

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1941



ENROLLED

HOUSE BILL No. 169

(By Mr. Alltop)



PASSED March 1, 1941

In Effect ninety days from Passage

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(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as enacted by chapter eighty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be repealed; and that chapter twenty-two of the code of West Virginia, one thousand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*

2 *Required of Miners; Apprentice.*—That from and after the
3 first day of April, one thousand nine hundred forty-two,
4 no person shall be employed or engaged as a coal miner
5 in any commercial or captive bituminous coal mine in this
6 state, without first having obtained a certificate of com-
7 petency and qualification so to do from a miners' exam-
8 ining board appointed under this article: *Provided, how-*
9 *ever,* That any miner holding a certificate may have one
10 person working with him, and under his direction, as an
11 apprentice, or any foreman, assistant foreman or fire boss
12 may have not more than five persons working with him
13 and under his immediate supervision and direction, as
14 apprentices, for the purposes of learning and being in-
15 structed in the duties and business of mining. For the
16 purposes of this act the term "coal miner" or "miner" shall
17 mean all underground workers in bituminous coal mines,
18 except as hereinafter provided. The term "captive coal

19 mine", for purposes of this act, shall include all mines
20 owned and operated by any person, firm or corporation
21 directly or through a subsidiary which consumes its own
22 production.

Sec. 2. *Miners' Examining Boards.*—The chief of the
2 department of mines with the approval of the governor,
3 shall appoint as many miners' examining boards as may be
4 deemed necessary, not exceeding five in number, each
5 board to be composed of two practical and experienced
6 miners, one of whom shall be a Negro, and one coal mine
7 operator, and not more than two members of each board
8 shall belong to the same political party, who shall hold
9 office at the pleasure of the appointing power, and in
10 making such appointments consideration shall be given
11 to the various regions of the state in which bituminous
12 coal mines are located. The boards first appointed shall
13 have the authority to issue to their respective members
14 the certificates of competency required by this act without
15 examination: *Provided, however,* That an applicant who
16 has been engaged in the occupation of mining coal in this
17 state at least one year prior to the passage of this act, who

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

39 mines, after the first day of March, one thousand nine
40 hundred forty-two, when the miners now engaged in the
41 bituminous coal regions have been examined.

Sec. 3. *Examinations by Boards; Records.*—The several
2 miners' examining boards shall hold examinations at such
3 times and places prior to the thirty-first day of March, one
4 thousand nine hundred forty-two, as the chief of the de-
5 partment of mines may designate, and thereafter shall
6 meet at least once each month in each mine inspection
7 district at such places as the chief of the department of
8 mines may designate, so that all persons in the state, or
9 who wish to come into the state to engage in coal mining,
10 may be examined as to their competency and qualifica-
11 tions. Public notice of the time and place of examinations
12 shall be given through the press or otherwise, in the dis-
13 cretion of the board, not less than seven days in advance
14 of the date of examination.

15 Each board shall keep an accurate record of its proceed-
16 ings and meeting and in said record shall show a correct
17 detailed account of the examination of each applicant,

18 with questions asked and their answers. Such records
19 shall be open to the public inspection.

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

Sec. 5. *Examinations to be Practical; Certificates not*
2 *Transferable; How Certificates to be Issued.*—All exam-
3 inations held by miners' examining boards shall be con-
4 ducted in the English language and shall be of a prac-
5 tical nature, so as to determine the competency and
6 qualifications of the applicant to engage in the mining of
7 bituminous coal. A board shall examine under oath all
8 applicants as to their previous experience in mines. Each
9 member of a board shall have power to administer oaths,

10 and any wilfully false statement made by an applicant
11 under oath shall be deemed perjury. Certificates granted
12 by a board shall entitle the holder thereof to be employed
13 as and to do the work of miners in the bituminous mines
14 of this state. No certificate shall issue unless the applicant
15 produces evidence of having had not less than one year's
16 practical experience as a miner or as an apprentice with a
17 miner. A certificate shall not be granted unless the appli-
18 cant appears in person before the board and answers
19 orally, intelligently and correctly at least twelve practi-
20 cal questions propounded to him.

21 A certificate granted by a board shall not be transfer-
22 able and a transfer shall be deemed a violation of this act.
23 Certificates shall issue only at meetings of a board and
24 shall be signed by at least two members of a board, and
25 sealed with the seal of the board.

Sec. 6. After April First, One Thousand Nine Hundred

2 *Forty-two, Miners Required to Have Certificate.*—No per-
3 son shall, after the first day of April, one thousand nine
4 hundred forty-two, engage as a miner, other than as an

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-

2 partment of mines, together with the examining boards,
3 may adopt such rules and regulations as are deemed
4 necessary for the purpose of carrying out the provisions
5 of this act.

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

8 Sections fifty-two-a, fifty-two-b, fifty-two-c and fifty-
9 two-d, article two, chapter twenty-two of the code of
10 West Virginia, one thousand nine hundred thirty-one,
11 as enacted by chapter eighty-two, acts of the Legisla-
12 ture, regular session, one thousand nine hundred thirty-
13 nine, and all other acts, or parts of acts inconsistent or in
14 conflict herewith, are hereby repealed.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

C. H. McKown
Chairman Senate Committee

Leon Rice
Chairman House Committee

Originated in the House of Delegates

Takes effect ninety days from passage.

W. Lee Watkins
Clerk of the Senate

Forliff
Clerk of the House of Delegates

Byron Randolph
President of the Senate

Malcolm R. Arnold
Speaker House of Delegates

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

Matthew M. Neely
Governor.

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

Wm. S. O'BRIEN,
Secretary of State