WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1974

ENROLLED
Committee Substitute for
SENATE BILL NO. 503

(By Mr. Suesman)

PASSED March 9, 1974
In Effect July 1, 1974

503
AN ACT to repeal section twenty, article two, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section seven, article two of said chapter; to amend and reenact article six of said chapter; to further amend said chapter twenty-two by adding thereto a new article, designated article six-a; and to amend article six, chapter twenty of said code by adding thereto a new section, designated section twenty-a, all relating to coal miner and prospective miner training, education and certification; requiring certification of all surface miners after the first day of July, one thousand nine hundred seventy-six; requiring the employment of a mine foreman—fire boss; assistants; requirements for certification; equivalency of certificates; certification of underground and surface coal miners; definitions; permits of apprenticeship; requiring adequate supervision of apprentices; refusal to issue certificates; appeal; limitations of article; making working without a certificate, employing an uncertified miner or failure to supervise apprentices a misdemeanor and providing penalties; establishing a board of miner training, education and certification; declarations of legislative findings and purposes; board powers; methods of appointment; meet-
ings; duties of director and departments; and authorizing the payment of a stipend to prospective miners in training.

Be it enacted by the Legislature of West Virginia:

That section twenty, article two, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section seven, article two of said chapter be amended and reenacted; that article six of said chapter be amended and reenacted; that said chapter twenty-two be further amended by adding thereto a new article, designated article six-a; and that article six, chapter twenty of said code be amended by adding thereto a new section, designated section twenty-a, all to read as follows:

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 6. SURFACE MINING AND RECLAMATION.

§20-6-20a. Surface miner; certification required.

After the first day of July, one thousand nine hundred seventy-six, certification shall be required of all surface miners in accordance with the provisions of articles six and six-a, chapter twenty-two of this code.

CHAPTER 22. MINES AND MINERALS.

ARTICLE 2. COAL MINES.

§22-2-7. When underground mine foreman—fire boss required; assistants; certification.

(a) In every underground mine where five or more persons are employed in a period of twenty-four hours, the operator shall employ at least one person certified in accordance with the provisions of article six-a of this chapter as a mine foreman—fire boss. Each applicant for certification as a mine foreman—fire boss shall, at the time he is issued a certificate of competency; (1) Be a resident or employed in a mine in this state; (2) have had at least five years' experience in the underground working, ventilation, and drainage of a coal mine, which shall include at least eighteen months' experience on or at a working section of an underground mine or be a graduate of the School of Mines at West Virginia University or of
another accredited mining engineering school and have had at least two years' practical experience in an underground mine, which shall include at least eighteen months' experience on or at a working section of an underground mine; and (3) have demonstrated his knowledge of dangerous mine gases and their detection, mine safety, first aid, safety appliances, state and federal mining laws and regulations and other subjects by completing such training, education, and examinations as may be required of him under article six-a of this chapter.

(b) In mines in which the operations are so extensive that the duties devolving upon the mine foreman—fire boss cannot be discharged by one man, one or more assistant mine foreman—fire bosses may be designated. Such persons shall act under the instruction of the mine foreman—fire boss, who shall be responsible for their conduct in the discharge of their duties. Each assistant so designated shall be certified under the provisions of article six-a of this chapter. Each applicant for certification as assistant mine foreman—fire boss shall, at the time he is issued a certificate of competency, possess all of the qualifications required of a mine foreman—fire boss: Provided, That he shall at the time he is certified be required to have at least three years' experience in the underground working, ventilation and drainage of coal mines, which shall include eighteen months on or at a working section of an underground mine or be a graduate of the School of Mines at West Virginia University or of another accredited mining engineering school and have had twelve months' practical experience in an underground mine, all of which shall have been on or at a working section.

(c) Until the first day of January, one thousand nine hundred seventy-seven, in mines in which the operations are so extensive that all the duties devolving upon the mine foreman—fire boss 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—fire boss' instructions and the mine foreman—fire boss shall be responsible
for their conduct in the discharge of their duties under such designation.

(d) Any person holding a mine foreman's certificate issued by any other state may act in the capacity of mine foreman—fire boss in any mine in this state until the next regular mine foreman—fire boss' examination held by the department, but not to exceed a maximum of ninety days.

(e) After the effective date of this act, all duties heretofore performed by persons certified as mine foreman, assistant mine foreman or fire bosses shall be performed by persons certified as underground mine foreman—fire bosses or an assistant underground mine foreman and fire bosses.

After the effective date of this act, every certificate heretofore issued to an assistant mine foreman or fire boss shall be deemed to be of equal value to a certificate issued hereafter to an assistant mine foreman—fire boss, and every certificate heretofore issued to a mine foreman shall be deemed to be of equal value to a certificate issued hereafter to a mine foreman—fire boss.

ARTICLE 6. CERTIFICATION OF UNDERGROUND AND SURFACE COAL MINERS.

§22-6-1. Certificate of competency and qualification or permit of apprenticeship required of all surface and underground miners.

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

§22-6-2. Definitions.

For purposes of this article the term “surface miner” means a person employed at a “surface mine,” as that term is defined in section two, article six, chapter twenty of this code.
For purposes of this article, the term “underground miner” means an underground worker in a bituminous coal mine, except as hereinafter provided.

For purposes of this article, the term “board of miner training, education and certification” means that board established in article six-a of this chapter.

§22-6-3. Permit of apprenticeship—underground miner.

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

§22-6-4. Permit of apprenticeship—surface miner.

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

§22-6-5. Supervision of apprentices.

Each holder of a permit of apprenticeship shall be known as an apprentice. Any miner holding a certificate of competency and qualification may have one person working with him, and under his direction, as an apprentice, and any mine foreman—fire boss or assistant mine foreman—fire boss may have not more than five persons working with him and under his immediate supervision and direction, as apprentices, for the purpose of learning and being instructed in the duties and calling of mining.

Every apprentice working at a surface mine shall be at all times under the supervision and control of at least one person who holds a certificate of competency and qualification: Provided, That whenever the director determines that a person trained, qualified or certified by the federal government to act in a supervisory capacity is competent to supervise five or more surface mine apprentices, such person may have not more than five apprentices working with him and under his supervision and direction.
In all cases, it shall be the duty of every mine operator who employes apprentices to insure that such persons are effectively supervised and to instruct such persons in safe mining practices. Each apprentice shall wear a red hat which identifies him as such while employed at or near a mine. No person shall be employed as an apprentice for a period in excess of eight months, except that in the event of illness or injury, time extensions shall be permitted as established by the director of the department of mines.

§22-6-6. Certificate of competency and qualification—underground or surface miner.

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

§22-6-7. Refusal to issue certificate; appeal.

If the director or his representative finds that an applicant is not qualified and competent, he shall so notify the applicant not more than ten days after the date of examination.
Any applicant aggrieved by an action of the director in failing or refusing to issue a certificate of qualification and competency may, within ten days of notice of the action complained of, appeal to the director who shall promptly give the applicant a hearing and either affirm the action or take such action as should have been taken.

§22-6-8. Limitations of article.

All persons possessing certificates of qualification issued by the department of mines of this state, entitling them to act as mine foreman—fire bosses; or assistant mine foreman—fire bosses; shall be eligible to engage at any time as miners in the mines of this state. Supervisory and technically trained employees of the operator, whose work contributes only indirectly to mine operations, shall not be required to possess a miners' certificate.

Notwithstanding the provisions of this article, every person working as a surface miner in this state on or before the first day of July, one thousand nine hundred and seventy-four shall, upon application to the director, be issued a certificate of competency and qualification.

§22-6-9. Violations; penalties.

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

ARTICLE 6A. BOARD OF MINER TRAINING, EDUCATION AND CERTIFICATION.


This article shall be cited as “The West Virginia Miner Training, Education and Certification Act.”
§22-6A-2. Declaration of legislative findings and policy.

1 The Legislature hereby finds and declares that:

2 (a) The continued prosperity of the coal industry is of primary importance to the state of West Virginia;

3 (b) The highest priority and concern of this Legislature and all in the coal mining industry must be the health and safety of the industry's most valuable resource — the miner;

4 (c) A high priority must also be given to increasing the productivity and competitiveness of the mines in this state;

5 (d) An inordinate number of miners, working on both the surface in surface mining and in and at underground mines, are injured during the first few months of their experience in a mine;

6 (e) These injuries result in the loss of life and serious injury to miners and are an impediment to the future growth of West Virginia's coal industry;

7 (f) Injuries can be avoided through proper miner training, education and certification;

8 (g) Mining is a technical occupation with various specialties requiring individualized training and education; and

9 (h) It is the general purpose of this article to:

10 (1) Require adequate training, education and meaningful certification of all persons employed in coal mines;

11 (2) Establish a board of miner training, education, and certification and empower it to require certain training and education of all prospective miners and miners certified by the state;

12 (3) Authorize a stipend for prospective miners enrolled in this state's miner training, education and certification program;

13 (4) Direct the director of the department of mines to apply and implement the standards set by the board of
miner training, education, and certification by establishing programs for miner and prospective miner education and training; and

(5) Provide for a program of continuing miner education for all categories of certified miners.


Unless the context in which a word or phrase appears clearly requires a different meaning, the words defined in section one, article one of this chapter shall have when used in this article the meaning therein assigned to them. These words include but are not limited to the following: Department, director of the department of mines, mine inspector, operator, miner, shot firer and certified electrician.

"Board" means the board of miner training, education and certification established by section four of this article.

"Mine" means any mine, including a "surface mine," as that term is defined in subsection (k), section two, article six, chapter twenty and a "mine" as that term is defined in section one, article one, chapter twenty-two of this code.

§22-6A-4. Board of miner training, education and certification created; membership, method of appointment, terms.

(a) There is hereby created a board of miner training, education and certification, which shall consist of seven members, who shall be appointed in the following manner:

(1) One member shall be appointed to represent the viewpoint of surface mine operators in this state. When such member is to be appointed, the governor shall request from the major association representing surface coal operators in this state a list of three nominees to the board. The governor shall select from said nominees one person to serve on the board. For purposes of this subsection, the major association representing the surface coal operators in this state shall be deemed to be that
association, if any, which represents surface mine operators accounting for over one half of the coal produced in surface mines in this state in the year prior to that year in which the appointment is made.

(2) Two members shall be appointed to represent the interests of the underground operators of this state. When said members are to be appointed, the governor shall request from the major association representing the underground coal operators in this state a list of six nominees to the board. The governor shall select from said nominees two persons to serve on the board. For purposes of this subsection, the major association representing the underground operators in this state shall be deemed to be that association, if any, which represents underground operators accounting for over one half of the coal produced in underground mines in this state in the year prior to that year in which the appointments are made.

(3) Three members shall be appointed who can reasonably be expected to represent the interests of the working miners in this state. If the major employee organization representing coal miners in this state is divided into administrative districts, the employee organization of each district shall, upon request by the governor, submit a list of three nominees for membership on the board. If such major employee organization is not so divided into administrative districts, such employee organization shall, upon request by the governor, submit a list of twelve nominees for membership on the board. The governor shall make such appointments from the persons so nominated: Provided, That in the event nominations are made by administrative districts, not more than one member shall be appointed from the nominees of any one district unless there are less than three such districts in this state.

(4) The seventh member of the board, who shall serve as chairman, shall be a person selected and agreed upon by the six persons appointed by the governor.

(5) All appointments made by the governor under this
(b) The board hereby established shall be appointed by the governor within three months of the effective date of this act. As soon as the members of the board are appointed, the director of the department of mines shall call an organizational meeting of the board. At said meeting, all of the board members then appointed shall select a seventh member of the board to serve as chairman and draw lots to determine the length of the term they and the chairman shall serve. Three members shall serve for three years; two members shall serve for two years; and two members shall serve for one year. Thereafter, members shall serve for a term of three years. As so organized, the board shall meet at the call of the chairman, at the call of the director, or upon the request of any two members of the board: Provided, That no meeting of the board for any purpose shall be conducted unless the board members are notified at least five days in advance of a proposed meeting. In cases of an emergency, members may be notified of a board meeting by the most appropriate means of communication available.

(c) Whenever a vacancy on the board occurs, appointments shall be made in the manner prescribed in this section: Provided, That in the case of an appointment to fill a vacancy nominations shall be submitted to the governor within thirty days after the vacancy occurs. The vacancy shall be filled by the governor within thirty days of his receipt of the list of nominations.

(d) Each member of the board shall receive seventy-five dollars per diem while actually engaged in the performance of the work of the board and shall receive mileage at the rate of fifteen 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.

(e) A quorum of the board shall be four members; the board may act officially by a majority of those members who are present.

(f) The chairman of the board shall be a nonvoting member: Provided, That in cases of a tie, the chairman shall cast the deciding vote on the issue or issues under consideration.

(g) The director of the department of mines shall serve as the secretary to the board and shall be present or send an authorized representative to all meetings of the board.

§22-6A-5. Board powers and duties.

(a) The board shall establish criteria and standards for a program of education, training and examination to be required of all prospective miners and miners prior to their certification in any of the various miner specialties requiring certification, under this article or any other provision of this code. Such specialties include, but are not limited to underground miner, surface miner, apprentice, underground mine foreman—fire boss, assistant underground mine foreman—fire boss, shot firer, mine electrician and belt examiner.

(b) The board may require certification in other miner occupational specialties: Provided, That no new specialty may be created by the board unless certification in a new specialty is made desirable by action of the federal government requiring certification in a specialty not enumerated in this code.

(c) The board may establish criteria and standards for a program of pre-employment education and training to be required of miners working on the surface at underground mines who are not certified under the provisions of this article or any other provision of this code.

(d) The board shall set minimum standards for a program of continuing education and training of certified
persons and other miners on an annual basis. Prior to
issuing said standards, the board shall conduct public
hearings at which the parties that may be affected by its
actions may be heard. Such education and training shall
be provided in a manner determined by the director to be
sufficient to meet the standards established by the board.

(e) The board may, in conjunction with any state,
local or federal agency or any other person or institution,
provide for the payment of a stipend to prospective miners
enrolled in one or more of the programs of miner educa-
tion, training and certification provided for in this article
or any other provision of this code.

(f) The board may also from time to time conduct
such hearings and other oversight activities as may be
required to insure full implementation of programs es-
tablished by it.

(g) Nothing in this article shall be deemed to empower
the board to revoke or suspend any certificate issued by
the director or the department of mines.

(h) The board may, upon its own motion or whenever
requested so to do by the director, deem two certificates
issued by this state to be of equal value or deem training
provided or required by federal agencies to be sufficient
to meet training and education requirements set by it, the
director, or by the provisions of this code.

§22-6A-6. Duties of director and department.

The director shall be empowered to promulgate, pur-
suant to chapter twenty-nine-a of this code, such reason-
able rules and regulations as are necessary to establish
a program to implement the provisions of this article.
Such program shall include, but not be limited to im-
plementation of a program of instruction in each of the
miner occupational specialties and the conduct of examina-
tions to test each applicant's knowledge and understand-
ing of the training and instruction which he is required
to have prior to the receipt of a certificate.

The director is authorized and directed to utilize state
mine inspectors, mine safety instructors, the state mine
foreman examiner, private and public institutions of education and such other persons as may be available to him in implementing the program of instruction and examinations.

The director may, at any time, make such recommendations or supply such information to the board as he may deem appropriate.

The director is authorized and directed to utilize such state and federal moneys and personnel as may be available to the department for educational and training purposes in the implementation of the provisions of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

In effect July 1, 1974.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within [Acted on] this the 26th day of March, 1974.

[Signature]
Governor