

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1945

ENROLLED

Committee Substitute for

SENATE BILL No. 83

Originating in the Committee on Mines and Mining

(By Mr. _____)

PASSED March 10 1945

In Effect from Passage



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COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 83

[Originating in the Committee on Mines and Mining.]

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AN ACT to repeal chapter eighty-four, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-nine, and to amend chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article to be designated article two-a, relating to the regulation and control of strip mining and to the collection of bond forfeitures and

the disposition thereof, and the rehabilitation of the land affected by strip mining operations, and providing penalties.

Be it enacted by the Legislature of West Virginia:

That chapter eighty-four, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-nine, be repealed, and that chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article to be designated article two-a, to read as follows:

Article 2-a. Strip Mining.

Section

1. Declaration of legislative purpose.
2. Permit required.
3. Performance bond.
4. Duties of operator.
5. Bond forfeiture.
6. Validity of existing permits and bonds..
7. Certificate of release.
8. Offenses; penalty.
9. Provisions of the act separable.

Section 1. *Declaration of Legislative Purpose.*—In view
2 of the fact that the practice of strip mining may and
3 commonly does cause soil erosion, stream pollution and
4 the accumulation of stagnant water, increases the likeli-

5 hood of floods, destroys the value of land for agricultural
6 purposes, counteracts efforts for the conservation of soil,
7 water and other natural resources of the state, and in
8 general creates hazards dangerous to life and property,
9 now therefore, the Legislature declares that its purpose
10 in the enactment of this article is to provide such regu-
11 lation and control of strip mining as to minimize its
12 injurious effects as much as may be possible.

Sec. 2. *Permit Required.*—It shall hereafter be unlawful
2 for any person, firm or corporation to engage in the strip
3 mining of coal without having first obtained from the
4 chief of the department of mines a permit therefor as
5 provided in this section. The following information must
6 be stated in the application for such a permit: (1) The
7 location and area of the land to be covered by the permit
8 and shown on a map or plat or portion to be stripped; (2)
9 the owner or owners of the surface of the land; (3) the
10 owner or owners of the coal to be mined; (4) the source
11 of the operator's legal right to enter and mine the coal on
12 the land covered by the permit; (5) the permanent and
13 temporary post office address of the operator; (6) whether

14 any permits are now held, and, if so, how many such
15 permits and the numbers thereof.

16 Upon payment to the department of mines of a regis-
17 tration fee of fifty dollars, and the posting with the depart-
18 ment of the bond required by the following section, the
19 chief of the department shall upon proper application
20 issue the requested permit.

Sec. 3. *Performance Bond.*—Each operator shall give a
2 bond with satisfactory corporate surety, in a penalty of
3 five hundred dollars for each acre or fraction thereof cov-
4 ered by said permit, with a minimum of one thousand
5 dollars, conditioned for the faithful performance of the
6 requirements contained in section ^{four}~~five~~ hereof.

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Sec. 4. *Duties of Operator.*—It shall be the duty of each
2 operator to: (1) cover the face of the coal and so far as
3 practicable, bury all roof coal and pyritic shales; (2) seal
4 off with an earth fill any break-through to underground
5 working in the coal; (3) drain all the surface involved in
6 the strip mining operation and provide such outlets as
7 may be necessary to conduct storm and seepage waters
8 from such surface to a permanent stream or stream bed

9 with as little erosion as possible; (4) remove all metal,
10 lumber and other refuse resulting from the operation;
11 (5) regrade, in a manner approved by the state depart-
12 ment of mines and the agricultural experiment station
13 of West Virginia university, the overburden or other
14 strata removed from the coal so as to refill any ditches,
15 trenches or excavations made in the stripping operation,
16 in order to minimize the hazards of floods, pollution of
17 streams and water, accumulation of stagnant water, and
18 the loss of the soil for agricultural or grazing purposes:
19 *Provided, however,* That any lands upon which stripping
20 operations are conducted which are not used for agri-
21 cultural or grazing purposes, and in the opinion of the
22 director of the agricultural experiment station of West
23 Virginia university are not adapted therefor shall be
24 exempt from the provisions of this requirement by the
25 chief of the department of mines and the director of the
26 agricultural experiment station of West Virginia uni-
27 versity; and (6) plant trees, shrubs, grasses or vines
28 upon the lands affected in accordance with such regula-
29 tions in respect to the time and manner of planting and

30. the type and quantity of fertilizer and lime to be used as
31. may be prescribed by the state department of mines and
32. the agricultural experiment station of West Virginia
33. university: *Provided, however, That the surface owner*
34. *shall be entitled to his choice of trees, shrubs, grasses or*
35. *vines prescribed by the department of mines, and the*
36. *agricultural experiment station of West Virginia uni-*
37. *versity.*

38. If the operator, land owner, or coal owner, including the
39. lessee, desires to conduct drift mining upon the premises,
40. he may designate drift locations, and also outside haulage
41. ways along the exposed face of the coal, at which places
42. it will not be necessary to replace the over-burden on the
43. haulage way to the coal until such mining is completed.

44. For failure to do all of the things required by this sec-
45. tion within one year after the completion of the mining
46. operation on the land covered by the permit, and after
47. receipt of a thirty-day notice in writing from the chief
48. of the department of mines, which notice may be sent
49. by registered mail, that any one or more of such things
50. had not been done, the permit covering the particular

51: operation and any other strip mining permits that may
52: have been issued to the operator involved shall be re-
53: voked by the chief of the department of mines; and the
54: performance bond shall be forfeited, unless such operator
55: shall comply with the provisions of this section within
56: said thirty-day period.

57: Any operator whose strip mining permit has been re-
58: voked shall not be eligible to receive another such permit
59: until he shall have complied with the requirements of
60: all the laws in respect to former permits issued to him.

Sec. 5. *Bond Forfeitures.*—Upon default in the perform-
2: ance of the conditions of the performance bond, the chief
3: of the state department of mines shall give notice to the
4: attorney general and it shall be his duty to collect the
5: forfeiture without delay.

6: All such forfeitures shall be deposited in a special fund
7: to the credit of the state department of mines to be ex-
8: pended by it, in cooperation with and subject to the ap-
9: proval of the agricultural experiment station of West
10: Virginia university, solely for the purpose of promptly
11: reclaiming lands that have been injured by strip mining

12 operations since the effective date of this act. It shall be
13 the duty of the state department of mines and the agri-
14 cultural experiment station of West Virginia university
15 to reclaim and rehabilitate the lands affected in accord-
16 ance with the provisions of section four of this act. In so
17 far as is reasonably practicable, such forfeitures shall be
18 expended upon the lands upon which the permit was
19 issued for which the bond was given. The state depart-
20 ment of mines may avail itself of any services that may
21 be provided by the federal government for reclaiming
22 lands.

23 All money in the special fund created by this section
24 may be expended without the necessity of legislative ap-
25 propriation and the auditor shall issue the warrants there-
26 for upon the requisition of the chief of the state depart-
27 ment of mines, approved by the director of the agricultural
28 experiment station of West Virginia university.

Sec. 6. *Validity of Existing Permits and Bonds.*—The
2 provisions of chapter eighty-four of the acts of the Legis-
3 lature of West Virginia, regular session, one thousand
4 nine hundred thirty-nine, shall continue to be in full

5 force and govern in all respects every existing right for
6 strip mining operations, every outstanding permit for
7 strip mining operations and every existing cash or other
8 bond posted in connection therewith, as though this law
9 had never been passed, and the repeal herein made of
10 said chapter eighty-four of said acts shall not affect any
11 offenses or act committed or done, or any penalty or
12 forfeiture incurred, or any right established, accrued, or
13 accruing before the day this law takes effect: *Provided*,
14 *however*, That any money received from the forfeiture
15 of bonds given under the provisions of said act shall be
16 deposited in the same fund and used in the same manner
17 as forfeitures under this act: *Provided further*, That
18 every operator under an existing permit under which
19 actual mining operations have not been commenced prior
20 to March tenth, one thousand nine hundred forty-five,
21 shall nevertheless be required to perform all the duties
22 specified in section four of this act, and that for failure
23 to do so his bond shall be forfeited and he shall be subject
24 to all other penalties provided by the above mentioned
25 former act: *And provided further*, That every such

26 operator shall be required to comply with the provisions
27 of section three of this act under which actual mining
28 operations have not been commenced prior to March
29 tenth, one thousand nine hundred forty-five, and for that
30 purpose shall post such additional bond as may be
31 necessary; if any such operator shall fail to post such
32 additional bond within thirty days after the effective
33 date of this act, the department of mines shall revoke his
34 permit.

Sec. 7. *Certificate of Release.*—If and when each oper-
2 ator has completed his strip mining operations under the
3 permit granted him by the department of mines in
4 accordance and in full compliance with the provisions
5 of this act, thereupon the chief of the department of mines
6 and the director of the agricultural experiment station
7 of West Virginia university shall issue to such operator
8 a certificate, wherein and whereby the bond given by the
9 operator shall be discharged and the surety thereon re-
10 leased.

Sec. 8. *Offenses; Penalty.*—Any operator who shall con-
2 duct any strip mining operation without a permit, or who

3 shall carry on such operation on land not covered by a
4 permit, shall be guilty of a misdemeanor, and upon con-
5 viction thereof shall be punished by a fine of one thousand
6 dollars, or by imprisonment in jail for not more than
7 one year, or by both such fine and imprisonment, in the
8 discretion of the court. It shall be the duty of the chief
9 of the department of mines to see that prosecutions are
10 instituted for any violation of the provisions of this sec-
11 tion.

Sec. 9. *Provisions of the Act Separable.*—The various
2 provisions of this act shall be construed as separable and
3 severable, and should any of the provisions, sentences,
4 clauses, or parts thereof be construed or held unconsti-
5 tutional, or for any reason be invalid the remaining pro-
6 visions of this act shall not be thereby affected.

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

Charles C Morris

Chairman Senate Committee

J. A. deBreyer, Jr.

Chairman House Committee

Originated in the Committee on Mines and Mining

Takes effect from passage

Howard Hughes

Clerk of the Senate

J. R. Cluff

Clerk of the House of Delegates

Amos W. Fickers

President of the Senate

John E. Amos

Speaker House of Delegates

The within _____ this the _____

day of _____, 1945.

Governor.

Filed in the office of the Secretary of State
of West Virginia

MAR 19 1945

Wm. S. OFFER

Secretary of State

