WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1941

ENROLLED

HOUSE BILL No. 169

(By Mr. Alltop)

PASSED March 1, 1941

In Effect ninety days from Passage
AN ACT to amend chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new article six, prohibiting the employment of miners in the bituminous coal mines, unless certificated after examination by miners' examining board, providing for the appointment of such boards, defining their powers and duties, providing penalties, and repealing acts inconsistent thereto.

Be it enacted by the Legislature of West Virginia:

That sections fifty-two-a, fifty-two-b, fifty-two-c and fifty-two-d, article two, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter eighty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be repealed; and that chapter twenty-two of the code of West Virginia, one thousand
nine hundred thirty-one, be amended by adding thereto a new
article six, to read as follows:

Article VI. Coal Miners' Examining Boards.

Section 1. Certificates of Competency and Qualification

That from and after the first day of April, one thousand nine hundred forty-two, no person shall be employed or engaged as a coal miner in any commercial or captive bituminous coal mine in this state, without first having obtained a certificate of competency and qualification so to do from a miners' examining board appointed under this article: Provided, however, That any miner holding a certificate may have one person working with him, and under his direction, as an apprentice, or any foreman, assistant foreman or fire boss may have not more than five persons working with him and under his immediate supervision and direction, as apprentices, for the purposes of learning and being instructed in the duties and business of mining. For the purposes of this act the term "coal miner" or "miner" shall mean all underground workers in bituminous coal mines, except as hereinafter provided. The term "captive coal
mine", for purposes of this act, shall include all mines
owned and operated by any person, firm or corporation
directly or through a subsidiary which consumes its own
production.

Sec. 2. Miners' Examining Boards.—The chief of the
department of mines with the approval of the governor,
shall appoint as many miners' examining boards as may be
deemed necessary, not exceeding five in number, each
board to be composed of two practical and experienced
miners, one of whom shall be a Negro, and one coal mine
operator, and not more than two members of each board
shall belong to the same political party, who shall hold
office at the pleasure of the appointing power, and in
making such appointments consideration shall be given
to the various regions of the state in which bituminous
coal mines are located. The boards first appointed shall
have the authority to issue to their respective members
the certificates of competency required by this act without
examination: Provided, however, That an applicant who
has been engaged in the occupation of mining coal in this
state at least one year prior to the passage of this act, who
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18 makes affidavit that he has been so employed before a
19 person authorized to administer oaths in this state and
20 files such affidavit together with written application for a
21 certificate by mail with the examining board, shall not
22 be required to pass such examination, but must pay a fee
23 of one dollar and be given a certificate, but no certificate
24 of service shall be issued after the first day of April, one
25 thousand nine hundred forty-two.
26 Each miners' examining board shall organize by the
27 selection of a chairman and a secretary from its member-
28 ship. All records, reports, books and papers of the board
29 shall be kept by the secretary, who shall also be furnished
30 with a seal of the chief of the department of mines. Each
31 member of a miners' examining board shall be entitled to
32 a compensation of ten dollars and hotel and traveling ex-
33 penses for each day of seven hours necessarily employed
34 in the discharge of his duties, which compensation shall
35 be paid out of the "miners' examining fund" provided for
36 under section four of this act.
37 The number of miners' examining boards may be re-
38 duced in the discretion of the chief of the department of
Sec. 3. Examinations by Boards; Records.—The several miners' examining boards shall hold examinations at such times and places prior to the thirty-first day of March, one thousand nine hundred forty-two, as the chief of the department of mines may designate, and thereafter shall meet at least once each month in each mine inspection district at such places as the chief of the department of mines may designate, so that all persons in the state, or who wish to come into the state to engage in coal mining, may be examined as to their competency and qualifications. Public notice of the time and place of examinations shall be given through the press or otherwise, in the discretion of the board, not less than seven days in advance of the date of examination.

Each board shall keep an accurate record of its proceedings and meeting and in said record shall show a correct detailed account of the examination of each applicant,
with questions asked and their answers. Such records shall be open to the public inspection.

Sec. 4. Fee for Examination.—Each applicant for examination shall pay to the miners' examining board a fee of one dollar. All fees collected by miners' examining boards shall be promptly transmitted to the chief of the department of mines and by him paid into the state treasury and credited to a special fund to be known as the "miners examination certificate fund", and shall be expended for the purpose of carrying out the provisions of this act upon requisitions drawn by the chief of the department of mines.

Sec. 5. Examinations to be Practical; Certificates not Transferable; How Certificates to be Issued.—All examinations held by miners' examining boards 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 bituminous coal. A board shall examine under oath all applicants as to their previous experience in mines. Each member of a board shall have power to administer oaths,
and any wilfully false statement made by an applicant under oath shall be deemed perjury. Certificates granted by a board shall entitle the holder thereof to be employed as and to do the work of miners in the bituminous mines of this state. No certificate shall issue unless the applicant produces evidence of having had not less than one year’s practical experience as a miner or as an apprentice with a miner. A certificate shall not be granted unless the applicant appears in person before the board and answers orally, intelligently and correctly at least twelve practical questions propounded to him.

A certificate granted by a board shall not be transferable and a transfer shall be deemed a violation of this act. Certificates shall issue only at meetings of a board and shall be signed by at least two members of a board, and sealed with the seal of the board.

Sec. 6. After April First, One Thousand Nine Hundred Forty-two, Miners Required to Have Certificate.—No person shall, after the first day of April, one thousand nine hundred forty-two, engage as a miner, other than as an
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5 apprentice, in any commercial or captive bituminous coal
6 mine in this state, without first having obtained a certifi-
7 cate of competency and qualification as provided for in
8 this act, except as hereinbefore stated, nor shall any per-
9 son, firm or corporation, or his, or its agent, employ as a
10 miner any person who does not hold such certificate, ex-
11 cept as aforesaid.

12 Any person feeling aggrieved by any ruling of the
13 miners' examining board, regarding the refusal, or grant-
14 ing of a coal miner's certificate may appeal therefrom
15 by certiorari to the circuit court of the county where
16 the applicant resides.

17 All persons possessing certificates of qualification is-
18 sued by the department of mines of this state, entitling
19 them to act as mine foremen, assistant mine foremen,
20 or fire boss, shall be eligible to engage at any time as
21 miners in bituminous mines of this state. Supervisory
22 and technically trained employees of the operator, whose
23 work contributes only indirectly to mine operations,
24 shall not be required to possess a miners' certificate.

Sec. 7. Rules and Regulations.—The chief of the de-
part of mines, together with the examining boards, may adopt such rules and regulations as are deemed necessary for the purpose of carrying out the provisions of this act.

Sec. 8. Penalties.—Any person, firm or corporation violating any of the provisions of this act shall, upon conviction, be sentenced to pay a fine of not less than twenty-five dollars, nor more than one hundred dollars, and in default in the payment of such fine and costs, shall be imprisoned in the county jail for a period not exceeding thirty days.

Sections fifty-two-a, fifty-two-b, fifty-two-c and fifty-two-d, article two, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter eighty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, and all other acts, or parts of acts inconsistent or in conflict herewith, are hereby repealed.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

L. H. Mclough
Chairman Senate Committee

Leon Price
Chairman House Committee

Originated in the House of Delegates

Takes effect ninety days from passage.

A. H. Wallins
Clerk of the Senate

Clerk of the House of Delegates

Byron Randles
President of the Senate

Malcolm P. Arnold
Speaker House of Delegates

The within approved this the 13th day of March, 1941

Matthew McNeely
Governor.

Filed in the office of the Secretary of State of West Virginia, MAR 13, 1941

Wm. S. O'Brien
Secretary of State