit when shooting coal from the solid.
- (4) When using the method of solid blasting, no more than one (1) face shall be charged or detonated simultaneously.
- (5) When shooting coal from the solid, not more than two (2) adjacent openers or cut holes shall be primed with detonators having the same delay period. The nominal delay intervals between the succeeding rows of horizons shall not be less than fifty (50) milliseconds nor more than one hundred (100) milliseconds.

Section 21. KRS 352.290 is amended to read as follows:

A suitable record book shall be kept at the mine office of every mine wherein fire bosses are employed, and immediately after the examination of the mine or any portion thereof, by a fire boss, he shall enter and sign a record of the examination in the book with ink ~~or indelible pencil~~. The record shall clearly show the time taken in making the examination, the nature and location of any danger discovered in the mine, and what has been done to correct dangerous conditions. If any danger is discovered, the fire boss shall immediately report its location to the mine foreman, or in his absence to the assistant mine foreman in charge, who shall take immediate action to remove the danger. When a station is located inside a mine the fire boss shall enter and sign a report both in the record book kept there and in a record book in the mine office on the surface. The record books of the licensee shall at all times during working hours be accessible to the mine inspector and the miner or his representative.

Section 22. KRS 352.310 is amended to read as follows:

Any fire boss who fails to perform his duties, or who makes a false report of the condition of any place in the portion of the mine allotted to him for examination, shall be suspended by the mine foreman, and his name shall be given to the mine inspector for prosecution. If he is found guilty *by the board*, he shall return his certificate of qualification ~~as fire boss~~ to the department.

Section 23. KRS 352.320 is amended to read as follows:

- (1) All commercial coal mines shall employ a certified mine foreman therein to properly carry out the plans and rules when approved by the commissioner of the department and to be responsible for compliance with the provisions of KRS *Chapter*~~Chapters~~ 351 and *this chapter*~~352~~.
- (2) When the mine workings become so extensive that the mine foreman is unable personally to carry out the duties required of him by law, the operator or superintendent shall employ a sufficient number of persons holding suitable certificates of qualifications to act as assistants to the mine foreman, and under his instructions.

Section 24. KRS 352.340 is amended to read as follows:

The mine foreman or his assistants shall visit and carefully examine each working place in the mine *at least* every four (4) hours ~~or oftener~~ while the mine employees are at work. He shall examine as live workings, on regular inspections, all places in live sections that are temporarily abandoned. If the mine foreman finds any place to be in a dangerous condition, he shall not leave the place until it is made safe, or until the employees working therein are removed until the place is made safe. He shall see that every mine liberating explosive gas is kept free of standing gas in all working places

and roadways, and that all accumulations of explosive or noxious gases in the worked-out or abandoned portions of any mine are removed as soon as possible after discovery. He shall ensure that all preshift examinations are conducted by a certified person and that examinations of conveyor belts have been conducted. He shall not allow any person who may be endangered by the presence of explosive or noxious gases to enter that portion of the mine until the gases have been removed. He shall direct and see that all dangerous places and the entrances to worked-out and abandoned places in all mines are properly barricaded across the openings, so that no person will enter, and that danger ~~signs~~~~signals~~ are posted upon the barricade to warn persons of existing danger. He shall give prompt attention to the removal of all dangers reported to him by his assistants, the fire boss or any person working in the mine, and if it is impracticable to remove the danger at once he shall notify every person whose safety is menaced thereby to remain away from the portion where the dangerous condition exists. He or his assistants, fire bosses, or other certified persons shall, at least once every week, travel and examine all air courses, escapeways, seals on the return, roads, and openings that give access to old workings or pillar falls, and make a record of the condition of all places where danger has been found. The record shall be made with ink ~~or indelible~~ pencil in the record book provided for that purpose.

Section 25. KRS 352.350 is amended to read as follows:

- (1) The mine foreman shall notify, in writing, the *licensee*~~operator~~ or superintendent of the mine of his inability to comply with any of the requirements of the mining laws, and the *licensee*~~operator~~ or superintendent shall at once attend to the matter complained of by the mine foreman so as to enable him to comply with the mining laws.
- (2) The mine foreman shall each day enter and sign plainly with ink ~~or indelible pencil~~, in a book provided for that purpose, a report of the condition of the mine. The report shall clearly state any danger that comes under his observation during the day or is reported to him by his assistants or by the fire bosses, and shall state what action was taken to correct such danger, whether or not there is a proper supply of material on hand for the safe working of the mine, and whether or not the mining laws are being complied with. The mine foreman shall each day read carefully, and countersign with ink ~~or indelible pencil~~, all reports entered in the record book of the fire bosses.
- (3) The mine superintendent, mine foreman and assistant foreman shall be held jointly responsible for the immediate compliance with the provisions of KRS *Chapter*~~Chapters~~ 351 and *this chapter*~~[352]~~.

Section 26. KRS 352.400 is amended to read as follows:

- (1) The licensee of any mine may adopt special rules consistent with KRS *Chapter*~~Chapters~~ 351 and *this chapter*~~[352]~~ for the government and operation of his mine, and covering all the work pertaining thereto in and out of the mine. Before the rules are put into effect they shall be approved in writing by the commissioner. The rules, when adopted and approved in writing by the commissioner, shall be printed on cardboard in the language spoken by seventy-five percent (75%) or more of the employees at the mine, and shall be posted on a bulletin board or some other conspicuous place about the mine where they may be seen by the employees at the mine. Before the rules are so adopted, approved and posted, the representative of the employees at the mine shall be given a copy thereof, and be deemed to have agreed thereto, before the employees are required to obey the rules.
- (2) The mine rules shall be printed in a form prescribed by the commissioner.

- (3) The licensee shall furnish each employee a copy of the mine rules, and each employee shall sign a statement indicating his receipt of a copy of the rules and his agreement to comply with them.
- (4) The mine rules shall be included in the subjects taught during annual retraining of the mine's employees.
- ~~{(5) On or after April 9, 1996, if new mine rules require special safety equipment or protective clothing to be used or worn by the employees, the licensee shall provide the equipment or clothing to the miners at no cost to them.}~~

Section 27. KRS 352.410 is amended to read as follows:

- (1) Each superintendent shall, on behalf and at the expense of the operator, keep on hand at or within convenient distance of the mine, not to exceed 500 feet, a sufficient quantity of all materials and supplies required to preserve the safety of employees, as ordered by the mine foreman and required by law. If the superintendent cannot procure the necessary materials or supplies, he shall at once notify the mine foreman, who shall withdraw the men from the mine until the materials or supplies are received.
- (2) The superintendent shall, at least once each week, read and examine carefully and countersign all reports entered in the mine record book of the mine foreman.
- (3) The operator or superintendent shall cooperate with the mine foreman and other officials in the fulfillment of their duties under KRS *Chapter*~~{Chapters}~~ 351 and *this chapter*~~{352}~~, and shall direct that the mine foreman and all other employees under him comply with the law, especially when his attention is called by the mine inspector or by the commissioner to any violations of the laws.
- (4) The superintendent shall keep on hand at the mine a supply of printed rules, notices, and record books required by this chapter. The superintendent shall see that rules, notices, and record books are delivered to the proper persons at the mine and are properly cared for, and that the rules and notices are posted in conspicuous places at or near the entrance to the mine and kept legible.

Section 28. KRS 352.430 is amended to read as follows:

- (1) The operator or superintendent of every mine shall furnish the mine inspector proper facilities for entering the mine and making examinations or obtaining information.
- (2) If any inspector discovers that any mine does not conform to the provisions of KRS *Chapter*~~{Chapters}~~ 351 and this chapter in respect to the safety of employees, or that by reason of any defect or practice not specifically covered by these chapters in or about the mine, the lives or health of persons employed therein are endangered, he shall immediately issue an emergency order to the licensee or superintendent. If he deems it necessary for the immediate protection from imminent danger of bodily harm of the persons employed in the mine, he shall withdraw the men who may be endangered. If the entire mine is affected by the dangerous condition, all men shall be withdrawn and production shall be halted until all defects causing the imminently dangerous condition are corrected. If an imminent danger affects only a portion of the mine, the persons whose safety may be menaced thereby shall be withdrawn from the affected part of the mine and production halted in that area until the dangerous condition is corrected. However, where production is necessary to correct the unsafe condition, it shall be permitted to that extent, using only the necessary personnel.

Production at the affected area of a mine from which men are withdrawn pursuant to this section may be resumed upon reinspection by a mine inspector and a finding by that inspector that the mine is no longer imminently unsafe.

- (3) In all emergency hearings, *a departmental attorney*, the Attorney General, the Commonwealth's attorney, or the county attorney of the judicial circuit or county in which the mine is situated shall appear for the *Commonwealth*~~[state]~~ and defend the action.

Section 29. KRS 352.460 is amended to read as follows:

If the operator or superintendent of any mine fails to furnish to the commissioner any map required by KRS 352.450 and 352.480, the commissioner may cause a correct survey and map of the mine or extensions thereof to be made at the expense of the owner, lessee or operator of the mine, and the cost of the map shall be recoverable from the owner, lessee or operator in the same manner as debts are recoverable by law. If at any time the commissioner has reason to believe that any map furnished under KRS 352.450 and 352.480 is materially incorrect, so that it will not serve the purpose for which it was intended, he may have a survey and map made or corrected, and the expense of making the survey, map or correction shall be paid by the owner, lessee or operator of the mine, or recovered in the same manner as debts are recoverable by law; but if the map furnished by the operator or superintendent is found to be correct, the expense of the survey and drafting of the map shall be paid by the *Commonwealth*~~[state]~~.

Section 30. KRS 352.470 is amended to read as follows:

- (1) The correctness of each map provided for by KRS 352.450 or 352.460 shall be certified only by a professional engineer or land surveyor registered in Kentucky. KRS 322.290 requires registrants to practice only in areas of competence. The certification shall read as follows:

"I, the undersigned, hereby certify that, *to the best of my knowledge and belief*, this map is correct, ~~*and that*~~~~[shows to the best of my knowledge and belief]~~ all the information required by the mining laws of this *Commonwealth is set out within*~~[state]~~, and covers the period ending, Certifying Agent

Acknowledged before me, a, this day of

.....
.....SEAL"

- (2) The commissioner may reject any map as incomplete if its accuracy is not so attested.

Section 31. The following KRS sections are repealed:

351.128 Underground mine employing 2 to 25 persons required to employ person with first-aid training.

351.195 Miners required to wear safety glasses.

Approved March 14, 2000