WEST VIRGINIA CODE CHAPTER 22A ARTICLE 8

WV Legislature

§22A-8-1. Certificate of competency and qualification or permit of apprenticeship required of all surface and underground miners.

Except as hereinafter provided, no person shall work or be employed for the purpose of performing normal duties as a surface or underground miner in any mine in this state unless the person holds at the time he or she performs such duties a certificate of competency and qualification or a permit of apprenticeship issued under the provisions of this article.

WV Legislature

§22A-8-2. Definitions.

For purposes of this article the term "surface miner" means a person employed at a "surface mine", as that term is defined in section three, article three, chapter twenty-two of this code, and in section two, article four of said chapter.

For purposes of this article, the term "underground miner" means an underground worker in a bituminous coal mine, except as hereinafter provided.

For purposes of this article, the term "Board of Miner Training, Education and Certification" means that board established in article seven of this chapter.

WV Legislature

§22A-8-3. Permit of apprenticeship-underground miner.

A permit of apprenticeship-underground miner shall be issued by the director to any person who has demonstrated by examination a knowledge of the subjects and skills pertaining to employment in underground mines, including, but not limited to, general safety, first aid, miner and operator rights and responsibilities, general principles of electricity, general mining hazards, roof control, ventilation, mine health and sanitation, mine mapping, state and federal mining laws and regulations and such other subjects as may be required by the board of miner training, education and certification: Provided, That each applicant for said permit shall complete a program of education and training of at least eighty hours, which shall be determined by the Board of Miner Training, Education and Certification and provided for and implemented by the director: Provided, however, That if a sufficient number of qualified applicants having successfully completed the state training program provided by the Office of Miners' Health, Safety and Training are not available, the operator may request approval from the director to conduct the operator's own preemployment training program so long as such training adequately covers the minimum criteria determined by the board and such trainees shall be eligible for the same certification as provided for trainees undergoing training provided by the state.

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§22A-8-4. Permit of apprenticeship-surface miner.

A permit of apprenticeship-surface miner shall be issued by the director to any person who has demonstrated by examination a knowledge of the subjects and skills pertaining to employment in the surface mining industry, including, but not limited to, general safety, first aid, miner and operator rights and responsibilities, general principles of electricity, health and sanitation, heavy equipment safety, high walls and spoil banks, haulage, welding safety, tipple safety, state and federal mining laws and regulations and such other subjects as may be required by the board of miner training, education and certification: Provided, That each applicant for said permit shall complete a program of education and training of at least forty hours, which program shall be determined by the Board of Miner Training, Education and Certification and provided for and implemented by the director: Provided, however, That if a sufficient number of qualified applicants having successfully completed the state training provided by the Office of Miners' Health, Safety and Training are not available, the operator may request approval from the director to conduct the operator's own preemployment training program so long as such training adequately covers the minimum criteria determined by the board and such trainees shall be eligible for the same certification as provided for trainees undergoing training provided by the state.

WV Legislature

§22A-8-5. Supervision of apprentices.

Each holder of a permit of apprenticeship shall be known as an apprentice. Any miner holding a certificate of competency and qualification may have one person working with him or her, and under his or her supervision and direction, as an apprentice, for the purpose of learning and being instructed in the duties and calling of mining. Any mine foreman or fire boss, or assistant mine foreman or fire boss, may have three persons working with him or her under his or her supervision and direction, as apprentices, for the purpose of learning and being instructed in the duties and calling of mining: *Provided*, That a mine foreman, assistant mine foreman, or fire boss supervising apprentices in an area where no coal is being produced or which is outby the working section may have as many as five apprentices under his or her supervision and direction, as apprentices, for the purpose of learning and being instructed in the duties and calling of mining or where the operator is using a production section under program for training of apprentice miners, approved by the Board of Coal Mine Health and Safety.

Every apprentice working at a surface mine shall be at all times under the supervision and control of at least one person who holds a certificate of competency and qualification.

In all cases, it is the duty of every mine operator who employs apprentices to ensure that such persons are effectively supervised and to instruct such persons in safe mining practices. Each apprentice shall wear a red hat which identifies the apprentice as such while employed at or near a mine. No person shall be employed as an apprentice for a period in excess of eight months, except that in the event of illness or injury, time extensions shall be permitted as established by the Director of the Office of Miners' Health, Safety, and Training.

WV Legislature

§22A-8-6. Certificate of competency and qualification -- Underground or surface miner.

A certificate of competency and qualification as an underground miner or as surface miner shall be issued by the director to any person who has at least six months' total experience as an apprentice and demonstrated his or her competence as a miner by successful completion of an examination given by the director or his or her representative in a manner and place to be determined by the Board of Miner Training, Education and Ccertification: Provided, That all examinations shall be conducted in the English language and shall be of a practical nature, so as to determine the competency and qualifications of the applicant to engage in the mining of coal with reasonable safety to the applicant and fellow employees: Provided, however, That notice of the time and place of such examination shall be given to management at the mine, to the local union thereat if there is a local union, and notice shall also be posted at the place or places in the vicinity of the mine where notices to employees are ordinarily posted. Examinations shall also be held at such times and places, and after such notice, as the board finds necessary to enable all applicants for certificates to have an opportunity to qualify for certification.

WV Legislature

§22A-8-7. Refusal to issue certificate; appeal.

If the director or the director's representative finds that an applicant is not qualified and competent, the director shall so notify the applicant not more than ten days after the date of examination.

Any applicant aggrieved by an action of the director in failing or refusing to issue a certificate of qualification and competency may, within ten days' notice of the action complained of, appeal to the director who shall promptly give the applicant a hearing and either affirm the action or take such action as should have been taken.

WV Legislature

§22A-8-8. Limitations of article.

All persons possessing certificates of qualification heretofore issued by the Department of Mines of this state, or by the Division of Mines and Minerals, or hereafter by the Office of Miners' Health, Safety and Training entitling them to act as mine foreman-fire bosses, or assistant mine foreman-fire bosses, are eligible to engage at any time as miners in the mines of this state. Supervisory and technically trained employees of the operator, whose work contributes only indirectly to mine operations, are not required to possess a miners' certificate.

Notwithstanding the provisions of this article, every person working as a surface miner in this state on or before July 1, 1974, shall, upon application to the director, be issued a certificate of competency and qualification.

WV Legislature

§22A-8-9. Violations; penalties.

Any person who knowingly works in or at a mine without a certificate issued under the provision of this article, any person who knowingly employs an uncertified miner to work in or at a coal mine in this state, or, any operator who fails to insure the supervision of miners holding a certificate of apprenticeship as provided for in section five of this article, is guilty of a misdemeano, and, upon conviction thereof, shall be fined not less than $50 nor more than $500.

WV Legislature

§22A-8-10. Loss of certification for unlawful trespass.

Upon a conviction under the provisions of §61-3B-6 of this code, the certification of any person certified under the provision of §22A-8-1 et seq. of this code, including a safety sensitive certification issued pursuant to 56 CSR 19, shall be deemed revoked and person shall be permanently barred from holding a certification under the provisions of §22A-8-1 et seq. of this code.

WV Legislature