WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1958

ENROLLED

HOUSE BILL No. 2

(By Mr. Myles and Mr. Seibert)

PASSED February 4, 1958

In Effect July 1, 1958
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[Passed February 4, 1958; in effect July 1, 1958.]

AN ACT to amend chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting article one and article two thereof, and by adding to said chapter a new article, designated article two-b, all relating to coal mining, the safety and health of persons employed within or at mines within this state and the protection and preservation of mining property and property used in connection therewith; and providing penalties for violation of certain provisions thereof.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting article one and article two thereof and by adding to said chapter a new article, designated article two-b, all to read as follows:

Article 1. Administration; Enforcement

Section 1. Definitions.—Mine: In this chapter the term "mine" shall include the shafts, slopes, drifts or inclines connected with excavations penetrating coal seams or strata, which excavations are ventilated by one general air current or divisions thereof, and connected by one general system of mine haulage over which coal may be delivered to one or more points outside the mine, and the surface structures or equipment connected therewith which contribute directly or indirectly to the mining, preparation or handling of coal.
Operator: The term “operator” shall mean any firm, corporation, partnership or individual operating any coal mine or part thereof.

Department: The term “department” shall mean the state department of mines provided for in section two of this article.

Director of the Department of Mines: The term “director of the department of mines” shall mean the director of the department of mines provided for in section three of this article, and is synonymous with the term, “chief of the department of mines.”

Mine Inspector: The term “mine inspector” shall mean a state mine inspector provided for in section seven of this article.

Mine Inspectors’ Examining Board: The term “mine inspectors’ examining board” shall mean the mine inspectors’ examining board provided for in section nine of this article.

Coal Mine Safety Board of Review: The term “coal mine safety board of review” shall mean the coal mine safety board of review provided for in section fourteen of this article.

Certified Person: The term “certified person”, when used to designate the kind of person to whom the performance of a duty in connection with the operation of a mine shall be assigned, shall mean a person who is qualified under the provisions of this chapter to perform such duty.

Sec. 2. Department of Mines.—There shall be a state department of mines, which shall have for its purpose the supervision of the execution and enforcement of the provisions of this chapter, enacted for the protection of the safety and health of persons employed within or at the mines within this state, and for the protection and preservation of mining property and property used in connection therewith.

Sec. 3. Director of the Department of Mines; Appointment; Term of Office.—There shall be a director of the department of mines, who shall be appointed by the gov-
error with the advice and consent of the senate and who
shall serve for a term of four years, subject to the pro-
visions of chapter six, article six, section four of this
code, as amended. The original term of the director of
the department of mines appointed under this section
shall commence as of the effective date of this article as
amended and all appointments to such office made there-
after shall be made for a full term of four years, except
that in case of a vacancy the appointment shall be made
for the unexpired term only.

Sec. 4. Powers and Duties.—The director of the depart-
ment of mines shall have full charge of the department.
He shall have the power and duty to:
(1) Supervise and direct the execution and enforce-
ment of the provisions of this chapter;
(2) Appoint a deputy director of the department of
mines, fix his compensation and prescribe his powers and
duties;
(3) Employ such assistants, clerks, stenographers and
other employees as may be necessary and fix their com-
pensation, except as otherwise provided in this article;
(4) Employ mine inspectors and assign them to divi-
sions or districts in accordance with the provisions of sec-
tion seven of this article, and to supervise and direct such
mine inspectors in the performance of their duties;
(5) For good cause, to suspend any mine inspector
without compensation for a period not exceeding thirty
days in any calendar year;
(6) Prepare report forms to be used by mine in-
spectors in making their findings, orders and notices, upon
inspections made in accordance with this chapter;
(7) Hear and determine applications made by mine
operators for the annulment or revision of orders made
by mine inspectors, and to make inspections of mines, in
accordance with the provisions of this article;
(8) Cause a properly indexed permanent and public
record to be kept of all inspections made by himself or by
mine inspectors;
(9) Make annually a full and complete written report
of the administration of his department to the governor
of the state for the year ending the thirty-first day of
December. Such report shall include the number of visits
and inspections of mines in the state by mine inspectors,
the quantity of coal, coke and other minerals (including
oil and gas) produced in the state, the number of men
employed, number of mines in operation, statistics with
regard to health and safety of persons working in the
mines, improvements made, prosecutions, such other in-
formation in relation to the subject of mines, mine in-
spections and needed legislation as he may deem of public
interest and beneficial to the mining interest of the state.
Such reports shall be filed with the governor on or before
the thirtieth day of June next succeeding the year for
which it was made, and shall upon proper authority be
printed and distributed to interested persons;

(10) Conduct such research and studies as he shall
deem necessary to aid in protecting the health and safety
of persons employed within or at mines in this state, to
improve mining methods and to provide for the more
efficient protection and preservation of mines and prop-
erty used in connection therewith;

(11) Perform all other duties which are expressly im-
posed upon him by the provisions of this chapter.

All records of the department shall be open to the
public.

Sec. 5. Eligibility; Salary.—The director of the depart-
ment of mines shall be a male citizen of West Virginia,
shall be a competent person of good repute and temperate
habits and shall have had at least fifteen years' experience
underground in coal mines, at least ten of which shall
have been underground in mines in this state. He shall
possess a practical knowledge of the different systems
of working, ventilating and draining coal mines, and a
practical and scientific knowledge of all noxious and
dangerous gases found in such mines. A diploma in min-
ing engineering from the West Virginia university school
of mines, or any similarly accredited engineering school
shall be counted as two years' working experience. The
director shall devote all of his time to the duties of his
office, and shall not be directly or indirectly interested
financially in any mine in this state. The salary of the
director of the department of mines shall be twelve
thousand dollars per year, and traveling expenses, which
shall be paid out of the state treasury upon a requisition
upon the state auditor, properly certified by the director
of the department of mines.

Sec. 6. Oath; Bond.—The director of the department
of mines shall, before entering upon the discharge of his
duties, take the oath of office prescribed by section five,
article four of the constitution, and shall execute a bond
in the penalty of two thousand dollars, with security to
be approved by the governor, conditioned upon the
faithful discharge of his duties, a certificate of which
oath and which bond shall be filed in the office of the
secretary of state.

Sec. 7. Mine Inspectors; Districts and Divisions; Em-
ployment; Tenure.—Notwithstanding any other provi-
sions of law, mine inspectors shall be selected, serve and
be removed as in this article provided.
The director of the department of mines shall divide
the state into not more than forty-five mining districts,
and not more than five mining divisions, so as to equalize,
as far as practical, the work of each inspector. He shall
assign inspectors to districts, designate and assign an
inspector at large for each such division and shall desig-
nate their places of abode, at points convenient to the
mines of their district or division.
Mine inspectors serving on the effective date of this
section, may continue to serve for a probationary period
not exceeding one year and shall be eligible to qualify
for appointment during such probationary period in
accordance with the provisions of section eight of this
article.
Except as in the next preceding paragraph provided, all
mine inspectors appointed after the mine inspectors'.examining board has certified to the director of the de-
partment of mines an adequate register of qualified eli-
gible candidates in accordance with section eight of this
article, so long as such register contains the names of at
least three qualified eligible candidates, shall be appointed
from the names on such register. Each original appoint-
ment shall be made by the director of the department of
mines for a probationary period of not more than one year.
The director of the department of mines shall make
each appointment from among the three qualified eligible
candidates on the register having the highest grades:
Provided, however, That the director of the department
of mines may, for good cause, at least thirty days prior
to making an appointment, strike any name from the
register. Upon striking any name from the register the
director of the department of mines shall immediately
notify in writing each member of the mine inspector's
examining board of his action, together with a detailed
statement of the reasons therefore. Thereafter, the mine
inspector's examining board, after hearing, if it finds
that the action of the director of the department of mines
was arbitrary or unreasonable, may order the name of
any candidate so stricken from the register to be rein-
stated thereon. Such reinstatement shall be effective from
the date of removal from the register.
Any candidate passed over for appointment for three
years shall be automatically stricken from the register.
After having served for a probationary period of one
year to the satisfaction of the director of the department
of mines, a mine inspector shall have permanent tenure
until he becomes sixty-five years of age, subject only to
dismissal for cause in accordance with the provisions of
section eight of this article. No mine inspector while in
office shall be directly or indirectly interested as owner,
lessor, operator, stockholder, superintendent or engineer
of any coal mine. Before entering upon the discharge of his
duties as a mine inspector, he shall take the oath of office
prescribed by the constitution, and shall execute a bond
in the penalty of two thousand dollars, with security to
be approved by the director of the department of mines,
conditioned upon the faithful discharge of his duties, a
certificate of which oath and bond shall be filed in the
office of the secretary of state.
Sec. 8. Eligibility for Appointment as Mine Inspector; Qualifications; Salary and Expenses; Removal.—(a) No person shall be eligible for appointment as a mine inspector after the effective date of this article unless, at the time of his probationary appointment he: (1) Is a citizen of West Virginia, in good health, not less than thirty nor more than fifty-five years of age, and of good character, reputation and temperate habits; (2) has had at least ten years practical experience in coal mining, at least five years of which, immediately preceding his original appointment, shall have been in mines in this state: Provided, however, That graduation from the school of mines of West Virginia university or any other accredited college of mining engineering shall be considered the equivalent of two years practical experience; (3) has had practical experience with dangerous gases found in coal mines; and (4) has a good theoretical and practical knowledge of mines, mining methods, mine ventilation, sound safety practices and applicable mining laws.

(b) In order to qualify for appointment as a mine inspector an eligible applicant shall submit to a written and oral examination by the mine inspectors’ examining board and furnish such evidence of good health, character and other facts establishing eligibility as the board may require. If the board finds after investigation and examination that an applicant: (1) Is eligible for appointment and (2) has passed all written and oral examinations, with a grade of at least ninety percent, the board shall add such applicant’s name and grade to the register of qualified eligible candidates and certify its action to the director of the department of mines. No candidate’s name shall remain in the register for more than three years without requalifying.

(c) Salaries of mine inspectors shall not be less than seven thousand two hundred dollars per annum, nor more than eight thousand four hundred dollars per annum, and reasonable traveling expenses. Within the limits provided by law, the salary of each inspector shall be fixed by the director of the department of mines, subject to the approval of the mine inspectors’ examining board. In
fixing salaries of mine inspectors, the director of the department of mines shall consider ability, performance of duty, responsibility and experience. No reimbursement for traveling expense shall be made except upon an itemized account of such expenses submitted by the inspector, who shall verify, upon oath, that such expenses were actually incurred in the discharge of his official duties.

(d) A mine inspector, after having received a permanent appointment shall be removed from office only for physical or mental impairment, incompetency, neglect of duty, drunkenness, malfeasance in office, or other good cause.

Proceedings for the removal of a mine inspector may be initiated by the director of the department of mines whenever he has reasonable cause to believe and does believe that adequate cause exists, warranting removal. Such a proceeding shall be initiated by a verified petition, filed with the board by the director of the department of mines, setting forth with particularity the facts alleged. Not less than twenty reputable citizens, who are operators or employees in mines in the state, may petition the director of the department of mines for the removal of a mine inspector. If such petition is verified by at least one of the petitioners, based on actual knowledge of the affiant, and alleges facts which, if true, warrant the removal of the inspector, the director of the department of mines shall cause an investigation of the facts to be made. If, after such investigation, the director finds that there is substantial evidence which, if true, warrants removal of the inspector, he shall file a petition with the board requesting removal of the inspector.

On receipt of a petition by the director of the department of mines seeking removal of a mine inspector the board shall promptly notify the inspector to appear before it at a time and place designated in said notice, which time shall be not less than fifteen days thereafter. There shall be attached to the copy of the notice served upon the inspector a copy of the petition filed with the board. At the time and place designated in said notice, the board shall hear all evidence offered in support of the
petition and on behalf of the inspector. Each witness shall be sworn and a transcript shall be made of all evidence taken and proceedings had at any such hearing. No continuance shall be granted except for good cause shown.

The chairman of the board and the director of the department of mines shall have power to administer oaths and subpoena witnesses.

Any mine inspector who shall wilfully refuse or fail to appear before the board, or having appeared, shall refuse to answer under oath any relevant question on the ground that his testimony or answer might incriminate him, or shall refuse to waive immunity from prosecution on account of any relevant matter about which he may be asked to testify at any such hearing before the board, shall forfeit his position.

If, after hearing, the board finds that the inspector should be removed, it shall enter an order to that effect. The decision of the board shall be final and shall not be subject to judicial review.

Sec. 9. Mine Inspectors' Examining Board.—There shall be a mine inspectors' examining board consisting of five members who, except for the public representative on such board, shall be appointed by the governor, by and with the advice and consent of the senate. Members so appointed may be removed only for the same causes and in like manner as elective state officers. One of the members of the board shall be a representative of the public who shall be the director of the school of mines at West Virginia university. Two members of the board shall be persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of coal mine operators and two members shall be persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of coal mine workers.

The director of the department of mines shall be an "exofficio" member of the board, and shall serve as secretary of the board without additional compensation, but he
shall have no right to vote with respect to any matter before the board.

The members of the board, except the public representative, shall be appointed for overlapping terms of eight years, except that the original appointments shall be for terms of two, four, six and eight years respectively. Any member whose term expires may be reappointed by the governor.

Each member of the board shall receive forty dollars per diem while actually engaged in the performance of the work of the board; and shall receive mileage at the rate of ten cents for each mile actually traveled going from the home of the member to the place of the meeting of the board and returning therefrom, which shall be paid out of the state treasury upon a requisition upon the state auditor, properly certified by such members of the board.

The public member shall serve as chairman of the board. Members of the board, before performing any duty shall take and subscribe to the oath required by article four, section five of the constitution of West Virginia.

The mine inspectors examining board shall meet at such times and places as shall be designated by the chairman. It shall be the duty of the chairman to call a meeting of the board on the written request of three members or the director of the department of mines. Notice of each meeting shall be given in writing to each member by the secretary at least five days in advance of the meeting.

Three members shall constitute a quorum for the transaction of business.

In addition to other duties expressly set forth elsewhere in this article, the board shall:

(1) Establish, and from time to time revise, forms of application for employment as mine inspector and forms for written examinations to test the qualification of candidates for that position;

(2) Adopt and promulgate reasonable rules and regulations relating to the examination, qualification and certification of candidates for appointment as mine inspectors, and hearings for removal of inspectors, required to be held by this article. All of such rules and regulations
shall be printed and a copy thereof furnished by the secretary of the board to any person upon request;

(3) Conduct, after public notice of the time and place thereof, examinations of candidates for appointment as mine inspector. By unanimous agreement of all members of the board, one or more members of the board or an employee of the department of mines may be designated to give to a candidate the written portion of the examination;

(4) Prepare and certify to the director of the department of mines a register of qualified eligible candidates for appointment as mine inspectors. The register shall list all qualified eligible candidates in the order of their grades, the candidate with the highest grade appearing at the top of the list. After each meeting of the board held to examine such candidates, and at least annually, the board shall prepare and submit to the director of the department of mines a revised and corrected register of qualified eligible candidates for appointment as mine inspector, deleting from such revised register all persons (a) who are no longer residents of West Virginia, (b) who have allowed a calendar year to expire without, in writing, indicating their continued availability for such appointment, (c) who have been passed over for appointment for three years, (d) who have become ineligible for appointment since the board originally certified that such person was qualified and eligible for appointment as mine inspector, or (e) who, in the judgment of at least four members of the board, should be removed from the register for good cause;

(5) Cause the secretary of the board to keep and preserve the written examination papers, manuscript grading sheets and other papers of all applicants for appointment as mine inspector, together with the correct solution of each question prepared by the examining board and the stenographer's transcript of the oral examinations of such applicants;

(6) Issue a certificate of qualification to each successful, eligible candidate;
(7) Hear and determine proceedings for the removal of mine inspectors in accordance with the provisions of this article;
(8) Hear and determine appeals of mine inspectors from suspension orders made by the director pursuant to the provisions of section four (5) of this article: Provided, however, That an aggrieved inspector in order to appeal from any order of suspension, shall file such appeal in writing with the mine inspectors examining board not later than ten days after receipt of notice of suspension. On such appeal the board shall affirm the action of the director unless it be satisfied from a clear preponderance of the evidence that the director has acted arbitrarily;
(9) Make an annual report to the governor and the director of the department of mines concerning the administration of mine inspection personnel in the state service, making such recommendations as the board considers to be in the public interest.

Sec. 10. Inspections; Reports.—The director of the department of mines shall have authority to visit, enter and examine any mine, whether underground or on the surface, and may call for the assistance of any district mine inspector or inspectors wherever such assistance is necessary in the examination of any mine. The operator of every coal mine shall furnish the director of the department of mines or mine inspector proper facilities for entering such mine and making examination or obtaining information.
Mine inspectors shall devote their full time and undivided attention to the performance of their duties, and they shall examine all of the mines in their respective districts at least once in every four months, and as often, in addition thereto, as the director of the department of mines may direct or the necessities of the case or the condition of the mine or mines may require, and shall make a personal examination of each working face, and also entrances to abandoned parts of the mine where gas is known to liberate, for the purpose of determining whether a danger described in section eleven of this article exists in any such mine, or whether any provision of article two
of this chapter is being violated in any such mine, or whether any such mine is a gassy mine.

The mine inspector shall visit the scene of each fatal accident occurring in any mine within his district, and shall make an examination into the particular facts of such accident and make a report to the director of the department of mines, setting forth the results of such examination including the condition of the mine and the cause or causes of such fatal accident, if known, and all such reports shall be made available to the interested parties, upon written requests.

Sec. 11. Mine Inspectors; Findings; Orders.—(a) If a mine inspector, upon making an inspection of a mine as authorized by this article, finds danger that a mine explosion, mine fire, mine inundation, man-trip or man-hoist accident will occur immediately or before the imminence of such danger can be eliminated, he shall also find the extent of the area of such mine throughout which such danger exists. Thereupon he shall immediately make an order requiring the operator of such mine to cause all persons, excepting persons referred to in paragraph (e) of this section, to be withdrawn from, and to be debarred from entering such area. Such findings and order shall contain a detailed description of the conditions which the mine inspector finds cause and constitute such danger, and a description of the area of such mine throughout which persons must be withdrawn and debarred. Upon the written statement of the operator that such danger has been removed, such inspector shall make another inspection and shall make an order withdrawing or continuing the requirements of such previous order.

(b) If a mine inspector, upon making an inspection of a mine as authorized by this article, finds that any provision of article two of this chapter is being violated, but that the conditions created by such violation do not cause danger that a mine explosion, mine fire, mine inundation, man-trip or man-hoist accident will occur in such mine immediately or before the imminence of such danger can be eliminated, he shall find what would be a reasonable period of time within which such violation should be
(c) The period of time so found by such mine inspector to be a reasonable period of time may be extended by such inspector, or by any other mine inspector duly authorized by the director of the department of mines, from time to time, but on not more than three occasions, upon the making of a special inspection to ascertain whether or not such violation has been totally abated. The director of the department of mines shall cause a special inspection to be made: (A) Upon expiration of such period of time as originally fixed or as extended, unless the director is satisfied that the violation has been abated; and (B) whenever an operator of a mine, prior to the expiration of any such period of time, requests him to cause a special inspection to be made at such mine. Upon making such a special inspection, such mine inspector shall find whether or not such violation has been totally abated. If he finds that such violation has not been totally abated, he shall find whether or not such period of time as originally fixed, or as so fixed and extended, should be extended. If he finds that such period of time should be extended, he shall find what a reasonable extension would be. If he finds that such violation has not been totally abated, and if such period of time as originally fixed, or as so fixed and extended, has then expired, and if he also finds that such period of time should not be further extended, he shall also find the extent of the area of such mine which is affected by such violation. Thereupon, he shall make an order requiring the operator of such mine to cause all persons in such area, excepting persons referred to in paragraph (e) of this section, to be withdrawn from, and to be debarred from entering such area. Such findings and order shall contain reference to the specific provisions of article two of this chapter which are being violated and a detailed description of the area of such mine throughout which persons must be withdrawn and debarred.

(d) If a mine inspector, upon making an inspection...
of a mine as authorized by this article, finds that methane
has been ignited in said mine, or has been detected with
a permissible flame safety lamp, or by laboratory analysis
of a sample of air collected in active workings, in an air
current perceptible by smoke tube or other visible means,
taken not less than twelve inches from the roof, face
and rib, in an amount of twenty-five hundredths per
cent or more, he shall enter an order classifying the
mine as a gassy mine.
(e) No order issued under this section shall require
any of the following persons to be withdrawn from, or to
be debarred from entering, the area described in the
order: (A) Any person whose presence in such area is
necessary, in the judgment of the operator of the mine,
to eliminate the danger described in an order or to abate
the violation described in an order; (B) the director of
the department of mines or any mine inspector whose
official duties require him to enter such area; or (C) any
technical consultant, or any authorized representative of
the employees of the mine, who is himself an employee
of the mine or, if not an employee of the mine, who as-
sumes all risks to which he may be subject while in or
around the mine, who is a certified person qualified to
make mine examinations, or is accompanied by such a
person, and whose presence in the area is necessary for
the proper investigation of the conditions described in
the order.
(f) Notice of each finding and order made under this
section shall promptly be given to the operator of the
mine to which it pertains, by the person making such
finding or order.
(g) No order shall be issued under the authority of
this section which is not expressly authorized herein.

Sec. 12. Review by Director of Department of Mines.—
Any operator notified of findings or an order made by a
mine inspector pursuant to section eleven of this article,
may apply to the director of the department of mines
for annulment or revision of such order. Upon receipt of
such application the director of the department of mines
shall make a special inspection of the mine affected by
such order, or cause two duly authorized mine inspectors, other than the mine inspector who made such order, to make such inspection of such mine and to report thereon to him. Upon making such special inspection himself, or upon receiving the report of such inspection made by such mine inspectors, the director of the department of mines shall make an order which shall include his findings and shall annul, revise or affirm the order of the inspector. The director of the department of mines shall cause notice of each finding and order made under this section to be given promptly to the operator of the mine to which it pertains.

At any time while an order made pursuant to section eleven, or this section, of this article, is in effect, the operator of the mine affected by such order may apply to the director of the department of mines for annulment or revision of such order. The director of the department of mines shall thereupon proceed to act upon such application in the manner provided in this section.

In the view of the urgent need for prompt decision of matters submitted to the director of the department of mines under this section, all actions which he, or mine inspectors designated by him, are required to take under this section shall be taken as rapidly as practicable, consistent with adequate consideration of the issues involved.

Sec. 13. Notices.—(a) All findings and orders made pursuant to sections eleven or twelve of this article and all notices required to be given of the making of such findings and orders, shall be in writing. All such findings and orders shall be signed by the person making them, and all such notices shall be signed by the person charged with the duty of giving the notice. All such notices shall contain a copy of the findings and orders referred to therein.

(b) Each operator of a mine shall maintain an office on or near the premises of such mine and shall maintain thereon a conspicuous sign designating it as the office of such mine. Each operator of a mine shall maintain a bulletin board at such office or at some conspicuous place near the entrance of such mine, in such manner that
notices required by law to be posted on the mine bulletin board may be posted thereon, be easily visible to all persons desiring to read them, and be protected against damage by weather and against unauthorized removal. The operator shall maintain on such bulletin board a conspicuous sign designating it as the bulletin board of such mine. Notice of any finding or order required by sections eleven or twelve of this article to be given to an operator shall be given by causing such notice, addressed to the operator of the mine to which it pertains, to be delivered to the office of such mine provided for in this subsection; and by causing a copy of such notice to be posted on the bulletin board of such mine provided for in this subsection. The requirement of the preceding sections that a notice shall be “addressed to the operator of the mine to which it pertains,” shall not require that the name of the operator for whom it is intended shall be specifically set out in such address. Addressing such notice to “Operator of ----------------- Mine,” specifying the mine sufficiently to identify it, shall satisfy such requirement.

(c) The director of the department of mines shall cause a copy of such notice to be mailed immediately to a designated representative of the employees of the mine to which it pertains.

Sec. 14. Coal Mine Safety Board of Review; Appointment; Eligibility; Terms.—(a) There is hereby created a board to be known as the coal mine safety board of review, which shall be composed of four members who, except for the public representative, shall be appointed by the governor, by and with the advice and consent of the senate. Members so appointed may be removed only for the same causes and in like manner as elective state officials. One of the members of the board shall be the public representative who shall be the director of the school of mines at West Virginia university. Two members of the board shall be persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of coal mine operators and two members shall be persons who by reason of
previous training and experience may reasonably be said
to represent the viewpoint of coal mine workers.
(b) The members of the board, except the public
representative, shall be appointed for terms of four years,
and any member whose term expires may be reappointed
by the governor.
(c) Each member of the board shall receive forty
dollars per diem while actually engaged in the perform-
ance of the work of the board; and shall receive mileage
at the rate of ten cents for each mile actually traveled
going from the home of the member to the place of
meeting of the board and returning therefrom.
(d) The board after being duly organized shall take
and subscribe to, before any official authorized to admin-
ister the same, the oath prescribed by section five of
article four of the constitution of West Virginia.
(e) The board shall employ and prescribe the duties
of a secretary of the board and such other office or clerical
assistance as it deems necessary. Every official act of
the board shall be entered of record, and its hearings and
records shall be open to the public.
(f) The mine safety board of review shall hear and
determine applications filed pursuant to section fifteen
of this article, for annulment or revision of findings or
orders made pursuant to sections eleven or twelve of
this article, and shall hear and determine applications
filed pursuant to section sixteen of this article. The board
shall not make or cause to be made any inspection of a
mine for the purpose of determining any pending ap-
plication.
(g) The board is authorized to make such rules as
are necessary for the orderly transaction of its proceed-
ings, which shall include requirement for adequate notice
of hearing to all parties.
(h) Any member of the board may sign and issue
subpoenas for the attendance and testimony of witnesses
and the production of relevant papers, books and docu-
ments, and administer oaths. Witnesses summoned be-
fore the board shall be paid the same fees and mileage
that are paid witnesses in the circuit courts of the state.
(i) The board may order testimony to be taken by deposition in any proceeding pending before it, at any stage of such proceeding. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the board, as provided in subsection (h) of this section. Witnesses whose depositions are taken under this subsection shall be entitled to the same fees as are paid for like services in the circuit courts of the state.

(j) In case of contumacy by, or refusal to obey a subpoena served upon, any person under this section, the circuit court of any county in which such person is found or resides or transacts business, upon proper application thereto, and after notice to such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the board or to appear and produce documents before the board, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Sec. 15. Review by Board.—(a) Any operator notified of an order or finding made pursuant to section eleven of this article, may apply to the coal mine safety board of review for annulment or revision of such finding or order without seeking its annulment or revision under section twelve of this article; and any operator notified of an order made pursuant to section twelve of this article may apply to the board for annulment or revision of such order: Provided, however, That any such application shall be filed with the board not later than thirty days after the receipt of notice of such order or finding.

(b) The operator shall be designated as the applicant in such proceeding and the application filed by him shall recite the order complained of and other facts sufficient to advise the board of the nature of the proceeding. He
may allege in such application: That danger as set out in such order does not exist at the time of the filing of such application; that violation of the provisions of article two of this chapter as set out in such finding or order, has not occurred; that such violation has been totally or partially abated; that the period of time within which such violation should be totally abated, as fixed in the findings upon which such order was based, was not reasonable; that the area of the mine described in such order as the area affected by the violation referred to in such order is not so affected at the time of the filing of such application; or that the mine described in such order is not a gassy mine. The director of the department of mines shall be the respondent in such proceeding, and the applicant shall send a copy of such application by registered mail to the director of the department of mines.

(c) Immediately upon the filing of such an application the board shall fix the time for a prompt hearing thereof.

(d) An application for annulment or revision of a finding or order filed in accordance with the provisions of this section shall act as a supersedeas of such finding or order, unless such finding or order is entered pursuant to the provisions of section eleven (a).

Pending final hearing on an application to annul or revise a finding or order entered pursuant to the provisions of section eleven (a), the applicant may file with the board a written request for temporary relief from such finding or order, and upon a showing of good cause temporary relief may be granted.

(e) The board shall not be bound by any previous findings of fact by the respondent or by any mine inspector, or by any other representative of the department of mines. Evidence relating to the making of the order complained of and relating to the questions raised by the allegations of the pleadings or other questions pertinent in the proceeding may be offered by both parties to the proceeding. If the respondent claims that danger or a violation of article two of this chapter, as set out in such order, existed at the time of the filing of the application, or that gas has been ignited or found in such mine as set out in the order under review, the burden of proving the
then existence of such danger or violation, or that gas
has been ignited or found in such mine as set out in the
order under review, shall be upon the respondent, and
the respondent shall present his evidence first to prove
the then existence of such danger or violation. Following
presentation of respondent's evidence the applicant may
present his evidence, and thereupon respondent may pre-
sent evidence to rebut the applicant's evidence.

(f) After the conclusion of such hearing the board
shall make its findings and shall enter an order annulling,
revising or affirming the finding or order under review.

(g) Each finding and order made by the board shall
be in writing. It shall show the date on which it is made,
and shall bear the signatures of the members of the board
who concur therein. Upon making a finding and order
the board shall cause a true copy thereof to be sent by
registered mail to all parties or their attorneys of record.
The board shall cause each such finding and order to be
entered on its official record, together with any written
opinion prepared by any member in support of, or dis-
senting from, any such finding or order.

(h) In view of the urgent need for prompt decision
of matters submitted to the board under this section, all
actions which the board is required to take under this
section shall be taken as rapidly as practicable, consistent
with adequate consideration of the issues involved.

Sec. 16. Review of Other Administrative Action.—(a)
Any operator aggrieved by any action or ruling of the
director of the department of mines or any mine inspector,
or other authorized representative of the department of
mines, pursuant to any provision of article two of this
chapter, which action or ruling is not reviewable under
section fifteen of this article, may apply to the coal mine
safety board of review for annulment, correction or re-
vision of such action or ruling: Provided, however, That
an operator applying to the board for annulment, correc-
tion or revision of such action or ruling, not reviewable
under section fifteen of this article, shall file such appli-
cation with the board not later than thirty days after
receiving notice of such action or ruling.
Upon the filing of such an application the board shall proceed to hear and determine the matter in accordance with the procedure set forth in section fifteen of this article, insofar as the same may be applicable, and shall thereupon make such findings as may be appropriate, and enter an order, consistent with such findings, affirming, annulling, correcting or revising the action or ruling under review.

Sec. 17. Judicial Review.—(a) Any final order issued by the board under sections fifteen or sixteen of this article shall be subject to judicial review by the circuit court of the county in which the mine affected is located or the circuit court of Kanawha county upon the filing in such court or with the judge thereof in vacation, of a petition for appeal by the director of the department of mines or the operator aggrieved by such final order, within thirty days from the date of the making of such final order.

(b) The party making such appeal shall forthwith send a copy of such petition for appeal, by registered mail, to the other party and to the board. Upon receipt of such copy of such petition for appeal the board shall promptly certify and file in such court a complete transcript of the record upon which the order complained of was made. The costs of such transcripts shall be paid by the party making the appeal.

(c) The court or judge thereof in vacation, shall hear such appeal on the record made before the board, and shall permit argument, oral or written or both, by both parties. The court shall permit such pleadings, in addition to the pleadings before the board, as it deems to be required.

(d) Upon such conditions as may be required and to the extent necessary to prevent irreparable injury, any circuit court to which an appeal has been made as provided in subsection (c) of this section, may, after due notice to and hearing of the parties to the appeal, issue all necessary and appropriate process to postpone the effective date of the final order of the board or to grant such
other relief as may be appropriate pending final determination.

(e) A circuit court to which an appeal has been made as provided in subsection (c) of this section, may affirm, annul, or revise the final order of the board, or it may remand the proceeding to the board for such further action as it directs.

(f) The decision of a circuit court on an appeal from the board shall be final, subject only to review by the supreme court of appeals of West Virginia upon a petition for certiorari filed in such court within sixty days from the entry of the order and decision of the circuit court upon such appeal from the board.

Sec. 18. Penalties.—Any person who has notice of a valid order made pursuant to sections eleven or twelve of this article, who wilfully disobeys or fails to comply with such order, or who interferes with the director of the department of mines or a mine inspector in the discharge of duties hereunder, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten nor more than five hundred dollars.

Sec. 19. Mine Rescue Stations; Equipment.—The director of the state department of mines is hereby authorized to purchase, equip and operate for the use of said department such mine rescue stations and equipment as he may deem necessary.

Sec. 20. Mine Rescue Crews.—The director of the state department of mines is hereby authorized to have trained and employed at the rescue stations operated by that department within the state, such rescue crews as he may deem necessary. Each member of a rescue crew shall devote four hours each month for training purposes, and shall be available at all times to assist in rescue work at explosions and mine fires. Regular members shall receive for such services the sum of seven dollars per month and captains shall receive eight dollars per month, payable on requisition approved by the director of the department of mines, and such other sums, to be paid by the operating company, as may be agreed upon when engaged in
Enr. H. B. No. 21]

14 rescue work at explosions or mine fires. The director of
15 the department of mines may remove any member of a
16 rescue crew at any time.

Sec. 21. Supervision of Mine Rescue Work.—The direc-
2 tor of the department of mines is hereby authorized to
3 assign mine rescue teams and such mine rescue and re-
4 covery work to inspectors or other qualified employees
5 of the department of mines as he may deem necessary.

Sec. 22. Provisions of Article Severable.—The various
2 provisions of this article shall be construed as separable
3 and severable, and should any of the provisions, sentences,
4 clauses, or parts thereof be construed or held unconstitu-
5 tional or for any reason be invalid, the remaining pro-
6 visions of this article shall not be thereby affected.

Article 2. Coal Mines

Section 1. Definitions.—Mine: In this article the term
2 “mine” shall include the shafts, slopes, drifts or inclines
3 connected with excavations penetrating coal seams or
4 strata, which excavations are ventilated by one general
5 air current or divisions thereof, and connected by one
6 general system of mine haulage over which coal may be
7 delivered to one or more points outside the mine, and the
8 surface structures or equipment connected therewith
9 which contribute directly or indirectly to the mining,
10 preparation or handling of coal.
11 Excavations and Workings: The term “excavations and
12 workings” shall mean any or all parts of a mine exca-
13 vated or being excavated, including shafts, slopes, drifts,
14 tunnels, entries, rooms, and working places, whether
15 abandoned or in use.
16 Shaft: The term “shaft” shall mean a vertical opening
17 through the strata that is or may be used for purposes
18 of ventilation, drainage, and the hoisting and transporta-
19 tion of men and material, in connection with the mining
20 of coal.
21 Slope: The term “slope” shall mean a plane or incline
22 roadway, usually driven to a coal seam from the surface
23 and used for the same purposes as a shaft.
Drift: The term "drift" shall mean a horizontal or approximately horizontal opening through strata or in a coal seam and used for the same purpose as a shaft.

Operator: The term "operator" shall mean any firm, corporation, partnership or individual operating any coal mine or part thereof.

Superintendent: The term "superintendent" shall mean the person who shall have, on behalf of the operator, immediate supervision of one or more mines.

Mine Foreman: The term "mine foreman" shall mean the person charged with the responsibility of the general supervision of the underground workings of a mine and the persons employed therein. He shall hold a certificate of competency for such position issued to him by the department of mines after taking an examination held by the department of mines.

Assistant Mine Foreman: The term "assistant mine foreman" shall mean a person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein.

Supervisor: The term "supervisor" shall mean a superintendent, mine foreman, assistant mine foreman, or any person specifically designated by the superintendent or mine foreman to supervise work or employees and who is acting pursuant to such specific designation and instructions.

Fire Boss: The term "fire boss" shall mean any person designated to examine a mine for gas and other dangers. Such person shall have the qualifications required by this article.

Shot Firer: The term "shot firer" shall mean any competent person having had at least three years practical experience in coal mines; who has a knowledge of ventilation, mine roof and timbering; and who has demonstrated knowledge of mine gases and the use of a flame safety lamp, by examination given him by the mine foreman.

Approved: The term "approved" shall mean any equipment, device, or explosive, approved by the director of the department of mines.

Permissible: The term "permissible" shall mean any
equipment, device, or explosive, that has been approved as permissible by the United States bureau of mines, and meets all requirements, restrictions, exceptions, limitations and conditions attached to such classification by said bureau.

Nongassy Mine: The term “nongassy mine” shall mean any coal mine which is not classified as gassy.

Gassy Mine: The term “gassy mine” shall mean any mine in which methane has been ignited, or has been detected with a permissible flame safety lamp, or by laboratory analysis of an air sample collected in active workings, in a perceptible air current, taken not less than twelve inches from the roof, face and rib, in an amount of twenty-five hundredths per cent or more.

Interested Persons: The term “interested persons” shall include the operator, members of any mine safety committee at the mine affected and other duly authorized representatives of the mine workers, and state mine inspectors.

Abandoned Workings: The term “abandoned workings” shall mean excavations, either caved or sealed, that are deserted and in which further mining is not intended, and open workings which are ventilated and not inspected regularly.

MINE MAPS

Sec. 2. Mine Maps; Certificate of Engineer.—The operator of every coal mine shall make, or cause to be made, an accurate map or plan of such mine, on a scale of not less than one hundred, and not more than one thousand feet to the inch. Such map or plan shall show the openings or excavations, the shafts, slopes, entries and airways, with darts or arrows showing directions of air currents, headings, rooms, pillars, and such portions of such mine or mines as may have been abandoned, the general inclination of the coal strata, and so much of the property lines and the outcrop of the coal seam of the tract of land on which the mine is located as may be within one thousand feet of any part of the workings of such mine. A true copy of such map or plan shall be forwarded annually
by such operator, to the inspector of his district, to be
preserved among the records of his office and turned over
to his successor in office; but in no case shall any copy
of the same be made without the consent of the operator,
nor shall the map be used by any person for any purpose
other than as intended by this article. The original map,
or a true copy thereof, shall be kept by such operator at
the office of the mine, and open at all reasonable times
for the examination and use of the inspector, and such
operator shall, twice within every twelve months, while
the mine is in operation, cause such survey and the map
thereof to be extended so as to accurately show the prog-
ess of the workings, the property lines and outcrops as
above provided.

The map or maps required by this section shall have
the certificate and seal of the engineer, in the following
form:

"I, the undersigned, hereby certify that this map is
correct and shows all the information, to the best of my
knowledge and belief, required by the mining laws of this
state, and covers the period ending ____________________ .

_________________________________
Engineer"

VENTILATION

Sec. 3. Plan of Ventilation; Approval by Director of
Department of Mines.—Every operator of a coal mine,
before making any new or additional openings, shall sub-
mit to the director of the department of mines, for his
information and approval, a general plan showing the
proposed system of ventilation and ventilating equipment
of the openings with their location and relative positions
to adjacent developments; and no such new or additional
openings shall be made until approved by the director
of the department of mines. The director of the depart-
ment of mines shall promptly approve any such plans
submitted if the proposed system of ventilation and venti-
lating equipment meet the requirements of this article.

Sec. 4. Fans.—The ventilation of mines which extend
more than two hundred feet underground, and which are
Enr. H. B. No. 2

opened after the effective date of this article, shall be pro-
duced by a mechanically operated fan or mechanically
operated fans. Ventilation by means of a furnace is pro-
hibited in any mine. The fan or fans shall be kept in
continuous operation, unless written permission to do
otherwise be granted by the director of the department
of mines. In case of accident to a ventilating fan or its
machinery whereby the ventilation of the mine is seri-
ously interrupted, immediate action shall be taken by
mine management, in a gassy mine, to cut off the power
and withdraw the men from the face regions or other
areas of the mine affected. If the ventilation is restored
in a reasonable time, the face regions and other places,
in the affected areas, where gas (methane) is likely to
accumulate, shall be reexamined by a certified or com-
petent person and if found free of explosive gas, power
may be restored and work resumed. If ventilation is not
restored in a reasonable time all underground employees
shall be removed from the mine or the affected areas. In
mines classified as nongassy, when the ventilation is
seriously interrupted by fan stoppage or failure, imme-
diate action shall be taken by the mine management to
cut off the power and withdraw the men from the face
regions or other areas of the mine affected. If the venti-
lation is restored within a reasonable time, the face re-
gions and other places in the affected areas shall be re-
examined by a certified or competent person, and if found
in safe condition, work may be resumed. If ventilation is
not restored within a reasonable time all underground
employees shall be removed from the mine or affected
areas. If the ventilation is not restored within thirty
minutes in any mine the men shall be removed from the
mine or affected areas: Provided, however, That in mines
liberating gas in large quantities the men shall be re-
moved from the affected area unless the ventilation has
been restored in fifteen minutes.

All main fans installed after the effective date of this
article shall be located on the surface in fireproof housings
offset not less than fifteen feet from the nearest side of
the mine opening, equipped with fireproof air ducts pro-
vided with explosion doors or a weak wall, and operated
from an independent power circuit. In lieu of the re-
quirements for the location of fans and pressure-relief
facilities, a fan may be directly in front of, or over, a
mine opening: Provided, however, That such opening is
not in direct line with possible forces coming out of the
mine if an explosion occurs: And provided further, That
there is another opening having a weakwall stopping or
explosion doors that would be in direct line with forces
coming out of the mine. All main fans shall be provided
with pressure-recording gauges, or water gauges. A daily
inspection shall be made of all main fans and machinery
connected therewith by a competent person and a record
kept of the same in a book prescribed for this purpose, or
by adequate facilities provided to permanently record the
performance of the main fan and to give warning of an
interruption to a fan.

Auxiliary blower or exhaust fans may be used to venti-
late shaft-and-slope-sinking operations and their un-
derground connections, rock tunnels being driven between
coal beds or through faults and wants, or in the driving
of single entries or rooms by mining equipment in use
at the time of the acquisition of the mine by the operator
or prior to the effective date of this article, or equipment
which may hereafter be developed through technological
progress, provided they are powered by permissible driv-
ing units when installed underground, operated contin-
uously while any work is being performed in the area be-
ing ventilated, and so placed that recirculation of the air is
not possible. The inby end of the tubing, line curtain or
other device shall be kept sufficiently close to the face to
dilute, render harmless and carry away all dangerous
gasses.

Sec. 5. Ventilation of Mines in General.—The operator
or mine foreman of every coal mine, whether worked by
shaft, slope or drift, shall provide and hereafter maintain
for every such mine adequate ventilation. In mines classi-
fied as gassy the quantity of air passing through the last
open crosscut in any pair or set of entries shall be not
less than six thousand cubic feet of air per minute, and
as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases: Provided, however, That the quantity of air reaching the last crosscut in pillar sections may be less than six thousand cubic feet per minute if at least six thousand cubic feet of air per minute is being delivered to the intake of the pillar line. In nongassy mines the quantity of air being circulated shall not be less than one hundred fifty cubic feet per man per minute. If animals are used in a mine, five hundred cubic feet per animal per minute must be provided in addition to the minimum volume specified for men. The air current shall under any conditions have a sufficient volume and velocity to reduce and carry away smoke from blasting and any flammable or harmful gases. All active underground working places in a mine shall be ventilated by a current of air containing not less than nineteen and five-tenths per centum of oxygen, and not more than one per centum of carbon dioxide, and no harmful quantities of other noxious or poisonous gases. As working places advance, crosscuts for air shall be made not to exceed eighty feet apart in pillars, or line brattice or other approved methods of ventilation shall be used so as to properly ventilate the face. With the approval of the state department of mines, greater distances than those so specified may be made between crosscuts. All crosscuts between the main intake and return airways not required for passage of air and equipment shall be closed with stoppings substantially built with incombustible material, so as to keep working places well ventilated. In gassy mines a system of bleeder openings or air courses designed to provide positive movement of air through and/or around abandoned or caved areas, sufficient to prevent dangerous accumulation of gas in such areas and to minimize the effect of variations in atmospheric pressure, shall be made a part of pillar recovery plans projected after the effective date of this article. Not more than sixty persons shall be permitted to work in the same air current: Provided, That a larger number, not exceeding eighty persons, may be allowed by the
director of the department of mines where it is impracticable to comply with the foregoing requirements.

No operator or mine foreman shall permit any persons to work where they are unable to maintain the quantity and quality of the air current as heretofore required:

Provided, however, That such provision shall not prohibit the employment of men to make places of employment safe.

The ventilation of any mine shall be so arranged by means of airlocks, overcasts, or undercasts, that the use of doors on passageways where men or equipment travel may be kept to a minimum. Where doors are used in a gassy mine they shall be erected in pairs so as to provide a ventilated airlock, unless the doors are operated mechanically: Provided, however, That such provision shall not apply to doors in or between panel or room entries.

In mines not classified as gassy, single doors may be used, provided such doors are closed promptly after men or equipment have passed through them.

Overcasts or undercasts shall be constructed of incombustible material and maintained in good condition.

Where practicable, a crosscut shall be provided at or near the face of each entry or room before such places are abandoned.

Rooms, entries, airways, or other working places shall not be driven in advance of air currents. Such provision shall not prohibit, as the room, entry or aircourse advances, the "necking" of any place for a distance which shall not exceed that actually required for the installation of mining equipment in use at this location: Provided, however, That such room necks or entries are kept free of accumulations of methane by use of line brattice or other adequate means.

Sec. 6. Unused and Abandoned Parts of the Mine.—In a gassy mine, all workings which are abandoned after the effective date of this article, or the date such mine became a gassy mine, whichever is later, shall be sealed or ventilated. If such workings are sealed, the sealing shall be done with incombustible material in a manner prescribed by the director of the department of mines;
and one or more of the seals of every sealed area shall be fitted with a pipe and cap or valve to permit the sampling of gases and measuring of hydrostatic pressure behind such seals. For the purpose of this section, workings within a panel shall not be deemed to be abandoned until such panel is abandoned.

In a gassy mine, air that has passed through an abandoned panel which is inaccessible for inspection, or air that has been used to ventilate an area from which the pillars have been removed, shall not be used to ventilate any active face area in such mine: *Provided, however,*

That such provision shall not apply to air which is being necessary to establish and maintain such pillar line.

CLASSIFICATION OF MINES AND EXAMINATIONS

Sec. 7. *Gassy Mines; Nongassy Mines; Examination.*—

In a gassy mine, within four hours immediately preceding the beginning of a coal-producing shift, and before any workman in such shift, other than those who may be designated to make the examinations, enter the underground areas of such mine, a certified foreman or fire boss, designated by the operator of such mine to do so, shall make an examination of such areas.

Idle or abandoned sections shall be examined for gas and other dangerous conditions by a certified foreman or fire boss before other employees are permitted to enter to work in such places. No persons other than certified persons shall enter any underground area in a gassy mine, except during a coal-producing shift, unless an examination of such area has been made within twelve hours immediately preceding their entrance into such area.

In a nongassy mine an examination shall be made at least once in each calendar day during which coal is produced. This examination shall be made within four hours immediately preceding the beginning of the first coal-producing shift on such day.
MINE FOREMAN

Sec. 8. Mine Foreman; When to Be Employed; Qualifications; Assistants.—In every coal mine where five or more persons are employed in a period of twenty-four hours, the operator shall employ a mine foreman who shall be a competent and practical person, holding a certificate of competency for such position issued to him by the department of mines after an examination by such department. In order to receive a certificate of competency to qualify as mine foreman, he shall at the time he takes the examination, be a citizen and resident of this state, be at least twenty-five years of age, of good moral character and temperate habits, having had at least five years experience in the underground working, ventilation and drainage of coal mines, or be a graduate of the school of mines of West Virginia university or of another accredited mining engineering school and have had three years practical experience in coal mines: Provided, however, That in order for any person to be employed as a mine foreman in a gassy mine, three years of his practical experience shall have been in a mine liberating methane.

In mines in which the operations are so extensive that all the duties devolving upon the mine foreman cannot be discharged by one man, competent persons having had at least three years experience in coal mines may be designated as assistants, who shall act under the mine foreman's instructions and the mine foreman shall be responsible for their conduct in the discharge of their duties under such designation.

Sec. 9. Mine Foreman; Duties; Ventilation; Loose Coal, Slate or Rock; Props; Drainage of Water.—The duties of mine foreman shall be to keep a careful watch over the ventilating apparatus, the airways, traveling ways, pumps and drainage. He shall see that as the miners advance their excavations proper breakthroughs are made so as to properly ventilate the mine; that all loose coal, slate and rock overhead in the working places and along the haulways are removed or carefully secured so as to pre-
vent danger to persons employed in such mines, and that
sufficient suitable props, caps, timbers, roof bolts, or other
approved methods of roof supports are furnished for the
places where they are to be used, and delivered at suitable
points. The mine foreman shall have all water drained
or hauled out of the working places where practicable,
before the miners enter, and such working places shall
be kept dry as far as practicable while the miners are at
work. It shall be the duty of the mine foreman to see
that proper crosscuts are made, and that the ventilation
is conducted by means of such crosscuts through the rooms
by means of checks or doors placed on the entries or other
suitable places, and he shall not permit any room to be
opened in advance of the ventilating current. The mine
foreman, or other certified persons designated by him,
shall measure the air current with an anemometer at
least twice each month at the inlet and outlet at or near
the faces of the advanced headings, and shall keep a
record of such measurements in a book or upon a form
prescribed by the director of the department of mines.
Signs directing the way to outlets or escapeways shall be
conspicuously placed throughout the mine.

Sec. 10. Mine Foreman; Haulage Roads.—The mine
foreman shall require that all slopes, incline planes and
haulage roads used by any person in the mine shall con-
form to the provisions of this article.

Sec. 11. Mine Foreman; Signals on Haulways; Lights
at Mouth and Bottom of Shaft; Operation of Cages.—On
all haulways, where hauling is done by machinery of any
kind, the mine foreman shall provide for a proper system
of signals, and a conspicuous light on the front and rear
of every trip or train of cars when in motion in a mine.
When hoisting or lowering of men occurs in the morning
before daylight, or in the evening after darkness, at any
mine operated by shaft, the mine foreman shall provide
and maintain at the shaft mouth a light of stationary
character sufficient to show the landing and all surround-
ing objects distinctly and sufficient light of a stationary
character shall be located at the bottom of the shaft so
that persons coming to the bottom may clearly discern
the cages and other objects contiguous thereto. The mine
foreman shall require that no cages on which men are
riding shall be lifted or lowered at a rate of speed greater
than one thousand feet per minute, and that no mine cars,
either empty or loaded, shall be hoisted while men are
being lowered or hoisted, and no cage having an unstable
self dump platform, shall be used for the carrying of
workmen unless the same is provided with some device
by which it may be securely locked when men are being
hoisted or lowered into the mine.

Sec. 12. Mine Foreman; Bore Holes.—It shall further
be the duty of the mine foreman to have bore holes kept
not less than twenty feet in advance of the face, and
where necessary, one each cut on sides of the working
places that are being driven toward, and in dangerous
proximity to, an abandoned mine or part of mine which
may contain inflammable gases or which is filled with
water. These holes shall be drilled whenever any work-
ing place in an underground mine approaches within fifty
feet of abandoned workings in such mine as shown by
surveys made and certified by a competent engineer or
surveyor, or within two hundred feet of any other aban-
doned workings of such mine, which cannot be inspected.

Sec. 13. Mine Foreman; Instruction of Employees.—It
shall be the duty of the mine foreman, or the assistant
mine foreman, of every coal mine in this state, to see
that every person employed to work in such mine shall,
before beginning work therein, be instructed in the par-
ticular danger incident to his work in such mine, and
furnished a copy of the mining laws and rules of such
mine. Every inexperienced person so employed shall work
under the direction of the mine foreman, his assistant, or
such other experienced worker as may be designated by
the mine foreman or assistant, until he is familiar with the
danger incident to his work.

Sec. 14. Mine Foreman; Daily Inspection of Working
Places.—The mine foreman or his assistants shall visit
and carefully examine each working place in the mine
at least once each shift while the miners of such places
are at work, and shall direct that each working place
shall be secured by props, timbers, roof bolts, and/or
other approved methods of roof supports where neces-
sary, to the end that the working places shall be made
safe. Should the mine foreman or his assistants find a
place to be in a dangerous condition, they shall not leave
the place until it is made safe, or shall remove the persons
working therein until the place is made safe by some
competent persons designated for that purpose.

Sec. 15. Mine Foreman; Safety Inspection; Gas.—It
shall be the duty of the mine foreman, or other certified
person designated by him, to examine all working places
under his supervision for hazards at least once during
each coal-producing shift, or oftener if necessary for
safety. In a gassy mine such examinations shall include
tests with a permissible flame safety lamp for methane
and oxygen deficiency. It shall also be his duty to remove
as soon as possible after its discovery any accumulations
of explosive or noxious gases in active workings and,
where practicable, any accumulations of explosive or
noxious gases in the worked out and abandoned portions
of the mine.

Sec. 16. Mine Foreman; Dangerous Places.—The mine
foreman shall direct and see that all dangerous places
and the entrance or entrances to worked out and aban-
donated places in all mines are properly dangered off across
the openings.

Sec. 17. Mine Foreman; Examinations and Reports of
Fire Boss.—The mine foreman shall also, each day, read
carefully and countersign with ink or indelible pencil all
reports entered in the record book of the fire bosses, and
he shall supervise the fire boss, or fire bosses, except as
hereinafter provided in section twenty-three of this
article.

Sec. 18. Mine Foreman; Ascertainment, Record and
Removal of All Dangers.—The mine foreman shall give
prompt attention to the removal of all dangers reported
to him by his assistants, the fire boss, or any other person working in the mine, and in case it is impracticable to remove the danger at once, he shall notify all persons whose safety is menaced thereby to remain away from the area where the dangerous condition exists. He, or his assistants, or certified persons designated by him, shall, at least once each week, travel and examine the air courses, roads and openings that give access to old workings or falls, and make a record of the condition of all places where danger has been found, with ink or indelible pencil in a book provided for that purpose.

Sec. 19. Mine Foreman; Duty to Notify Operator When Unable to Comply With Law; Duty of Operator.—The mine foreman shall notify, in writing, the operator or superintendent of the mine of his inability to comply with any of the requirements of sections eight to eighteen of this article, and it shall then become the duty of such operator or superintendent promptly to attend to the matter complained of by the mine foreman so as to enable him to comply with the provisions hereof if such compliance be practicable. Every operator of a mine shall furnish all supplies necessary for the mine foreman to comply with the requirements of this article, after being requested to do so in writing by the mine foreman.

Sec. 20. Death or Resignation of Mine Foreman; Successor.—In case of the death or resignation of a mine foreman, the superintendent or manager shall appoint a certified man to act as mine foreman, if one be available; and if not, he may temporarily appoint any other competent man who may serve with the approval of the director of the department of mines until the next examination.

FIRE BOSS

Sec. 21. Fire Boss; When to Be Employed; Qualifications.—Every operator whose mines are classified as gassy, shall employ a fire boss, who shall hold a certificate of competency for such position issued to him by the department of mines after taking an examination held
by the department of mines. In order to receive a certificate of competency to qualify as a fire boss, he shall at the time he takes the examination, be a citizen of this state, having had at least five years experience in the underground working, ventilation and drainage of coal mines, and shall have had at least three years experience in mines liberating explosive gas; he shall have such knowledge of methane and other dangerous gas or gases as to be able to detect the same with a permissible flame safety lamp; he shall have a practical knowledge of the subject of ventilation of mines and the machinery and appliances used for that purpose; and he shall also be a person of good moral character and temperate habits.

Sec. 22. Fire Boss or Certified Person Acting as Such;
Duties.—It shall be the duty of the fire boss, or a certified person acting as such, to prepare a danger signal (a separate signal for each shift) with red color at the mine entrance at the beginning of his shift or prior to his entering the mine to make his examination and, except for those persons already on assigned duty, no person except the mine owner, operator, or agent, and only then in the case of necessity, shall pass beyond this danger signal until the mine has been examined by the fire boss or other certified person and the mine or certain parts thereof reported by him to be safe. When reported by him to be safe, the danger sign or color thereof shall be changed to indicate that the mine is safe in order that employees going on shift may begin work. Each person designated to make such fire boss examinations shall be assigned a definite underground area of such mine, and, in making his examination shall examine all active working places in the assigned area and make tests with a permissible flame safety lamp for accumulations of methane and oxygen deficiency; examine seals and doors; examine and test the roof, face, and ribs in the working places and on active roadways and travelways, approaches to abandoned workings and accessible falls in active sections. He shall place his initials and the date at or near the face of each place he examines. Should he find a condition which he considers dangerous to persons enter-
ing such areas, he shall place a conspicuous danger sign at all entrances to such place or places. Only persons authorized by the mine management to enter such places for the purpose of eliminating the dangerous condition shall enter such place or places while the sign is posted. Upon completing his examination he shall report by suitable communication system or in person the results of this examination to a certified person designated by mine management to receive and record such report, at a designated station on the surface of the premises of the mine or underground, before other persons enter the mine to work in such coal-producing shifts. He shall also record the results of his examination with ink or indelible pencil in a book prescribed by the director of the department of mines kept for such purpose at a place on the surface of the mine designated by mine management. All records of daily and weekly reports, as prescribed herein shall be open for inspection by interested persons.

Sec. 23. Fire Boss or Certified Person Acting as Such; No Superior Officer.—In the performance of the duties devolving upon fire bosses, or certified persons acting as such, they shall have no superior officers, but all the employees working inside of such mine or mines shall be subordinate to them in their particular work.

Sec. 24. Unlawful to Enter Mine Until Fire Boss Reports It Safe; Exceptions.—No person shall enter such mine or mines for any purpose at the beginning of work upon each shift therein until such signal or warning has been given by the fire boss or bosses as to the safety thereof, as by statute provided, except under the direction of the fire boss or bosses, and then for the purpose of assisting in making the mine safe: Provided, however, That men regularly employed on a shift during which the mine is being preshift examined by a fire boss or certified person shall be permitted to leave or enter the mine in the performance of their duties.

Sec. 25. Fire Boss; Authority to Perform Other Duties.—Notwithstanding any other provision in this article contained, any person who holds a certificate issued by the
state department of mines certifying his competency to act as fire boss may perform the duties of a fire boss and any other duties, statutory or otherwise, for which he is qualified, in the same mine or section and on the same day or shift.

COAL DUST AND ROCK DUST

Sec. 26. Control of Coal Dust; Rock Dusting.—In all mines, dangerous accumulations of fine, dry, coal dust shall be removed from the mine, and all dry and dusty operating sections and haulageways and the back entries for at least one thousand feet out by the first active working place in each operating section shall be kept watered down or rock dusted, or dust allayed by such other methods as may be approved by the director of the department of mines.

All mines or locations in mines that are too wet or too high in incombustible content for a coal dust explosion to initiate or propagate are not required to be rock dusted during the time any of these conditions prevail. Coal dust and other dust in suspension in unusual quantities shall be allayed by sprinkling or other dust allaying devices.

In all dry and dusty mines, or sections thereof, rock dust shall be applied and maintained upon the roof, floor and sides of all operating sections, haulageways and parallel entries connected thereto by open crosscuts. Back entries shall be rock dusted for at least one thousand feet out by the junction with the first active working place. Rock dust shall be so applied to include the last open crosscut of rooms and entries, and to within forty feet of the faces. Rock dust shall be maintained in such quantity that the incombustible content of the mine dust that could initiate or propagate an explosion shall not be less than sixty-five per cent.

Rock dust shall not contain more than five per cent by volume of quartz or free silica particles and shall be pulverized so that one hundred per cent will pass through a twenty mesh screen and seventy per cent or more will pass through a two hundred mesh screen.
Sec. 27. Employees; Instruction of; Examination of Working Area; Duties.—It shall be the duty of the mine foreman and his subordinate supervisors to ascertain that all workmen are trained in the proper methods of testing roof, face and ribs. The mine foreman shall designate the tool or tools to be used for testing. Face workers and other employees whose work exposes them to hazards or falls of roof and coal shall thoroughly test the roof, face and ribs, before starting to work or before starting a machine, and frequently thereafter. The required tests may be made by any competent person for a crew. If roof, face or rib conditions are found to be unsafe, they shall be corrected by taking down loose material, or shall be securely supported, before work is started. If roof, face or rib conditions are found to be unsafe, and the unsafe condition cannot be corrected by normal taking down or supporting practices, the place shall be guarded or a danger sign erected to prevent unauthorized entrance, and the supervisor promptly notified. Only men capable of correcting the dangerous condition may be delegated to do such work. Supervisors shall examine for unsafe conditions the roof, faces, ribs and timbers or supports of all working places each time they visit a place. Unsafe conditions found by them shall be corrected promptly.

Sec. 28. Roof Support.—Minimum timbering or other roof support methods suitable to the roof conditions and mining system of each mine or part of a mine shall be adopted and complied with. Additional timbering or supporting shall be used when and where necessary. It shall be the duty of the mine foreman or his subordinate supervisors to instruct all workmen in proper methods of setting timbers or placing roof supports; and, it shall be the duty of the workmen to comply with the instructions in setting timbers and roof supports. The roof in all underground working places, unless self-supporting, shall be secured to protect employees from falls. Safety posts, jacks or temporary crossbars shall be set close to the face when necessary for safety before other operations are
Enr. H.B. No. 21

begun and as needed thereafter. Where roof supports are required at the working faces, persons shall not advance beyond supported roof, except those who are assigned to install supports. Timbering or roof support materials to be used as required in supporting the roof in underground workings shall be delivered at or near the working faces. In hand loading mines the miner shall order timbers and roof support materials at least one day in advance in order to have in his working place a sufficient supply for his needs. He shall place his order with his supervisor stating his requirements. Roof bolts shall not be used in lieu of conventional timbering unless a permit has been issued by the state department of mines. Roof bolts shall not be recovered where complete extraction of pillars is attempted; nor shall bolts be removed adjacent to clay veins; nor at the location of other irregularities that introduce abnormal hazards. Where roof bolt recovery is practiced, it shall be done only by reasonable methods approved by the director of the department of mines. Recovery of roof supports shall not be done except by experienced persons and only where adequate temporary support is provided.

EXPLOSIVES AND BLASTING

Sec. 29. Authorized Explosives.—Permissible explosives or permissible blasting devices only shall be used in blasting coal or other material in underground coal mines.

Sec. 30. Surface Magazines for Explosives.—Separate surface magazines shall be provided for storage of explosives, detonators and blasting heater elements. Surface magazines shall be constructed of incombustible materials, be reasonably bullet proof and with no metal or sparking material exposed inside the magazine. Surface magazines shall be provided with doors constructed of at least one-fourth inch steel plate lined with a two-inch thickness of wood or the equivalent, properly screened ventilators, and with no openings except for entrances and ventilation, and shall be kept locked securely when unattended. The area for a distance of at least twenty-five feet in all directions shall be kept free of materials of a
combustible nature; suitable warning signs shall be erected, so located that a bullet passing directly through the face of the sign will not strike the magazine. The location of magazines shall be not less than two hundred feet from any mine openings, occupied buildings or public roads unless barricaded. If magazines are illuminated electrically, the lamps shall be of vapor-proof type properly installed and wired, and smoking and open lights shall be prohibited in or near any magazine.

Sec. 31. **Transportation of Explosives.**—Individual containers used to carry permissible explosives or detonators shall be constructed of substantial, nonconductive materials, kept closed and maintained in good condition. When explosives or detonators are transported underground in cars moved by means of locomotives, ropes, or other motive power, they shall be in substantially covered cars or in special substantially-built covered containers used specifically for transporting detonators or explosives. Explosives or detonators shall not be hauled into or out of a mine within five minutes preceding or following a man-trip. Where explosives and detonators are transported underground by belts they shall be handled in the following manner: In the original and unopened cases, in special closed cases constructed of nonconductive material, or in suitable individual containers. Clearance requirements shall be a minimum of eighteen inches; stop controls shall be provided at loading and unloading points, and an attendant shall supervise the loading and unloading. Neither explosives nor detonators shall be transported on flight or shaking conveyors, mechanical loading machines, locomotives, scrapers, cutting machines, drill trucks, or any self-propelled mobile equipment. If explosives and detonators are transported in the same explosives car or in the same special container, they shall be separated by at least four inches of hardwood partition or the equivalent; the bodies of such cars or containers shall be constructed or lined with nonconductive material. No hand loader shall take into any mine any larger quantity of explosives or detonators than he may reasonably expect to use in any one shift.
Sec. 32. Underground Storage of Explosives.—Explosives and detonators stored underground shall be kept in section boxes or magazines of substantial construction with no metal exposed on the inside, and be located at least fifteen feet from roadways and power wires in a well rock-dusted location protected from falls of roof. If not kept in separate boxes or magazines not less than five feet apart they may be kept in the same box or magazine if separated by at least a four-inch hardwood partition or the equivalent. Not more than a forty-eight hour supply of explosives or detonators shall be stored underground in section boxes or magazines. These boxes or magazines shall be kept at least one hundred feet from the faces and out of the direct line of blasting.

Sec. 33. Preparation of Shots; Blasting Practices.—Only competent and experienced persons designated by mine management shall be permitted to handle explosives and to do blasting. Only electric detonators of proper strength fired with permissible shot firing units shall be used and drillholes shall be stemmed with at least twenty-four inches of incombustible material, or at least one-half of the length of the hole shall be stemmed if the hole is less than four feet in depth unless other permissible stemming devices or methods are used. Drillholes shall not be drilled beyond the limits of the cut, and as far as practicable cuttings and dust shall be cleaned from the holes before the charge is inserted. Charges of explosives exceeding one and one-half pounds, but not exceeding three pounds, shall be used only if drillholes are six feet or more in depth. Ample warning shall be given before shots are fired, and care shall be taken to determine that all persons are in the clear before firing. Men shall be removed from adjoining places and other places when there is danger of shots blowing through. No shots shall be fired in any place known to liberate explosive gas until such place has been properly examined by a competent person who is designated by mine management for that purpose, and no shots shall be fired in any place where gas is detected with a permissible flame safety lamp until such gas has been removed by means of ventilation. After firing any
shot, or shots, the person firing the same shall not return
to the working face until the smoke has been cleared
away and then he shall make a careful examination of
the working face before leaving the place, or before per-
forming any other work in the place. Multiple shooting
may be practiced but only as prescribed by the depart-
ment of mines. A maximum of ten holes may be fired in
bottom or roof rock during grading operations provided
this work is being performed in intake air only. Electrical
equipment shall not be operated in the face areas and only
work in connection with timbering and general safety
shall be performed while bore holes are being charged.
Shots shall be fired promptly after charging. Mudcap
(adobes) or any other unconfined shots shall not be per-
mitted in any coal mine. No solid shooting shall be per-
mitted without written permission of the department of
mines.

Blasting cables shall be well insulated and shall be as
long as may be necessary to permit persons authorized to
fire shots to get in a safe place out of the line of fire. The
cable when new shall be at least one hundred twenty-five
feet in length and never less than one hundred feet.
Shooting cables shall be kept away from power wires and
all other sources of electric current, connected to the leg
wires by the person who fires the shot, staggered as to
length or well separated at the detonator leg wires, and
shunted at the battery end until ready to connect to the
blasting unit.

Sec. 34. Misfires of Explosives.—Where misfires occur
with electric detonators, a waiting period of at least five
minutes shall elapse before anyone returns to the shot.
After such failure, the blasting cable shall be disconnected
from the source of power and the battery ends short-
circuited before electric connections are examined.
Explosives shall be removed by firing a separate charge
at least two feet away from, and parallel to, the misfired
charge or by washing the stemming and the charge from
the borehole with water, or by inserting and firing a new
primer after the stemming has been washed out.
A careful search of the working place, and, if necessary, of the coal after it reaches the tipple shall be made after blasting a misfired hole, to recover any undetonated explosive.

The handling of a misfired shot shall be under the direct supervision of the mine foreman or a competent person designated by him.

Sec. 35. Other Blasting Devices.—The provisions governing the handling, storage, transportation and use of permissible explosives shall apply to all other blasting devices employing a heater element when used underground.

Where compressed air is used for blasting, the air-lines shall be grounded at the compressor and, if practical, at other low-resistant ground connections along the lines. They shall not be connected in any way to rails, water lines, or other electric return conductors and shall be adequately insulated and protected where they cross electric wires, underneath track, or at places where equipment passes over or under. Steel, copper, or other airlines connected therewith shall not be handled or repaired when air pressure is in the line. Shutoff valves shall be installed every thousand feet in all compressed-air blasting lines and at all points where branch lines leave the main line and blowdown valves shall not be less than fifty feet from the face and shall be around a corner.

When misfires occur with any other blasting devices they shall be handled in a safe manner and under the supervision of the mine foreman or a competent person designated by him.

HOISTING

Sec. 36. Hoisting.—The operator of every coal mine worked by shaft, shall provide and maintain a metal tube, telephone or other approved means of communication from the top to the bottom and intermediate landings of such shaft, suitably adapted to the free passage of sound, through which conversation may be held between persons at the top and at the bottom of the shaft; a standard means of signaling; an approved safety catch,
bridle chains, automatic stopping device, or automatic
overwind; a sufficient cover overhead on every cage used
for lowering or hoisting persons; an approved safety gate
at the top of the shaft; and an adequate brake on the drum
of every machine used to lower or hoist persons in such
shaft. Such operator shall have the machinery used for
lowering and hoisting persons into or out of the mine kept
in safe condition, equipped with a reliable indicator, and
inspected once in each twenty-four hours by a competent
person. Where a hoisting engineer is required he shall
be readily available at all times when men are in the mine.
He shall operate the empty cage up and down the shaft
at least one round trip at the beginning of each shift and
after the hoist has been idle for one hour or more before
hoisting or lowering men, and there shall be cut out
around the side of the hoisting shaft, or driven through
the solid strata at the bottom thereof, a traveling way
not less than five feet high and three feet wide to enable
a person to pass the shaft in going from one side of it to
the other without passing over or under the cage or other
hoisting apparatus. Positive stop blocks or derails shall
be placed near the top and at all intermediate landings of
slopes and surface inclines and at approaches to all shaft
landings. A waiting station with sufficient room, ample
clearance from moving equipment, and adequate seating
facilities shall be provided where men are required to
wait for man-trips or man cages, and the men shall re-
main in such station until the man-trip or man cage is
available.
No operator of any coal mine worked by shaft, slope, or
incline, shall place in charge of any engine or drum used
for lowering or hoisting persons employed in such mine
any but competent and sober engineers or drum runners;
and no engineer or drum runner in charge of such ma-
chinery shall allow any person, except such as may be
designated for this purpose by the operator, to interfere
with any part of the machinery; and no person shall
interfere with any part of the machinery; and no person
shall interfere with or intimidate the engineer or drum
runner in the discharge of his duties. Where the mine is
operated or worked by shaft or slope, a minimum space
of two and one-half square feet per person shall be available for each person on any cage or car where men are transported. In no instance shall more than twenty men be transported on a cage or car without the approval of the director of the department of mines. No person shall ride on a loaded cage or car in any shaft, slope, or incline:

Provided, however, That this shall not prevent any trip rider from riding in the performance of his authorized duties. No engineer shall be required for automatically operated cages, elevators, or platforms.

TRANSPORTATION

Sec. 37. Haulage; Equipment; Practices.—The roadbed, rails, joints, switches, frogs, and other elements of all haulage roads shall be constructed, installed and maintained in a manner consistent with speed and type of haulage operations being conducted to insure safe operation.

Track switches, except room and entry development switches, shall be provided with properly installed throws, bridle bars and guard rails; switch throws and stands, where possible, shall be placed on the clearance side.

Haulage roads on entries developed after the effective date of this article shall have a continuous unobstructed clearance of at least twenty-four inches from the farthest projection of any moving equipment on the clearance side.

On haulage roads where trolley lines are used, the clearance shall be on the side opposite the trolley lines.

On the trolley-wire or "tight" side, there shall be at least six inches of clearance from the farthest projection of any moving equipment. On haulage roads developed after the effective date of this article, where conditions permit there shall be a clearance of twelve inches maintained on the tight or wire side, but in no instance shall the clearance be less than six inches.

The clearance space on all haulage roads shall be kept free of loose rock, coal, supplies or other materials, provided that not more than twenty-four inches need be kept free of such obstructions.

Ample clearance shall be provided at all points where
supplies are loaded or unloaded along haulage roads or conveyors.

Shelter holes shall be provided along haulage entries driven after the effective date of this article where locomotive, rope or animal haulage is used. Such shelter holes shall be spaced not more than eighty feet apart. Except where the trolley wire is six feet six inches or more above the roadbed or guarded effectively at the shelter holes, they shall be on the side of the entry opposite the trolley wire.

Shelter holes made after the effective date of this article shall be at least five feet in depth, not more than four feet in width, and as high as the traveling space. Room necks and crosscuts may be used as shelter holes even though their width exceeds four feet.

Shelter holes shall be kept clear of refuse and other obstructions.

Shelter holes shall be provided at switch throws, and manually operated permanent doors, except where more than six feet of clearance is maintained, and at room switches.

No steam locomotive shall be used in mines where men are actually employed in the extraction of coal, but this shall not prevent operation of a steam locomotive through any tunnel haulway or part of a mine that is not in actual operation and producing coal.

Underground equipment powered by internal combustion engines using petroleum products, alcohol, or any other compound shall not be used in a coal mine unless such equipment has been approved by the United States bureau of mines for underground use in coal mines, and only then when this equipment is maintained in compliance with the requirements of the approval schedule.

Locomotives, mine cars, supply cars, shuttle cars, and all other haulage equipment shall be maintained in a safe operating condition. Each locomotive shall be equipped with a suitable lifting jack and handle. An audible warning device and headlights shall be provided on each locomotive and each shuttle car. All other mobile equipment, using the face areas of the mine, purchased after the effective date of this article, shall be provided with a
conspicuous light or other effective method, so as to re-
reduce the possibility of collision.

No persons other than those necessary to operate a trip
or car shall ride on any loaded car or on the outside
of any car.

The pushing of trips, except for switching purposes, is
prohibited on main haulage roads. Motormen and trip
riders shall use care in handling locomotives and cars.
It shall be their duty to see that there is a conspicuous
light on the front and rear of each trip or train of cars
when in motion: Provided, however, That trip lights
need not be used on cars being shifted to and from loading
machines, on cars being handled at loading heads during
gathering operations at working faces or on trips being
pulled by animals. No persons shall ride on locomotives
or loaded cars unless granted permission by the mine
foreman.

No motorman, trip rider or brakeman shall get on or
off cars, trips, or locomotives while they are in motion,
except that a trip rider or brakeman may get on or off
the rear end of a slowly moving trip or the stirrup of a
slowly moving locomotive to throw a switch, align a
derail or open or close a door.

Flying or running switches, and riding on the front
bumper of a car or locomotive are prohibited. Back poling
shall be prohibited except with precaution to the nearest
turning point (not over eighty feet), or when going up
extremely steep grades and then only at slow speed. The
operator of a shuttle car shall face in the direction of
travel except during the loading operation when he shall
face the loading machine.

A system of signals, methods or devices shall be used
to provide protection for trips, locomotives, and other
equipment, coming out onto tracks used by other equip-
ment. Where a dispatcher is employed to control trips,
traffic under his jurisdiction shall move only at his
direction.

Motormen shall inspect locomotives and report any
mechanical defects found to the proper supervisor before a
locomotive is put in operation.
Sec. 38. Transportation of Men.—Man trips shall be pulled (unless self propelled) at safe speeds consistent with the condition of roads and type of equipment used, but not to exceed twelve miles an hour, except where special substantially covered man trip cars are used. Each man trip shall be under the charge of a certified person or other competent person designated by a mine foreman or assistant mine foreman. It shall be operated independently of any loaded trip of coal or other heavy material, but may transport tools, small machine parts and supplies. When mine cars are used for man trips on steep grades a locomotive shall be used on each end of the trip.

Cars on the man trip shall not be overloaded, and sufficient cars in good mechanical condition shall be provided. Where “drop-bottom” cars are used, special safety precautions shall be taken.

No person shall ride under the trolley wire unless suitable covered man cars are used. Men shall not load or unload before the cars in which they are to ride, or are riding, come to a full stop. Men shall proceed in an orderly manner to and from man trips.

When belts are used for transporting men, a minimum clearance of eighteen inches shall be maintained between the belt and the roof or cross-bars, projecting equipment, cap pieces, overhead cables, wiring, and other objects. Where the height of the coal seam permits, the clearance shall not be less than twenty-four inches.

The belt speed shall not exceed two hundred and fifty feet per minute where the minimum overhead clearance is eighteen inches, or three hundred feet per minute where the minimum overhead clearance is twenty-four inches, while men are loading, unloading, or being transported. A signaling system or method shall be provided for stopping the belt and men shall ride not less than six feet apart.

An assistant mine foreman or some other person designated by the mine foreman shall supervise the loading and unloading of belts and man trips. Where men are required to regularly cross over belts adequate and safe facilities shall be provided.
Adequate clearance and proper illumination shall be provided where men board or leave conveyor belts.

ELECTRICITY

Sec. 39. Electricity; General Provisions.—Operators of coal mines in which electricity is used as a means of power shall comply with the following provisions:

All surface transformers, unless of a construction which will eliminate shock hazards, or unless installed at least eight feet above ground, shall be enclosed in a house or surrounded by a fence at least six feet high. If the enclosure is of metal, it shall be grounded effectively. The gate or door to the enclosure shall be kept locked at all times, unless authorized persons are present.

Underground transformers purchased after the effective date of this article, shall be air cooled or cooled with non-inflammable liquid or inert gas.

Underground stations containing transformers or circuit breakers filled with inflammable oil shall be provided with door sills or their equivalent, which will confine the oil if leakage or explosion occurs, and shall be of fireproof construction.

Transformers shall be provided with adequate overload protection.

Battery charging stations, motor generator sets, rotary converters and oil filled transformers and switches, used underground shall be housed in fireproof buildings ventilated by a separate split of air direct to the main return (rectifiers excepted).

“Danger — high voltage” signs shall be posted conspicuously on all transformer enclosures, high-potential switchboards, and other high-potential installations.

Circuit breakers or other overload devices shall be provided to protect power circuits.

Insulating platforms of wood, rubber, or other suitable nonconductive material shall be kept in place at each switchboard, and at stationary machinery where shock hazards exist.
All power wires and cables in hoisting shafts, slopes and power bore holes shall be properly insulated, substantially installed and well maintained.

All power wires, except trailing cables, especially designed cable used as electrical conductors to underground rectifier or transformer stations, portable power cables or bare or insulated ground and return wires, shall be supported on well-installed insulators and shall not contact combustible material, roof or ribs.

Trolley and feeder wires shall be installed as follows: Where installed on permanent haulage, after the effective date of this article, they shall be: (1) at least six inches outside the track gauge line; (2) provided with cutout switches at intervals of not more than two thousand feet, and near the beginning of all branch lines; and (3) kept taut and not permitted to touch the roof, rib, or cross bars. Particular care shall be taken where they pass through door openings to preclude bare wires from coming in contact with combustible material.

Trolley or bare feeder cables shall be guarded adequately where it is necessary for men to pass or work under them regularly unless the wires are more than six and one-half feet above the top of the rail. They shall also be guarded adequately on both sides of doors, and at all stations designated for the loading and unloading of man trips, and at sand boxes.

After the effective date of this article, new underground installations of electric face equipment in new mines shall not exceed six hundred volts direct current, (five hundred fifty volts D. C. equipment) or four hundred eighty volts alternating current, (four hundred forty volts A. C. equipment). No provision of this section shall prohibit the use of voltages in excess of four hundred forty volts alternating current on service lines to rectifiers, converters, transformers or switches connected thereto located in areas out by the immediate face regions.

In a gassy mine trolley and feeder wires shall not extend beyond the last open crosscut and shall be kept at least one hundred and fifty feet from open pillar workings. Trolley wires and feeder wires shall be anchored securely, in-
sulated, and properly identified at the ends. Metallic frames, casings, and other enclosures of stationary electric equipment that can become “alive” through failure of insulation or by contact with energized parts shall be grounded effectively, or equivalent protection shall be provided.

Sec. 40. Electricity; Circuit Breakers, Switches, and Switchboards.—Automatic circuit-breaking devices or fuses of the correct type and capacity shall be installed so as to protect all electric equipment against excessive overload: Provided, however, That this shall not apply to locomotives operated regularly on grades exceeding five per cent.

Disconnecting switches shall be installed underground in all main direct current power circuits within five hundred feet of the bottom of shafts and boreholes, and at other places where main power circuits enter the mine.

Electric equipment and circuits shall be provided with switches or other controls of safe design, construction and installation.

When not in use, power circuits underground shall be de-energized on idle days and idle shifts. Suitable danger signs shall be posted conspicuously at all high-potential switchboard installations.

Sec. 41. Electricity; Bonding.—Where track is used as a power conductor, rails and switches on main entries shall be bonded and cross-bonded in such manner as to assure adequate return. At least one rail on secondary track-haulage roads shall be welded or bonded at every joint, and crossbonds shall be installed at intervals of not more than two hundred feet: Provided, however, That rail joints in such secondary haulage roads need not be bonded where a copper feeder adequate in size parallels the track and is electrically connected thereto at intervals of not more than two hundred feet by crossbonds.

Sec. 42. Electricity; Telephone.—Telephone service or equivalent two-way communication facilities shall be provided in all mines between the surface and each work-
ing section that is more than one thousand five hundred feet from the main portal.

Telephone lines, other than cables, shall be carried on insulators, installed on the opposite side from power or trolley wires, and where they cross power or trolley wires they shall be insulated adequately.

Lightning arresters shall be provided at the points where telephone circuits enter the mine.

Sec. 43. Electric Equipment in Gassy Mines.—After the effective date of this article all electric face equipment acquired for use in a mine classified as gassy shall be permissible: Provided, however, That nonpermissible electric equipment may be used in a mine classified as gassy if, before the effective date of this article or the date such mine became a mine classified as gassy, whichever is later, the operator of such mine, or his successor, owned or leased such equipment or had ordered such equipment.

Electric equipment shall not be taken into or operated in any place where methane can be detected with a flame safety lamp at any point not less than eight inches from the roof, face, or rib.

In a mine classified as gassy electric haulage locomotives operated from trolley wire shall not be used in return air. For the purpose of this provision, air used to ventilate a section of a mine shall not be considered return air until such time as the air has ventilated all of the workings in the section.

No person shall be placed in charge of a coal cutting machine in any mine classified as gassy, who is not a competent person, capable of determining the safety of the roof and sides of the working places and detecting the presence of explosive gas. Machine runners in mines classified as gassy shall be required to undergo examination by a mine foreman to determine their fitness to detect explosive gas before they are permitted to have charge of machines in such mines, unless they are accompanied by a certified or competent person who has passed such an examination.

In any mine classified as gassy, a coal cutting machine shall not be brought in by the last break-through
next to the working face until the machine man shall have
made an inspection for gas in the place where the machine
is to work, unless such examination is made by some other
competent person authorized and designated for that pur-
pose by the mine foreman. If explosive gas in excess of
one per cent is found in the place, the machine shall not
be taken in until the danger is removed.

In working places where explosive gas is likely to be
encountered, a safety lamp, or other suitable approved
apparatus for the detection of explosive gas, shall be pro-
vided for use with each mining machine when working,
and should any indication of explosive gas in excess of
one per cent appear on the flame of the safety lamp, or on
other apparatus used for the detection of explosive gas,
the person in charge shall immediately stop the machine,
cut off the current at the nearest switch and report the
condition to the mine foreman or supervisor. The machine
shall not again be started in such place until the mine
foreman, supervisor, or a person authorized by one of
them has examined it and pronounced it safe.

No coal cutting machine shall be operated in a mine
classified as gassy for a longer period than thirty minutes
without an examination as above described being made for
gas, and if gas is found in excess of one per cent the current
shall at once be switched off the machine, and the trailing
cable shall forthwith be disconnected from the power sup-
ply until the place is pronounced safe: Provided, however,
that at locations where continuous mining machines are
operating, such examinations for methane shall be made
at intervals not exceeding twenty minutes.

Machine runners and helpers shall use care while
operating mining machines. They shall not permit any
person to remain near the machine while it is in opera-
tion. They shall examine the roof of the working place
and see that it is safe before starting to operate the ma-
chine. They shall not move the machine while the cutter
chain is in motion.

Sec. 44. Electricity; Hand-held Drills; Trailing Cables.

—Electric drills and other electrically operated rotating
tools intended to be held in the hands shall have the electric switch constructed so as to break the circuit when the hand releases the switch, or shall be equipped with friction or safety clutches.

All new trailing cables purchased after the effective date of this article shall be safely and effectively insulated by flame resistive materials. Splices in trailing cables shall be made in a workmanlike manner, mechanically strong and well insulated so as to exclude moisture so far as possible.

Sec. 45. Electricity; Underground Illumination.—Electric lights, or other approved methods of lighting, shall be installed so that they do not come in contact with combustible materials, and the wires shall be supported by suitable insulators and fastened securely to the power conductors.

Sec. 46. Welding and Cutting; Blowtorches; Fuel.—Blowtorches may be used by competent persons in mines, provided (1) suitable precautions are taken against ignition of methane, coal dust, or combustible materials, (2) means are provided for prompt extinguishment of fires accidentally started, and (3) fuel is properly controlled. Blowtorches must be maintained at all times in good operating condition and leakproof.

Fuel for blowtorches, in quantities not exceeding one day's supply, shall be transported from the surface in approved safety cans, leakproof and sturdy. In transferring fuel to the torch, a funnel or flexible nozzle shall be used to avoid spillage, and neither the supply can nor the torch shall be opened within twenty-five feet of any open light or other thing containing or apt to contain fire, arcs, or sparks.

Welding and cutting may be done in mines: Provided, that all equipment and gauges are maintained in good order and not abused, that suitable precautions are taken against ignition of methane, coal dust, or combustible materials, that means are provided for prompt extinguishment of fires accidentally started, and that only persons who have demonstrated competency in welding and cut-
24 ting are entrusted to do this work. Adequate eye protec-
25 tion shall be used by all persons doing welding or cutting,
26 and precautions shall be taken to prevent other persons
27 from exposure that might be harmful to their eyes.
28 In mines classed as gassy, a certified person shall ex-
29 amine for gas with permissible flame safety lamps before
30 and during welding or cutting in, at or near working faces.
31 The safety of the equipment and methods used in such
32 cases shall be subject to approval of the director of the
33 department of mines.

Sec. 47. Responsibility for Care and Maintenance of
Face Equipment.—Mine operators shall maintain face
equipment in safe operating condition. Equipment oper-
ators shall exercise reasonable care in the operation of
the equipment entrusted to them, and shall promptly
report defects known to them.

Sec. 48. Control of Dust and Other Inhalation Hazards.
—Men exposed for short periods to gas-, dust-, fume-, and
mist-inhalation hazards shall wear permissible respiratory
equipment. When exposure is for prolonged periods, dust
shall be controlled by the use of permissible dust collec-
tors, or by water or other approved methods.

SAFEGUARDS FOR MECHANICAL EQUIPMENT

Sec. 49. Safeguards for Mechanical Equipment.—The
cutter chains of mining machines shall be locked securely
by mechanical means or electrical interlocks while such
machines are parked or being trammed. Loading machines
shall not be trammed with loading arms in motion except
when loading materials.

7 Belt, chain or rope drives and the moving parts of
8 machinery which are within seven feet of the floor, ground
9 or platform level, unless isolated, shall be guarded ade-
quately. Repair pits shall be kept covered or guarded at
all times when not in use. Machinery shall not be lubri-
cated or repaired while in motion, except where safe
remote lubricating devices are used. Machinery shall not
be started until the person lubricating or repairing it has
given a clear signal. Guards which have been removed
shall be replaced before the machinery is again put into
use. Provision shall be made to prevent accumulations of spilled lubricants.

Mechanically operated grinding wheels shall be equipped with safety washers, substantial retaining hoods, and, unless goggles are used, eye shields.

Rubber conveyor belts installed underground after the effective date of this article shall be provided with centrifugal switches. With the exception of main slopes, where rubber conveyor belts are used, multiple entries (three or more) shall be driven and the belt placed on a separate split of air. Where fire resistant belts are installed, two or more entries shall be driven and a single line of permanent stoppings may be used between the intake and return airways and the belt installed in intake air.

SURFACE STRUCTURES AND PRACTICES

Sec. 50. Tipple and Cleaning Plant.—In unusually dusty locations, electric motors, switches and controls shall be of dust-tight construction, or enclosed with reasonably dust-tight housings or enclosures. Open-type motors, switches or controls in use at the effective date of this article in tipples and cleaning plants in unusually dusty locations may be continued in use until such dust-tight equipment can be procured, or until they can be provided with reasonably dust-tight housings or enclosures.

Structures shall be kept free of excessive coal dust accumulations.

Where coal is dumped at or near air intake openings, reasonable provisions shall be made to prevent dust from entering the mine.

Where repairs are being made to the plant, proper scaffolding and proper overhead protection shall be provided for workmen wherever necessary.

Welding shall not be done in dusty atmospheres and dusty locations shall be well cleaned, and firefighting apparatus shall be readily available during welding.

Stairways, elevated platforms and runways shall be equipped with handrails. Railroad car trimmer platforms are excepted from such requirement.
Elevated platforms and stairways shall be provided with toe-boards where necessary, and they shall be kept clear of refuse and ice and maintained in good repair.

Sec. 51. Housekeeping.—Good housekeeping shall be practiced in and around mine buildings and yards. Such practices include cleanliness, orderly storage of materials, and the removal of possible sources of injury, such as stumbling hazards, protruding nails and broken glass.

Sec. 52. Lamp House.—Naphtha or other flammable liquids in lamp houses shall be kept in approved containers or other safe dispensers.

Sec. 53. Smoking in and Around Surface Structures.—Smoking in or about surface structures shall be restricted to places where it will not cause fire or an explosion.

MISCELLANEOUS SAFETY PROVISIONS AND REQUIREMENTS

Sec. 54. Duties of Persons Subject to Article; Rules and Regulations of Operators.—It shall be the duty of the operator, mine foreman, supervisors, fire bosses and other officials to comply with and to see that others comply with the provisions of this article. It shall be the duty of all employees and checkweighmen to comply with this article and to cooperate with management and the department of mines in carrying out the provisions hereof.

Reasonable rules and regulations of an operator for the protection of employees and preservation of property that are in harmony with the provisions of this article and other applicable laws shall be complied with. They shall be printed on cardboard or in book form in the English language and posted at some conspicuous place about the mine or mines, and given to each employee upon request.

Sec. 55. Protective Clothing.—Welders and helpers shall use proper shields or goggles to protect their eyes. All employees shall have approved goggles or shields and use same where there is a hazard from flying particles, or other eye hazards.
Employees engaged in haulage operations and all other persons employed around moving equipment on the surface and underground shall wear snug-fitting clothing.

Protective gloves shall be worn when material which may injure hands is handled, but gloves with gauntletted cuffs shall not be worn around moving equipment.

Sec. 56. Checking Systems.—Each mine shall have a check-in and check-out system that will provide positive identification upon the person of every individual underground. An accurate record of the men in the mine, which shall consist of a written record, a check board, or a time-clock record, shall be kept on the surface in a place that will not be affected in the event of an explosion. Said record shall bear a number or name identical to the identification check carried by, or fastened to the belt of, all persons going underground.

Sec. 57. No Act Permitted Endangering Security of Mine; Search for Intoxicants, Matches, Etc.—No miner, workman or other person shall knowingly injure any shaft, lamp, instrument, air course, or brattice, or obstruct or throw open airways, or carry matches or open lights in the places worked by safety lights, or disturb any part of the machinery or appliances, open a door closed for directing ventilation and not close it again, or enter any part of a mine against caution, or disobey any order of any mine foreman or assistant mine foreman given in carrying out any of the provisions of this section.

Open lights, smoking, and smokers' articles including matches, are prohibited in mines where electric or safety lamps are used. No person shall at any time enter such mines with or carry therein any matches, pipes, cigars, cigarettes, or any device for making lights or fire not authorized or approved. In all such mines the operator shall at frequent intervals search, or cause to be searched, any person, including his clothing and material belongings, entering or about to enter the mine, or inside the mine, to prevent such person from taking or carrying therein any of the above mentioned articles.
No person shall at any time carry into any mine any intoxicants, or enter any mine while under the influence of intoxicants.

Sec. 58. Fire Protection.—Suitable fire protection shall be provided at surface installations of fans, shops, tipples and preparation plants, sub-stations, hoist rooms and compressor stations.

Suitable underground fire protection shall be provided at stationary sub-stations and compressor stations, shops, pumps, doors, transformer stations, battery charging stations, where oil and grease is stored, at conveyor loading or discharge points, and strategic points along rubber belt lines, stables, and on active working sections.

Rock dust in quantities of five hundred pounds or more shall be considered suitable for fire protection at the above mentioned underground locations, except that a fire extinguisher suitable for the hazards present shall be provided as additional protection at underground shops, permanent sub-stations, compressor stations, battery charging stations and transformer stations.

Mine openings, where there is danger of fire entering the mine, shall have adequate protection against surface fires or dangerous volumes of smoke entering the mine.

Sec. 59. Stable in Mines.—No operator, agent or mine foreman shall provide a horse or mule stable inside of any mine unless space is excavated in solid strata of rock, slate or coal. If excavated in the coal seam, the wall shall be built of brick, stone or concrete not less than four inches in thickness, or of steel plates, and shall be built from the bottom slate to the roof. No wood or other combustible material shall be used in the construction of the inside of the stable. The air current used for the ventilation of the stable shall not be intermixed with the air current used for ventilating any other portion of the mine, but shall be conveyed directly to the return air current. No open lights shall be permitted in any stable in any mine. No hay or straw shall be taken into any mine, unless pressed or made up in compact bales, and shall be transported from the surface to any underground
Sec. 60. First Aid Equipment.—In every mine where not more than fifty men are employed underground, it shall be the duty of the operator thereof to keep always on hand at the mine two properly constructed stretchers, two woolen and waterproof blankets, and all necessary requisites; and for each additional fifty men so employed, one additional stretcher and equipment as above specified shall be furnished. Such material shall be provided on the surface and at strategic locations underground near the working section. No first-aid material shall be removed or diverted, without authorization, except in case of accident in or about the mine.

Sec. 61. Mine Openings or Outlets; Roadways; Hoisting Equipment at Shaft Outlets; Limitation of Section.—No operator or mine foreman of any coal mine shall employ any person to work in such mine, or permit any persons to be in the mine for the purpose of working therein, unless they are in communication with at least two openings, or outlets, to each seam, separated by natural strata, such openings to be not less than three hundred feet apart, if the mine be worked by shaft; if the mine be worked by shaft and slope such openings shall be separated by one hundred feet of natural strata; and not less than fifty feet apart at the outlets, if worked by slope or drift; but this requirement of a distance of three hundred feet between openings or outlets to shaft mines shall not apply where such openings or outlets have been made prior to the effective date of this article. To each of the outlets there shall be provided from the interior of the mine a safe and available roadway, properly drained, which shall at all times, while the mine is in operation, be kept free from all obstructions that might prevent travel thereon in case of an emergency. If either
22 of the outlets be by shaft, it shall be fitted with safe and
23 available appliances, such as stairs or hoisting machinery,
24 which shall at all times when men are underground be
25 kept in order and ready for immediate use, whereby per-
26 sons employed in the mine may readily escape in case of
27 accident.
28 This section shall not apply to any mine while work is
29 being prosecuted with reasonable diligence in making
30 communication between outlets, necessary repairs, or re-
31 moving obstructions, so long as not more than twenty
32 persons are employed at any one time in the mine; neither
33 shall it apply to any mine, or part of a mine, in which
34 a second outlet has been rendered unavailable by reason
35 of the final robbing of pillars, preparatory to abandon-
36 ment, so long as not more than twenty persons are em-
37 ployed therein at any one time; but before a limited
38 number of men are so permitted to work, approval of
39 the necessity therefor shall be obtained from the depart-
40 ment of mines.

Sec. 62. No Mine to Be Opened or Reopened Without
2 Prior Approval of Director of Department of Mines.—
3 After the effective date of this article, no mine shall be
4 opened or reopened unless prior approval has been ob-
5 tained from the director of the department of mines,
6 which approval shall not be unreasonably withheld. “The
7 operator shall pay for such approval a fee of five dollars,
8 which payment shall be tendered with the operator’s
9 application for such approval.”

Sec. 63. Survey on Closing of Mine.—When any coal
2 mine is worked out, or is about to be abandoned or
3 indefinitely closed, the operator of the same shall make or
4 cause to be made a final survey, where not already made,
5 of all parts of such mine, and the results of the same shall
6 be duly extended on all maps of the mine and copies
7 thereof, so as to show all excavations and the most
8 advanced workings of the mine and their exact relation
9 to the boundary or section lines on the surface, and such
10 abandoned mines shall be properly fenced off.
Sec. 64. Mining Close to Abandoned Workings.—Any operator working up to an abandoned coal mine may be permitted to work to his property line, if approved by the director of the department of mines, but in such cases precaution must be taken as provided in this article.

Sec. 65. Explosion or Accident; Investigation by Department of Mines.—Whenever, by reason of any explosion or other accident in or about any coal mine or the machinery connected therewith, loss of life or serious personal injury shall occur, it shall be the duty of the superintendent of the mine, and in his absence, the mine foreman in charge of the mine, to give immediate notice to the director of the department of mines and the inspector of the district, stating the particulars of such accident. If anyone is killed, the inspector shall immediately go to the scene of such accident and make such suggestions and render such assistance as he may deem necessary for the future safety of the men, and investigate the cause of such explosion or accident and make a record thereof which he shall preserve with the other records of his office, the cost of such records to be paid by the department of mines, and a copy shall be furnished the operator and other interested parties. To enable him to make such investigations, he shall have the power to compel the attendance of witnesses and to administer oaths or affirmations. The director of the department of mines shall have the right to appear and testify and to offer any testimony that may be relevant to the question and to cross-question witnesses.

Sec. 66. Written Report of Accidents.—Whenever any accident occurs in or about any coal mine to any employee or person connected with the mining operation, resulting in personal injury or death, the operator shall, within twenty-four hours, report the same in writing to the director of the department of mines and to the district mine inspector of the district in which the accident occurs, giving full details thereof upon forms furnished by the department of mines.
Sec. 67. Scene of Accident; Preservation of Evidence.—Following a mine accident resulting in the death of one or more persons and following any mine disaster, the evidence surrounding such occurrence shall not be disturbed after recovery of bodies or injured persons until an investigation by the department of mines has been completed: Provided, however, That sufficient wreckage or debris may be moved to allow recovery work after disasters or continued general operation of the mine following fatalities not caused by mine fires or mine explosions.

Sec. 68. Fire in or About Mine; Notification of Director and District Mine Inspector.—The operator or mine foreman, upon the discovery of fire in or about a mine, shall immediately notify the director of the department of mines and the district mine inspector in whose district the mine is located.

WEIGHING OR MEASURING COAL

Sec. 69. Weighing and Measuring Coal; Appliances; Testing Correctness Thereof.—It shall be the duty of every operator who compensates any employees by weight or measure of coal mined to provide scales or measures and whatever else may be necessary to correctly weigh or measure such coal.

It shall be the duty of the commissioner of labor of the state of West Virginia, upon the reasonable request of any operator of a mine or of two or more miners working therein, to cause such mine to be visited by one of his deputies for the purpose of testing such scales or measures.

Sec. 70. Marking and Weighing Cars Used in Hauling Coal.—At any mine where employees are paid on the basis of weight or measure, each car used for removal of coal shall be numbered and plainly marked. Where coal mining is paid for on the basis of weight, every car so used shall be weighed and the weight thereof shall be plainly marked thereon. Where coal mining is paid for on the basis of measure, every car so used shall be plainly
marked with the number of bushels of coal such car will
hold when loaded to its capacity. No car shall be used
for such purposes until the provisions of this section are
complied with.

Sec. 71. Weighing Coal Before Screening; Payment for
Coal.—All coal mined and paid for by weight shall be
weighed before it is screened, and shall be paid for
according to the weight so ascertained, at such price per
ton as may be agreed upon by the operators and miners
who mined the same. All coal mined and paid for by
measure shall be paid for according to measure or number
of bushels marked upon cars in which it is removed from
the mine, and before it is screened, and the price paid for
each measure or bushel so ascertained shall be such as
may be agreed upon as aforesaid.

Sec. 72. Weighman; Checkweighman; Employment;
Oath.—At every mine where mining of coal is paid for
by weight or measure, the operator shall employ a
weighman, and the miners working in such mine may
employ a checkweighman as provided by general law,
and the two so employed shall supervise the weighing
of each car while empty, and the weighing of the same
when loaded with coal so paid for by weight, or the
measurement of such coal, as the case may be. Where
such checkweighman is employed by the miners, the
operator shall furnish such checkweighman with a check
or number and pay him for all coal placed to his check
or number in the same manner as other miners are paid.
If the miners fail to employ a checkweighman, then the
weighman employed by the operator shall supervise
weighing and measuring. All weighmen and check-
weighmen, before entering upon the discharge of their
duties, shall take an oath or affirmation to honestly and
impartially perform the duties of such employment and
do equal and exact justice between employer and
employees to the best of their judgment, skill and ability.
Where a weighman is mutually selected by a majority
of the miners working in a mine and the operator, it shall
not be necessary to employ a checkweighman. Whenever
either of the parties to such an agreement shall become
dissatisfied with such weighman, they may dismiss him
on ten days notice.

Sec. 73. Reopening Old or Abandoned Mine.—No per-
son, without first giving to the director of conservation ten
days written notice thereof, shall reopen for any purpose
any old or abandoned mine wherein water or mine
seepage has collected or become impounded or exists in
such manner or quantity that upon the opening of such
mine such water or seepage may drain into any stream
or watercourse. Such notice shall state clearly the name
or names of the owner or owners of the mine proposed
to be opened, its exact location, and the time of the
proposed opening thereof.

Upon receipt of any such notice, the director of con-
ervation shall have his representative present at the
mine at the time designated in the notice for such opening,
who shall have full supervision of the work of opening
such mine with full authority to direct said work in such
manner as to him seems proper and necessary to prevent
the flow of mine water or seepage from such mine in
such manner or quantity as will kill or be harmful to the
fish in any stream or watercourse into which such mine
water or seepage may flow directly or indirectly.

Sec. 74. Annual Report By Operator of Mine; Owner's
Report in Case of Sale.—The operator of every coal mine
shall annually, during the month of January, mail or
deliver to the director of the department of mines a report
for the preceding calendar year. Such report shall state
the name of the operator, the quantity of coal mined, and
such other information not of a private nature, as may be
required by the director of the department of mines.
Forms for such reports shall be furnished by the director
of the department of mines. Whenever any operator of a
coal mine shall transfer the ownership thereof, such
operator shall, within thirty days, report such transfer
to the director of the department of mines, together with
a statement of the tons of coal produced at such mine dur-
ing the current calendar year.
Sec. 75. Permits.—Whenever permits are issued by the department of mines, frequent examination shall be made by the mine inspector during the tenure of the permit to determine that the requirements and limitations of the permit are complied with.

Sec. 76. Compliance.—Whenever any equipment or supplies required by this article, including rock-dusting machines, flame safety lamps, and permissible electric equipment, are unobtainable in the normal course of business, compliance with the requirements of this article with respect thereto is suspended so long as such items remain unobtainable. Due allowance shall also be made for planning, institution of change procedures, and installation of new equipment.

Sec. 77. Intimidation of Workmen.—No person or persons, or combination of persons, shall, by force, threats, menaces or intimidations of any kind, prevent or attempt to prevent from working in or about any mine any person or persons who have the lawful right to work in or about the same, and who desire so to work in or about the same, and who desire so to work; but this provision shall not be so construed as to prevent any two or more persons from associating together under any name they may desire, for any lawful purpose, or for using moral suasion or lawful argument to induce any one not to work in and about any mine.

Sec. 78. Penalties.—Any person who shall wilfully violate sections two, seven, twelve, nineteen, twenty-four, thirty-three, fifty-seven, fifty-eight, sixty, sixty-two, seventy, seventy-one, seventy-four, seventy-five or seventy-seven of this article shall be fined not less than ten nor more than five hundred dollars.

Sec. 79. Provisions of Article Severable.—The various provisions of this article shall be construed as separable and severable, and should any of the provisions, sentences, clauses, or parts thereof be construed or held unconstitutional or for any reason be invalid, the remaining provisions of this article shall not be thereby affected.
Article 2-B. Auger Mining

Section 1. Permit Required.—No auger mining shall be conducted by any person without securing a permit issued by the department of mines. Such permit shall be on a form prescribed by the director of the department of mines. Such permit shall not be unreasonably withheld. The operator shall pay for such permit a fee of five dollars, which payment shall be tendered with the operator’s application for such permit.

Sec. 2. Duties of Operator.—It shall be the duty of the operator to see that all work is performed in a safe manner; equipment where necessary shall be properly guarded; high walls shall be carefully scaled; and loose and overhanging materials taken down.

If, after auger mining is completed, the operator decides to deep mine the remaining area, he shall comply with the provisions of article two that are applicable.

Sec. 3. Reports.—The operator of any auger mining shall furnish to the director of the department of mines the reports required in article two of this chapter.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

W. E. Chilton
Chairman House Committee

Originated in the House of Delegates

Takes effect July 6, 1958

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within approved this the 11th day of January, 1958.

[Signature]
Governor

Filed in Office of the Secretary of State of West Virginia FEB 12 1958

HELEN WULT