

1 AN ACT relating to mining licenses and making an appropriation therefor.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO  
4 READ AS FOLLOWS:

5 *Within sixty (60) days of the effective date of this Act, any owner, operator, lessee, or*  
6 *licensee of a coal mine holding a license under Section 2 of this Act that has been*  
7 *doing business in the Commonwealth for fewer than five (5) consecutive years shall*  
8 *submit to the department a certification from the commissioner of the Department of*  
9 *Workplace Standards that the licensee is compliant with the performance bonding*  
10 *requirements in Section 3 of this Act.*

11 ➔Section 2. KRS 351.175 is amended to read as follows:

12 (1) The operation of a coal mine in Kentucky is a privilege granted by the  
13 Commonwealth of Kentucky to a licensee who satisfies the requirements of this  
14 section and demonstrates that the mine is or will be operated in a safe manner and  
15 in accordance with the laws of this Commonwealth.

16 (2) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the  
17 owner, operator, lessee, or licensee of each mine shall procure from the department  
18 a license to operate the mine, and the license shall not be transferable. Any owner,  
19 operator, lessee, or licensee who assumes control of a mine, opens a new mine, or  
20 reopens an abandoned mine during any calendar year shall procure a license before  
21 mining operations are begun.

22 (3) The license shall be in printed form as the commissioner may prescribe and when  
23 issued shall be kept posted at a conspicuous place near the main entrance of the  
24 mine.

25 (4) Requests for a license shall be made to the department and shall be accompanied by  
26 a United States postal money order or cashier's check drawn in favor of the State  
27 Treasurer in an amount established by administrative regulations of a minimum of

1 one hundred dollars (\$100) and a maximum of fifteen hundred dollars (\$1,500). The  
 2 license shall be issued when the following are properly submitted to the  
 3 commissioner:

- 4 (a) The annual report of the licensee and the annual mine map required in KRS  
 5 351.170 and 352.450;
- 6 (b) A certification from the commissioner of the Department of Workers' Claims  
 7 that the licensee has provided positive proof of compliance with the  
 8 provisions of KRS Chapter 342;
- 9 (c) A certification from the commissioner of the Department of Revenue that the  
 10 licensee is not a "delinquent taxpayer" as defined in KRS Chapter 131;
- 11 (d) *A certification from the commissioner of the Department of Workplace*  
 12 *Standards that the licensee is compliant with or exempt from the*  
 13 *performance bonding requirements in Section 3 of this Act;*
- 14 (e) Mine seal construction plan filed with the state and approved by MSHA;
- 15 ~~(f)(e)~~ Roof control plan filed with the state and approved by MSHA;
- 16 ~~(g)(f)~~ The ventilation plan required in KRS 352.020; and
- 17 ~~(h)(g)~~ An approved emergency action plan required by KRS 352.640.
- 18 (5) The department shall immediately revoke any license if the department receives:
- 19 (a) Withdrawal of the certification of compliance with KRS Chapter 342 issued  
 20 by the commissioner of the Department of Workers' Claims;~~or~~
- 21 (b) Notice from the commissioner of the Department of Revenue that the licensee  
 22 is a "delinquent taxpayer" as defined in KRS Chapter 131; or
- 23 (c) *Notice from the commissioner of the Department of Workplace Standards*  
 24 *that the licensee is neither compliant with nor exempt from the performance*  
 25 *bonding requirements in Section 3 of this Act.*
- 26 (6) The commissioner, the director of the Division of Mine Safety, or the mine safety  
 27 specialist shall have the authority to stop production or close any mine whose

1 operator fails to procure a license or fails to furnish a certification of workers'  
2 compensation coverage as required under this section.

3 (7) The department shall be authorized to seek injunctive relief for any violation of this  
4 section. Revocation of a license by the department shall be an administrative  
5 function of the department. Appeals from revocation by the department shall be  
6 brought in Franklin Circuit Court.

7 (8) A license which has been revoked under the "delinquent taxpayer" provision shall  
8 not be reissued until a written tax clearance has been received from the  
9 commissioner of revenue.

10 (9) No mine underlying a cemetery shall be licensed by the commissioner unless two-  
11 thirds (2/3) of the governing body of that cemetery vote in approval of the  
12 operation. The application for a license shall contain an affidavit setting forth the  
13 approval of the cemetery's governing body. This subsection applies only to those  
14 cemeteries with governing bodies.

15 ➔Section 3. KRS 337.200 is amended to read as follows:

16 (1) Except for employers who have been doing business in the state for at least five (5)  
17 consecutive years, every employer engaged in construction work, or the severance,  
18 preparation, or transportation of minerals, shall furnish on a form prescribed by the  
19 commissioner a performance bond to ensure~~assure~~ the payment of all wages due  
20 from the employer. Surety for the bond shall be an amount of money equal to the  
21 employer's gross payroll operating at full capacity for four (4) weeks. Any  
22 employee whose wages are secured by a bond may obtain payment of those wages,  
23 liquidated damages, and attorney's fees as provided by law on presentation to the  
24 commissioner of a final judgment entered by a court of competent jurisdiction. The  
25 bond may be terminated, with the approval of the commissioner, on submission of  
26 the employer's statement, lawfully administered under oath, that the employer has  
27 ceased doing business in the state and that all due wages have been paid.

1 **(2) The commissioner shall notify the Department for Natural Resources of any**  
2 **employer engaged in the severance, preparation, or transportation of minerals**  
3 **that has failed to comply with the performance bonding requirements of this**  
4 **section.**

5 ➔Section 4. KRS 337.994 is amended to read as follows:

6 **(1)** Any employer who violates KRS 337.200 shall be fined by the Education and  
7 Labor Cabinet not less than one hundred dollars (\$100) nor more than five hundred  
8 dollars (\$500). Each day that the employer violates KRS 337.200 shall constitute a  
9 separate offense and penalty. If the employer is a corporation, the officers of the  
10 corporation shall be personally liable for the penalty imposed herein.

11 **(2) All penalties collected under this section shall be distributed to the employees**  
12 **injured by the employer's failure to provide the performance bond required under**  
13 **Section 3 of this Act. If the penalty collected is less than the total amount of**  
14 **wages owed, then the money shall be distributed proportionally among the**  
15 **employees based on the amount each is owed.**