WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1977

ENROLLED
Committee Substitute for
SENATE BILL NO. 285

(By Mr. Stover)

PASSED April 9, 1977
In Effect ninety days from Passage
AN ACT to amend article six, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-b; to amend and reenact sections one, two, four, eleven, thirteen, twenty, twenty-one and thirty, article one, chapter twenty-two of said code; to further amend article one of said chapter twenty-two by adding thereto one new section, designated section thirty-a; to amend and reenact sections seven, eight, twelve, thirteen, fourteen, twenty-six, thirty-seven, thirty-eight, forty, forty-two, forty-nine and sixty, article two of said chapter twenty-two; to further amend article two of said chapter twenty-two by adding thereto six new sections, designated sections twenty-eight-a, fifty-three-a, seventy-a, seventy-b, seventy-c and seventy-c1; to further amend chapter twenty-two, by adding thereto two new articles, designated article two-a and two-c; to amend and reenact section five, article six of said chapter; and to amend and reenact section five, article six-a of said chapter twenty-two, all relating to coal miners' health and safety; certification of surface mine foremen; definitions: duties of the director; contents of annual report; eligibility for appointment as mine inspector and qualifications and salary thereof; duties of inspectors and foremen and removal thereof; duties of mine foremen and assistant mine foremen; suspension of foremen; foremen suspended out of state; supervision of
apprentices; daily inspection of working places; records; safety inspection and removal of gases; roof control; equipment to conform with height of seam; haulage roads and equipment; transportation of men by cars; general provisions; telephone service or communication facilities; safeguards for mechanical equipment; creation of board of coal mine health and safety; power of the board to promulgate rules and regulations, rules and regulations not to be promulgated pursuant to chapter twenty-nine-a; outlets and emergency roadways; access roads; shafts, slopes and underground construction; right of miner to refuse to operate unsafe equipment; promulgation of regulation of long wall and short wall mining; construction of surface facilities; control of respirable dust; emergency medical personnel; definitions; permit of apprenticeship of underground mines; supervision of apprentices; certificate of competency and qualifications of underground or surface miners; limitations of article; board of miner training powers and duties; and providing for penalties thereof.

Be it enacted by the Legislature of West Virginia:

That sections one, two, four, eleven, thirteen, twenty-one and thirty, article one, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that sections seven, eight, twelve, thirteen, fourteen, twenty-six, thirty-seven, thirty-eight, forty, forty-two, forty-nine and sixty, article two of said chapter, be amended and reenacted; that section five, article six of said chapter, be amended and reenacted; that section five, article six-a of said chapter, be amended and reenacted; that article six, chapter twenty of said code, be amended by adding thereto a new section, designated section twenty-b; that article one, chapter twenty-two of said code, be further amended by adding thereto a new section, designated section thirty-a; that article two of said chapter be further amended by adding thereto six new sections, designated sections twenty-eight-a, fifty-three-a, seventy-a, seventy-b, seventy-c and seventy-d; and that said chapter twenty-two be further amended by adding thereto two new articles, designated article two-a and two-c, all to read as follows:
CHAPTER 20. NATURAL RESOURCES.

ARTICLE 6. SURFACE MINING AND RECLAMATION.

§20-6-20b. Certification of surface mine foremen.

(a) In every surface 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. Each applicant for certification as a mine foreman 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 three years' experience in surface mining, which shall include at least eighteen months' experience on or at a working section of a surface 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 a surface mine, which shall include at least eighteen months' experience on or at a working section of a surface mine; and (3) have demonstrated his knowledge of mine safety, first aid, safety appliances, emergency procedures relative to all equipment, 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 surface mines in which the operations are so extensive that the duties devolving upon the mine foreman cannot be discharged by one man, one or more assistant mine foremen may be designated. Such persons shall act under the instruction of the mine foreman 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 shall, at the time he is issued a certificate of competency, possess all of the qualifications required of a mine foreman: Provided, That he shall at the time he is certified be required to have at least two years' experience in surface mining, which shall include eighteen months on or at a working section of a surface 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 a surface mine, all of which shall have been on or at a working section.

(c) The director shall by the first day of July, one thousand nine hundred seventy-eight, promulgate such rules and regulations as may be necessary to carry out the provisions of this section.

CHAPTER 22. MINES AND MINERALS.

ARTICLE 1. ADMINISTRATION; ENFORCEMENT.

§22-1-1. Definitions.

1 Unless the context in which used clearly requires a different meaning, the following definitions shall apply to articles one and two of this chapter:

(a) General.

(1) Accident: The term "accident" shall mean any mine explosion, mine ignition, mine fire, or mine inundation, or injury to, or death of any person.

(2) Agent: The term "agent" means any person charged with responsibility for the operation of all or a part of a mine or the supervision of the miners in a mine.

(3) Approved: The term "approved" shall mean in strict compliance with mining law, or, in the absence of law, accepted by a recognized standardizing body or organization whose approval is generally recognized as authoritative on the subject.

(4) Face equipment: The term "face equipment" shall mean mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated in by the last open crosscut in an entry or room.

(5) Imminent danger: The term "imminent danger" means the existence of any condition or practice in a coal mine which could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated.
Mine: The term "mine" includes the shafts, slopes, drifts or inclines connected with, or intended in the future to be 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 or associated therewith which contribute directly or indirectly to the mining, preparation or handling of coal, or construction thereof.

Miner: The term "miner" shall mean any individual working in a coal mine.

Operator: The term "operator" shall mean any firm, corporation, partnership or individual operating any coal mine or part thereof, or engaged in the construction of any facility associated with a coal mine.

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 the bureau.

Person: The term "person" shall mean any individual, partnership, association, corporation, firm, subsidiary of a corporation or other organization.

Work of preparing the coal: The term "work of preparing the coal" shall mean the breaking, crushing, sizing, cleaning, washing, drying, mixing, storing and loading of bituminous coal or lignite, and such other work of preparing such coal as is usually done by the operator of the coal mine.

(b) Department of Mines.

Board of appeals: The term "board of appeals" shall mean as provided for in section thirty-one of this article.

Department: The term "department" shall mean the state department of mines provided for in section two of this article.
(3) 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.”

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

(5) Mine inspectors’ examining board: The term “mine inspectors’ examining board” shall mean the mine inspectors’ examining board provided for in section twelve of this article.

(c) Mine areas.

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

(2) Active workings: The term “active workings” shall mean all places in a mine that are ventilated and inspected regularly.

(3) Drift: The term “drift” shall mean a horizontal or approximately horizontal opening through the strata or in a coal seam and used for the same purposes as a shaft.

(4) Excavations and workings: The term “excavations and workings” shall mean any or all parts of a mine excavated or being excavated, including shafts, slopes, drifts, tunnels, entries, rooms and working places, whether abandoned or in use.

(5) Inactive workings: The term “inactive workings” shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned.

(6) Mechanical working section: The term “mechanical working section” shall mean an area of a mine (1) in which coal is loaded mechanically, (2) which is comprised of a number of working places that are generally
contiguous, and (3) which is of such size to permit necessary supervision during shift operation, including pre-shift and on-shift examinations and tests required by law.

(7) Panel: The term “panel” shall mean workings that are or have been developed off of submain entries which do not exceed three thousand feet in length.

(8) Return air: The term “return air” shall mean a volume of air that has passed through and ventilated all the working places in a mine section.

(9) Shaft: The term “shaft” shall mean a vertical opening through the strata that is or may be used for the purpose of ventilation, drainage, and the hoisting and transportation of men and material, in connection with the mining of coal.

(10) Slope: The term “slope” shall mean a plane or incline roadway, usually driven to a coal seam from the surface and used for the same purposes as a shaft.

(11) Working face: The term “working face” shall mean any place in a coal mine in which work of extracting coal from its natural deposit in the earth is performed during the mining cycle.

(12) Working place: The term “working place” shall mean the area of a coal mine inby the last open crosscut.

(13) Working section: The term “working section” shall mean all area of the coal mine from the loading point of the section to and including the working faces.

(14) Working unit: The term “working unit” shall mean an area of a mine in which coal is mined with a set of production equipment; a conventional mining unit by a single loading machine; a continuous mining unit by a single continuous mining machine, which is comprised of a number of working places.

(d) Mine Personnel,

(1) Assistant mine foreman: The term “assistant mine foreman” shall mean a certified 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.
Certified electrician: The term "certified electrician" shall mean any person who is qualified as a mine electrician and who has passed an examination given by the department of mines, or has at least three years of experience in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a noncoal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and has satisfactorily completed a coal mine electrical training program approved by the department of mines.

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 law to perform such duty.

Interested persons: The term "interested persons" shall include the operator, members of any mine safety committee at the mine affected and other duly authorized representative of the mine workers and department of mines.

Mine foreman: The term "mine foreman" shall mean the certified person whom the operator or superintendent shall place in charge of the inside workings of the mine and of the persons employed therein.

Qualified person: The term "qualified person" shall mean a person who has completed an examination and is considered qualified on record by the department of mines.

Shot firer: The term "shot firer" shall mean any person having had at least two years of practical experience in coal mines, who has a knowledge of ventilation, mine roof and timbering, and who has demonstrated his knowledge of mine gases, the use of a flame safety lamp, and other approved detecting devices by examination and certification given him by the department of mines.
(8) Superintendent: The term "superintendent" shall mean the person who shall have, on behalf of the operator, immediate supervision of one or more mines.

(9) 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.

(e) Electrical.

(1) Armored cable: The term "armored cable" shall mean a cable provided with a wrapping of metal, usually steel wires or tapes, primarily for the purpose of mechanical protection.

(2) Borehole cable: The term "borehole cable" shall mean a cable designed for vertical suspension in a borehole or shaft and used for power circuits in the mine.

(3) Branch circuit: The term "branch circuit" shall mean any circuit, alternating current or direct current, connected to and leading from the main power lines.

(4) Cable: The term "cable" shall mean a standard conductor (single conductor cable) or a combination of conductors insulated from one another (multiple conductor cable).

(5) Circuit breaker: The term "circuit breaker" shall mean a device for interrupting a circuit between separable contacts under normal or abnormal conditions.

(6) Delta connected: The term "delta connected" shall mean a power system in which the windings or transformers or a.c. generators are connected to form a triangular phase relationship, and with phase conductors connected to each point of the triangle.

(7) Effectively grounded: The term "effectively grounded" is an expression which means grounded through a grounding connection of sufficiently low impedance (inherent or intentionally added or both) so that fault grounds which may occur cannot build up
voltages in excess of limits established for apparatus, circuits or systems so grounded.

(8) Flame-resistant cable, portable: The term “flame-resistant cable, portable” shall mean a portable flame-resistant cable that has passed the flame tests of the federal bureau of mines.

(9) Ground or grounding conductor (mining): The term “ground or grounding conductor (mining)”, also referred to as a safety ground conductor, safety ground, and frame ground, shall mean a metallic conductor used to connect the metal frame or enclosure of any equipment, device or wiring system with a mine track or other effective grounding medium.

(10) Grounded (earthed): The term “grounded (earthed)” shall mean that the system, circuit, or apparatus referred to is provided with a ground.

(11) High voltage: The term “high voltage” shall mean voltages of more than one thousand volts.

(12) Lightning arrester: The term “lightning arrester” shall mean a protective device for limiting surge voltage on equipment by discharging or by passing surge current; it prevents continued flow of follow current to ground and is capable of repeating these functions as specified.

(13) Low voltage: The term “low voltage” shall mean voltages up to and including six hundred sixty volts.

(14) Medium voltage: The term “medium voltage” shall mean voltages from six hundred sixty-one to one thousand volts.

(15) Mine power center or distribution center: The term “mine power center or distribution center” shall mean a combined transformer or distribution unit, complete within a metal enclosure from which one or more low-voltage power circuits are taken.

(16) Neutral (derived): The term “neutral (derived)” shall mean a neutral point or connection established by
the addition of a "zig-zag" or grounding transformer to
a normally underground power system.
(17) Neutral point: The term "neutral point" shall
mean the connection point of transformer or generator
windings from which the voltage to ground is nominally
zero, and is the point generally used for system ground-
ings in wye-connected a.c. power system.
(18) Portable (trailing) cable: The term "portable
(trailing) cable" shall mean a flexible cable or cord used
for connecting mobile, portable or stationary equipment
in mines to a trolley system or other external source
of electric energy where permanent mine wiring is pro-
hibited or is impracticable.
(19) Wye-connected: The term "wye-connected" shall
mean a power system connection in which one end of
each phase windings or transformers or a.c. generators
are connected together to form a neutral point, and a
neutral conductor may or may not be connected to the
neutral point, and the neutral point may or may not be
grounded.
(20) Zig-zag transformer (grounding transformer):
The term "zig-zag transformer (grounding transformer)"
shall mean a transformer intended primarily to provide
a neutral point for grounding purposes.
§22-1-2. Department of mines; purposes; rules and regulations.
1 The department of mines heretofore created is hereby
continued and shall have as its purpose the supervision
of the execution and enforcement of the provisions of
this chapter and, in carrying out the aforesaid purposes,
it shall give prime consideration to the protection of the
safety and health of persons employed within or at the
mines of this state. In addition, the department shall,
consistent with the aforesaid prime consideration, pro-
tect and preserve mining property and property used in
connection therewith.
11 The department is hereby given authority, where au-
thorized and in the manner prescribed in this chapter,
to enact such rules and regulations as may be necessary
to effectuate the above stated purposes.
§22-1-4. Director of the department of mines—powers and duties.

1. The director of the department of mines shall have full charge of the department. He shall have the power and duty to:

2. (1) Supervise and direct the execution and enforcement of the provisions of this chapter.

3. (2) Appoint a deputy director of the department of mines, fix his compensation and prescribe his powers and duties.

4. (3) Employ such assistants, clerks, stenographers and other employees as may be necessary to fully and effectively carry out the provisions of this law and fix their compensation, except as otherwise provided in this article.

5. (4) Employ mine inspectors, and assign them to divisions or districts in accordance with the provisions of section seven of this article as may be necessary to fully and effectively carry out the provisions of this law, including the hiring and training of inspectors for the specialized requirements of surface mining, shaft and slope sinking, and surface installations and to supervise and direct such mine inspectors in the performance of their duties.

6. (5) Suspend, for good cause, any mine inspector without compensation for a period not exceeding thirty days in any calendar year.

7. (6) Prepare report forms to be used by mine inspectors in making their findings, orders and notices, upon inspections made in accordance with this chapter.

8. (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.

9. (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 and the Legislature of the state for the year ending the thirtieth day of June. 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 including the causes of injuries and deaths, improvements made, prosecutions, the total funds of the department from all sources identifying each source of such funds, the expenditures of the department, the surplus or deficit of the department at the beginning and end of the year, the amount of fines collected, the amount of fines imposed, the value of fines pending, the number and type of violations found, the amount of fines imposed, levied and turned over for collection, the total amount of fines levied but not paid during the prior year, the titles and salaries of all inspectors and other officials of the department, the number of inspections made by each inspector, the number and type of violations found by each inspector: Provided, That no inspector shall be identified by name in this report. Such reports shall be filed with the governor and the Legislature on or before the thirty-first day of December of the same year for which it was made, and shall upon proper authority be printed and distributed to interested persons.

(10) Call or subpoena witnesses, for the purpose of conducting hearings into mine fires, mine explosions or any mine accident; to administer oaths and to require production of any books, papers, records, or other documents relevant or material to the hearing. Any witness so called or subpoenaed shall receive forty dollars per diem and shall receive mileage at the rate of fifteen cents for each mile actually traveled, which shall be paid out of the state treasury upon a requisition upon the state auditor, properly certified by such witness.

(11) Institute civil actions for relief, including permanent or temporary injunctions, restraining orders, or
any other appropriate action in the appropriate federal
or state court whenever any operator or his agent violates
or fails or refuses to comply with any lawful order,
otice or decision issued by the director or his rep-
resentative.

(12) Perform all other duties which are expressly
imposed upon him by the provisions of this chapter.

(13) Make all records of the department open for
inspection of interested persons and the public.

§22-1-11. Eligibility for appointment as mine inspector; qual-
ifications; salary and expenses; removal.

(a) No person shall be eligible for appointment as a
mine inspector unless, at the time of his probationary
appointment, he (1) is a citizen of West Virginia, in good
health, not less than twenty-four nor more than sixty
years of age, and of good character, reputation and tem-
perate habits; (2) has had at least six years' practical
experience in coal mines, at least three years of which,
immediately preceding his original appointment, shall
have been in mines of this state: Provided, That gradu-
ation from any accredited college of mining engineering
shall be considered the equivalent of two years' practical
experience; (3) has had practical experience with dan-
gerous 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 in-
spector, an eligible applicant shall submit to a written
and oral examination by the mine inspectors' examin-
ing 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 ex-
aminations, with a grade of at least eighty 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 district inspectors shall not be less than fifteen thousand three hundred dollars per year, with graduations of two hundred seventy dollars annually for a ten-year period; assistant inspector-at-large, not less than sixteen thousand eight hundred seventy-five dollars per year, with graduations of two hundred seventy dollars annually for a ten-year period; inspectors-at-large, not less than eighteen thousand dollars per year, with graduations of two hundred seventy dollars annually for a ten-year period, and they shall receive mileage at the rate of not less than fifteen cents for each mile actually traveled in the discharge of their official duties in a privately owned vehicle. 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 and experience. No reimbursement for traveling expenses shall be made except on 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. Every inspector shall be afforded compensatory time or compensation of at least his regular rate for all time in excess of forty-two hours per week.

(d) Any mine inspector who has fulfilled the requirements of this section with respect to employment and who has served satisfactorily as a mine inspector for a minimum period of one year and who has terminated his employment as a mine inspector, upon successfully passing a physical examination, may be reinstated as a mine inspector within two years after terminating his employment with the approval of the examining board and the director of the department of mines.

(e) A mine inspector, after having received a permanent appointment, shall be removed from office only for physical or mental impairment, incompetency, neglect
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 alleged 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 willfully 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.

§22-1-13. Director and inspectors authorized to enter mines; duties of inspectors to examine mines; no advance notice; reports after fatal accidents.

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 whenever 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.

If miners at any mine or one of their authorized representatives have reason to believe that dangerous conditions are existing or that the law is not being complied with, they may request the director to have an immediate investigation made.

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 four times annually, 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, with no advance notice of inspection provided to any person, and they shall make a personal examination of each working face and all entrances to abandoned parts of the mine where gas is known to liberate, for the purpose of determining whether a danger, described in section fourteen of this article, exists in any such mine, or whether any provision of
article two of this chapter is being violated or has been violated within the past forty-eight hours in any such mine.

In addition to the other duties imposed by articles one and two of this chapter, it shall be the duty of each inspector to note each violation he finds and issue a finding order or notice, as appropriate for each violation so noted. During the investigation of any accident, any violation may be noted whether or not the inspector actually observes the violation and whether or not the violation exists at the time the inspector notes the violation, so long as the inspector has clear and convincing evidence the violation has occurred or is occurring.

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; 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.

At the commencement of any inspection of a coal mine by an authorized representative of the director, the authorized representative of the miners at the mine at the time of such inspection shall be given an opportunity to accompany the authorized representative of the director on such inspection.

§22-1-20. Penalties.

(a) (1) Any operator of a coal mine in which a violation occurs of any health or safety rule or regulation or who violates any other provision of this law, shall be assessed a civil penalty by the director under subdivision (3) of this subsection, which penalty shall be not more than three thousand dollars, for each such violation. Each such violation shall constitute a separate offense. In determining the amount of the penalty, the director shall consider the operator's history of previous violations, the appropriateness of such penalty to the size of the business of the operator charged, the gravity of the violation and
the demonstrated good faith of the operator charged in
attempting to achieve rapid compliance after notification
of a violation.

(2) Any miner who knowingly violates any health or
safety provision of this chapter or health or safety rule or
regulation promulgated pursuant to this chapter shall be
subject to a civil penalty assessed by the director under
subdivision (3) of this subsection which penalty shall not
be more than two hundred fifty dollars for each occurrence
of such violation.

(3) A civil penalty shall be assessed by the director
only after the person charged with a violation under this
chapter or rule or regulation promulgated pursuant to
this chapter has been given an opportunity for a public
hearing and the director has determined, by a decision
incorporating his findings of fact therein, that a violation
did occur, and the amount of the penalty which is war-
ranted, and incorporating, when appropriate, an order
therein requiring that the penalty be paid. Any hearing
under this section shall be of record.

(4) If the person against whom a civil penalty is
assessed fails to pay the penalty within the time pre-
scribed in such order, the director shall file a petition for
enforcement of such order in any appropriate circuit
court. The petition shall designate the person against
whom the order is sought to be enforced as the respon-
dent. A copy of the petition shall forthwith be sent by
certified mail, return receipt requested, to the respondent
and to the representative of the miners at the affected
mine or the operator, as the case may be, and thereupon
the director shall certify and file in such court the record
upon which such order sought to be enforced was
issued. The court shall have jurisdiction to enter a
judgment enforcing, modifying, and enforcing as so modi-
ied, or setting aside in whole or in part the order and
decision of the director or it may remand the proceedings
to the director for such further action as it may direct.
The court shall consider and determine de novo all rele-
vant issues, except issues of fact which were or could
have been litigated in review proceedings before a circuit
court under section eighteen of this article, and upon the
request of the respondent, such issues of fact which are in
dispute shall be submitted to a jury. On the basis of the
jury's findings the court shall determine the amount of
the penalty to be imposed. Subject to the direction and
control of the attorney general, attorneys appointed for
the director may appear for and represent him in any
action to enforce and order assessing civil penalties under
this subdivision.

(b) Any operator who knowingly violates a health or
safety provision of this chapter or health or safety rule or
regulation promulgated pursuant to this chapter, or
knowingly violates or fails or refuses to comply with any
order issued under section fourteen of this article, or any
order incorporated in a final decision issued under this
article, except an order incorporated in a decision under
subsection (a) of this section or subsection (b), section
twenty-one of this article, shall be assessed a civil penalty
by the director under subdivision (3) of subsection (a) of
this section, of not more than five thousand dollars, and
for a second or subsequent violation assessed a civil
penalty of not more than ten thousand dollars.

(c) Whenever a corporate operator knowingly violates
a health or safety provision of this chapter or health or
safety rules or regulation promulgated pursuant to this
chapter, or knowingly violates or fails or refuses to com-
ply with any order issued under this law or any order
incorporated in a final decision issued under this law,
except an order incorporated in a decision issued under
subsection (a) of this section or subsection (b), section
twenty-one of this article, any director, officer, or agent of
such corporation who knowingly authorized, ordered, or
carried out such violation, failure, or refusal shall be
subject to the same civil penalties that may be imposed
upon a person under subsections (a) and (b) of this
section.

(d) Whoever knowingly makes any false statement,
representation or certification in any application, record,
report, plan or other document filed or required to be
maintained pursuant to this law or any order or de-
cision issued under this law shall be guilty of a misde-
meanor, and, upon conviction thereof, shall be fined not
more than five thousand dollars or imprisoned in the
county jail not more than six months, or both fined and
imprisoned. The conviction of any person under this
subsection shall result in the revocation of any certifica-
tions held by him under this chapter which certify him
or authorized him to direct other persons in coal mining
by operation of law and shall bar him from being issued
any such license under this chapter, except a miner's certi-
fication, for a period of not less than one year or for such
longer period as may be determined by the director.

(e) Whoever willfully distributes, sells, offers for sale,
introduces or delivers in commerce any equipment for
use in a coal mine, including, but not limited to, compo-
nents and accessories of such equipment, who willfully
misrepresents such equipment as complying with the
provisions of this law, or with any specification or regula-
tion of the director applicable to such equipment, and
which does not so comply, shall be guilty of a misde-
meanor, and, upon conviction thereof, shall be subject
to the same fine and imprisonment that may be imposed
upon a person under subsection (d) of this section.


(a) No person shall discharge or in any other way dis-
criminate against or cause to be discharged or dis-
criminated against any miner or any authorized repre-
sentative of miners by reason of the fact that he believes
or knows that such miner or representative (1) has
notified the director, his authorized representative, or
an operator, directly or indirectly, of any alleged viola-
tion or danger, (2) has filed, instituted or caused to be
filed or instituted any proceeding under this law, (3) has
tested or is about to testify in any proceeding resulting
from the administration or enforcement of the provisions
of this law. No miner or representative shall be dis-
charged or in any other way discriminated against or
causd to be discriminated against because a miner or
representative has done (1), (2) or (3) above.
(b) Any miner or a representative of miners who believes that he has been discharged or otherwise discriminated against, or any miner who has not been compensated by an operator for lost time due to the posting of a withdrawal order, may, within thirty days after such violation occurs, apply to the appeals board for a review of such alleged discharge, discrimination, or failure to compensate. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the appeals board shall cause such investigation to be made as it deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Mailing of the notice of hearing to the charged party at his last address of record as reflected in the records of the department of mines shall be deemed adequate notice to the charged party. Such notice shall be by certified mail, return receipt requested. Any such hearing shall be of record. Upon receiving the report of such investigation, the board shall make findings of fact. If it finds that such violation did occur, it shall issue a decision within forty-five days, incorporating an order therein, requiring the person committing such violation to take such affirmative action to abate the violation as the board deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner or representative of miners to his former position with back pay, and also pay compensation for the idle time as a result of a withdrawal order. If it finds that there was no such violation, it shall issue an order denying the application. Such order shall incorporate the board’s findings therein. If the proceedings under this section relative to discharge are not completed within forty-five days of the date of discharge due to delay caused by the operator, the miner shall be automatically reinstated until the final determination. If such proceedings are not completed within forty-five days of the date of discharge due to delay caused by the board, then the board may, at its option, reinstate the miner until the final determination.
If such proceedings are not completed within forty-five days of the date of discharge due to delay caused by the miner the board shall not reinstate the miner until the final determination.

(c) Whenever an order is issued under this section, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses including the attorney's fees as determined by the board to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

§22-1-30. Withdrawal of certification.

(a) Charge of breach of duty—A mine inspector or the director may charge a mine foreman, assistant mine foreman, fire boss or any other certified person with neglect or failure to perform any duty mandated pursuant to article one or two of this chapter. The charge shall state the name of the person charged, the duty or duties he is alleged to have violated, the approximate date and place so far as is known of the violation of duty, the capacity of the person making the charge, and shall be verified on the basis of information and belief or personal knowledge. The charge is initiated by filing it with the director or with the board of appeals. A copy of any charge filed with the board of appeals or any member thereof, shall be transmitted promptly to the director. The director shall maintain a file of each charge and of all related documents which shall be open to the public.

(b) Evaluation of charge by board of appeals—Within twenty days after receipt of the charge the board shall evaluate the charge and determine whether or not a violation of duty has been stated. In making such a determination the board shall evaluate all documents submitted to it by all persons to determine as nearly as possible the substance of the charge and if the board of appeals is unable to determine the substance of the charge it may request the director to investigate the charge. Upon request, the director shall investigate the charge and report the results of the investigation to the
board of appeals within ten days of his receipt of the charge. If the board determines that probable cause exists to support the allegation that the person charged has violated his duty, the board by the end of the twenty-day period shall set a date for hearing which date shall be within eighty days of the filing of the charge. Notice of the hearing or notice of denial of the hearing for failure to state a charge and a copy of the charge shall be mailed by certified mail, return receipt requested, to the charging party, the charged party, the director, the representative of the miner or miners affected, and to any interested person of record. Thereafter the board shall maintain the file of the charge which shall contain all documents, testimony and other matters filed which shall be open for public inspection.

(c) Hearing—The board of appeals shall hold a hearing, may appoint a hearing examiner to take evidence and report to the board of appeals within the time allotted, may direct or authorize taking of oral depositions under oath by any participant, or adopt any other method for the gathering of sworn evidence which affords the charging party, the charged party, the director and any interested party of record due process of law and a fair opportunity to present and make a record of evidence. Any member of the board shall have the power to administer oaths. The board may subpoena witnesses and require production of any books, papers, records, or other documents relevant or material to the inquiry. The board shall consider all evidence offered in support of the charge and on behalf of the persons so charged at the time and place designated in the notice. Each witness shall be sworn and a transcript shall be made of all evidence presented in any such hearing. No continuance shall be granted except for good cause shown.

At the conclusion of the hearing the board shall proceed to determine the case upon consideration of all the evidence offered and shall render a decision containing its findings and conclusions of law. If the board finds by a preponderance of the evidence that the certificate or certificates of the charged person should be suspended or revoked, as hereinafter provided, it shall enter an order
to that effect. No renewal of the certificate shall be granted except as herein provided.

(d) Failure to cooperate—Any person charged who shall, without just cause refuse or fail to appear before the board or cooperate in the investigation or gathering of evidence shall forfeit his certificate or certificates for a period to be determined by the board, not to exceed five years, and such certificate or certificates may not be renewed except upon a successful completion of the examination prescribed by the law for mine foremen, assistant mine foremen, fire boss or other certified person.

(e) Penalties—The board may suspend or revoke the certificate or certificates of a charged party for a minimum of thirty days or more including an indefinite period or may revoke permanently the certificate or certificates of the charged party, as it sees fit, subject to the prescribed penalties and monetary fines imposed elsewhere in this chapter.

(f) Integrity of penalties imposed—No person whose certification is suspended or revoked under this provision can perform any duties under any other certification issued under chapter twenty or twenty-two of this code, during the period of the suspension imposed herein.

(g) Any party adversely affected by a final order or decision issued by the board hereunder shall be entitled to judicial review thereof pursuant to section four, article five, chapter twenty-nine-a of this code.

§22-1-30a. Certification of mine foreman or assistant mine foreman whose license to engage in similar activities suspended in another state.

Any person whose license, certificate or similar authority to perform any supervisory or fire boss duties in another state has been suspended or revoked by that state cannot be certified under any provision of this chapter during the period of such suspension or revocation in the other state.
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 or be a graduate of an accredited engineering school with a bachelor's degree in mining engineering technology, electrical, mechanical or civil engineering; 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; or be a graduate of an accredited college or university with an associate degree in mining, electrical, mining engineering technology, mechanical engineering or civil engineering and have had at least four 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 foremen—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 or be a graduate of an accredited engineering school with a bachelor's degree in mining engineering technology, electrical, mechanical or civil engineering; and have had twelve months' practical experience in an underground mine, all of which shall have been on or at a working section or be a graduate of an accredited college or university with an associate degree in mining, electrical, mining engineering technology, mechanical or civil engineering 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.

(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 boss shall be performed by persons certified as underground mine foreman—fire boss or an assistant underground mine foreman—fire boss.

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.

§22-2-8. Duties; ventilation; loose coal, slate or rocks; props; drainage of water; man doors; instruction of apprentice miners.

(a) The duties of the 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 break-throughs are made so as to ventilate properly 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 prevent 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 ventilation current. The mine foreman or other certi-
sied persons designated by him, shall measure the air

current with an anemometer or other approved device at

least weekly 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.

(b) After the effective date of this article, hinged man
doors, at least thirty inches square or the height of the
coal seam, shall be installed between the intake and
return at intervals of three hundred feet when the height
of the coal is below forty-eight inches and at intervals of
five hundred feet when the height of the coal is above
forty-eight inches.

(c) The duties of the mine foreman and assistant mine
foreman shall include the instruction of apprentice min-
ers in the hazards incident to any new work assignments;
to assure that any individual given a work assignment in
the working face without prior experience on the face is
instructed in the hazards incident thereto and supervised
by a miner with experience in the tasks to be performed.

§22-2-12. Instruction of employees; annual examination of
persons using flame safety lamps; records of ex-
amination; and supervision of apprentices.

The department of mines shall prescribe and establish
a course of instruction in mine safety and particularly
in dangers incident to such employment in mines and in
mining laws and rules, which course of instruction shall
be successfully completed within twelve weeks after any
person shall be first employed as a miner. It shall further
be the duty and responsibility of the department of mines
to see that such course shall be given to all persons as
above provided after their first being employed in any
mine in this state.

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 particular danger incident to his work in such mine,
16 and be furnished a copy of the mining laws and rules of
17 such mine. It shall be the duty of every mine operator
18 who employs apprentices, as that term is used in sections
19 three and four of article six of this chapter, to insure that
20 the apprentices are effectively supervised with regard to
21 safety practices and to instruct apprentices in safe mining
22 practices. Every apprentice shall work under the direction
23 of the mine foreman or his assistant mine foreman and
24 they shall be responsible for his safety. The mine foreman
25 or assistant mine foreman may delegate the supervision
26 of an apprentice to an experienced miner, but the fore-
27 man and his assistant mine foreman shall remain re-
28 sponsible for the apprentice. During the first ninety days of
29 employment in a mine, the apprentice shall work within
30 sight and sound of the mine foreman, assistant mine fore-
31 man, or an experienced miner, and in such a location
32 that the mine foreman, assistant mine foreman or ex-
33 perienced miner can effectively respond to cries for help
34 of the apprentice. Such location shall be on the same side
35 of any belt, conveyor or mining equipment.
36 Persons whose duties require them to use a flame
37 safety lamp or other approved methane detectors shall
38 be examined at least annually as to their competence by
39 a qualified official from the West Virginia department of
40 mines and a record of such examination shall be kept by
41 the operator and the department of mines. Flame safety
42 lamps and other approved methane detectors shall be
43 given proper maintenance and shall be tested before each
44 working shift. Each operator shall provide for the proper
45 maintenance and care of the permissible flame safety
46 lamp or any other approved device for detecting methane
47 and oxygen deficiency by a person trained in such
48 maintenance, and, before each shift, care shall be taken
49 to insure that such lamp or other device is in a permis-
50 sible condition.


1 Before the beginning of any shift upon which they
2 shall perform supervisory duties, the mine foreman or
3 his assistant shall review carefully and countersign all
4 books and records reflecting the conditions and the areas
The mine foreman, assistant mine foreman or fire boss shall visit and carefully examine each working place in which miners will be working at the beginning of each shift before any face equipment is energized and shall examine each working place in the mine at least once every two hours each shift while such miners are at work in such places, and shall direct that each working place shall be secured by props, timbers, roof bolts, or other approved methods of roof support or both where necessary to the end that the working places shall be made safe. The mine foreman or his assistants upon observing a violation or potential violation of article two of this chapter or any regulation or any plan or agreement promulgated or entered into thereunder shall arrange for the prompt correction thereof. The foreman shall not permit any miner other than a certified foreman, fire boss, assistant mine foreman, assistant mine foreman—fire boss or pumper to be on a working section by himself. 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 person designated for that purpose.

He shall place his initials, time and the date at or near each place he examines. He shall also record any dangerous conditions and practices found during his examination in a book provided for that purpose.


It shall be the duty of the mine foreman, assistant mine foreman or fire boss to examine all working places under his supervision for hazards at least once every two hours during each coal-producing shift, or more often if necessary for safety. In all mines such examinations shall include tests with an approved detector for methane and oxygen deficiency and may also include tests with a permissible flame safety lamp. 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 accumu-
lations of explosive or noxious gases in the worked out
and abandoned portions of the mine. It shall be the
duty of the mine foreman, assistant mine foreman or
fire boss to examine each mine within three hours prior
to the beginning of a shift and before any miner in such
shift enters the active workings of the mine.

§22-2-26. Roof control programs and plans.

(a) Each operator shall undertake to carry out on a
continuing basis a program to improve the roof control
system of each coal mine and the means and measures
to accomplish such system. The roof and ribs of all
active underground roadways, travelways, and working
places shall be supported or otherwise controlled ade-
quately to protect persons from falls of the roof or ribs.
A roof control plan and revisions thereof suitable to the
roof conditions and mining systems of each coal mine and
approved by the director of the department of mines
shall be adopted and set out in printed form before new
operations. The safety committee of the miners of each
mine where such committee exists shall be afforded the
opportunity to review and to submit comments and
recommendations to the director and operator concerning
the development, modification or revision of such roof
control plans. The plan shall show the type of support
and spacing approved by the director. Such plan shall
be reviewed periodically, at least every six months by
the director, taking into consideration any falls of roof
or rib or inadequacy of support of roof or ribs. A copy
of the plan shall be furnished to the director of the
department of mines or his authorized representative
and shall be available to the miners and their representa-
tives.

(b) The operator, in accordance with the approved
plan, shall provide at or near each working face and at
such other locations in the coal mine, as the director may
prescribe, an ample supply of suitable materials of proper
size with which to secure the roof thereof of all working
places in a safe manner. Safety posts, jacks, or other
Approved devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof bolt holes are being drilled, roof bolts are being installed, and in such other circumstances as may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. When overhangs or brows occur along rib lines they shall be promptly removed. All sections shall be maintained as near as possible on center. Except in the case of recovery work, supports knocked out shall be replaced promptly. Apprentice miners shall not be permitted to set temporary supports on a working section without the direct immediate supervision of a certified miner.

(c) The operator of a mine has primary responsibility to prevent injuries and deaths resulting from working under unsupported roof. Every operator shall require that no person may proceed beyond the last permanent support unless adequate temporary support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miners.

(d) The immediate supervisor of any area in which unsupported roof is located shall not direct or knowingly permit any person to proceed beyond the last permanent support unless adequate temporary support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miners.

(e) No miner shall proceed beyond the last permanent support in violation of a direct or standing order of an operator, a foreman or an assistant foreman, unless adequate temporary support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miner.

(f) The immediate supervisor of each miner who will be engaged in any activity involving the securing of roof or rib during a shift shall, at the onset of any such shift, orally review those parts of the roof control plan...
relevant to the type of mining and roof control to be
pursued by such miner. The time, and parts of the plan
reviewed shall be recorded in a log book kept for such
purpose. Each log book entry so recorded shall be signed
by such immediate supervisor making such entry.

(g) Any action taken against a miner due in whole or
in part to his refusal to work under unsupported roof,
where such work would constitute a violation of this
section, is prohibited as an act of discrimination pursuant
to section twenty-one, article one of this chapter. Upon
a finding of discrimination by the appeals board pur-
suant to section twenty-one (b) of article one of this
chapter, the miner shall be awarded by the appeals board
all reliefs available pursuant to section twenty-one
(b) and section twenty-one (c) of article one of this
chapter.

§22-2-28a. Equipment to conform with height of seam.
1 The use of underground mining equipment of a size
that does not conform to the height of the seam being
mined, which creates unsafe working conditions for the
miner operating the equipment or others, is prohibited.
The board of coal mine health and safety shall promulgate
such rules and regulations as are necessary to effectuate
this section.

§22-2-37. Haulage roads and equipment; shelter holes; pro-
hibited practices; signals; inspection.
1 (a) The roadbed, rails, joints, switches, frogs and other
elements of all haulage roads shall be constructed, in-
stalled and maintained in a manner consistent with speed
and type of haulage operations being conducted to insure
safe operation. Where transportation of personnel is
exclusively by rail, track shall be maintained to within
five hundred feet of the nearest working face.

(b) 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.

(c) Haulage roads on entries developed after the effec-
tive date of this article shall have a continuous, un-
obstructed clearance of at least twenty-four inches from the farthest projection of any moving equipment on the clearance side.

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

(e) On the trolley wire or "tight" side, after the effective date of this article, there shall be at least twelve inches of clearance from the farthest projection of any moving equipment.

(f) Warning lights or reflective signs or tapes shall be installed along haulage roads at locations of abrupt or sudden changes in the overhead clearance.

(g) The clearance space on all haulage roads shall be kept free of loose rock, coal, supplies or other material: Provided, That not more than twenty-four inches need be kept free of such obstructions.

(h) Ample clearance shall be provided at all points where supplies are loaded or unloaded along haulage roads or conveyors, which in no event shall be less than twenty-four inches.

(i) 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 one hundred feet apart; they shall be on the side of the entry opposite the trolley wire: Provided, That where belt haulage and secondary track haulage are located in the same entry, shelter holes may be on the trolley wire and feeder wire side if the trolley wire and feeder wire are guarded in a manner approved by the director of the department of mines.

(j) 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.

(k) Shelter holes shall be kept clear of refuse and other obstructions.
(l) After the effective date of this article, shelter holes shall be provided at switch throws and manually operated permanent doors.

(m) 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.

(n) Underground equipment powered by internal combustion engines using petroleum products, alcohol, or any other compound shall not be used in a coal mine.

(o) Locomotives, personnel carriers, mine cars, supply cars, shuttle cars, and all other haulage equipment shall be maintained in a safe operating condition. Each locomotive, personnel carrier, barrier tractor and other related equipment shall be equipped with a suitable lifting jack and handle. An audible warning device and head-lights 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 approved device so as to reduce the possibility of collision.

(p) 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. Where pusher locomotives are not used, the locomotive operator shall have an assistant to assist him in his duties.

(q) The pushing of trips, except for switching purposes, is prohibited on main haulage roads: Provided, That nothing herein shall prohibit the use of a pusher locomotive to assist the locomotive pulling a trip. 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, 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 person except the operator
or his assistant shall ride on locomotives or loaded cars.
An empty car or cars shall be used to provide a safe
distance between the locomotive and the material car
when rail, pipe or longtimbers are being hauled. A safe
clearance shall be maintained between the end car of
trips placed on side tracks and moving traffic. On haulage
roads the clearance point shall be marked with an ap-
proved device.

(r) 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.

(s) 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.

(t) (1) 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
equipment.

(2) In any coal mine where more than three hundred
fifty tons of coal are produced on any shift in each twenty-
four hour period, a dispatcher shall be on duty when
there are movements of track equipment underground,
including time when there is no production of coal. Such
traffic shall move only at the direction of the dispatcher.

(3) The dispatcher's only duty shall be to direct
traffic. Where a dispatcher is employed, no person shall
move a locomotive, personnel carrier or self-propelled
equipment on or onto haulageways without instructions
from the dispatcher.

(4) Any dispatcher's station provided after the effec-
tive date of this article shall be on the surface.
(5) All self-propelled track equipment shall be equipped with two-way communications.

(u) Motormen shall inspect locomotives, and report any mechanical defects found to the proper supervisor before a locomotive is put in operation.

(v) A locomotive following another trip shall maintain a distance of at least three hundred feet from the rear end of the trip ahead, unless such locomotive is coupled to the trip ahead.

(w) Positive stopblocks or derails shall be installed on all tracks near the top and at landings of shafts, slopes, and surface inclines. Positive-acting stopblocks or derails shall be used where necessary to protect persons from danger of runaway haulage equipment.

(x) Shuttle cars shall not be altered by the addition of sideboards so as to inhibit the view of the operator.

(y) Mining equipment shall not be parked within fifteen feet of a check curtain or fly curtain.

§22-2-38. Transportation of men by cars; self-propelled equipment; belts.

(a) 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. 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, a locomotive shall be used on each end of the trip.

(b) Cars on the man trip shall not be overloaded, and sufficient cars in good mechanical condition shall be provided. Sufficient space shall be afforded so that no miner shall have to be transported in a hazardous position.

(c) No person shall ride under the trolley wire unless the man cars used are suitably covered and insulated. No person shall ride on loaded timber cars, loaded supply trucks, empty timber cars or empty supply trucks which
are not equipped with side guards, on top of locomotives, on chain conveyors, inside shuttle cars, on the tops of machinery or equipment, or on the sides of machinery or equipment, except for operators of such machinery or equipment.

(d) 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.

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

(f) The belt speed shall not exceed two hundred 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.

(g) 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 cross over belts, adequate and safe facilities shall be provided.

(h) Positive-acting stop controls shall be installed along all belt conveyors used to transport men, and such controls shall be readily accessible, and maintained so that the belt can be stopped or started at any location.

(i) Belt conveyors used for man trips shall be stopped while men are loading or unloading.

(j) There shall be at least thirty-six inches of side clearance where men board or leave such belt conveyors.
(k) Adequate illumination including colored lights or reflective signs shall be installed at all loading and unloading stations. Such colored lights and reflective signs shall be so located as to be observable to all persons riding the belt conveyor.

(l) Telephone or other suitable communications shall be provided at points where men are regularly loaded on or unloaded from belt conveyors.

(m) After supplies have been transported on man trip cars, such cars shall be examined for unsafe conditions prior to the transportation of men.

(n) While trackmen are working on haulageways, the dispatcher, or if there is no dispatcher, such other person responsible for communications with haulage crews shall give notice to haulage crews to maintain traffic under a slow and safe operating speed at the point of construction or repair.


1. (a) Operators of coal mines in which electricity is used as a means of power shall comply with the following provisions:

   (1) 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.

   (2) Underground transformers shall be air cooled or cooled with noninflammable liquid or inert gas.

   (3) Underground stations containing circuit breakers filled with inflammable liquids shall be put on a separate split of air or ventilated to the return air, and shall be of fireproof construction.

   (4) Transformers shall be provided with adequate overload protection.
(5) "Danger—High Voltage" signs with the voltage indicated shall be posted conspicuously on all transformer enclosures, high-potential switchboards and other high-potential installations.

(6) Dry insulating platforms of rubber or other suitable nonconductive material shall be kept in place at each switchboard and at stationary machinery where shock hazards exist.

(7) Capacitors used for power factor connection shall be nonflammable liquid filled. Suitable drain-off resistors or other means to protect workman against electric shock following removal of power shall be provided.

(8) All unattended underground loading points where electric driven hydraulic systems are used shall utilize a fireproof oil or emulsion.

(9) Before electrical changes are made to permissible equipment for use in a mine, they shall be approved by the director of the department of mines.

(10) Reverse current protection shall be provided at storage battery charging stations to prevent the storage batteries from energizing the power circuits in the event of power failure.

(11) In all mines all junction or distribution boxes used for making multiple power connections inby the last open crosscut shall be permissible.

(12) All hand-held electric drills, blower and exhaust fans, electric pumps, and such other low horsepower electric face equipment which are taken into or used inby the last open crosscut of any coal mine shall be permissible.

(13) All electric face equipment which is taken into or used inby the last open crosscut of any coal mine shall be permissible.

The phrase "coal seams above the water table" means coal seams in a mine which are located at an elevation above a river or the tributary of a river into which a local surface water system naturally drains.
(14) In mines operated in coal seams which are located at elevations above the water table.

(15) The operator of each coal mine shall maintain in permissible condition all electric face equipment, which is taken into or used in by the last open crosscut of any mine.

(16) Except where permissible power connection units are used, all power-connection points out by the last open crosscut shall be in intake air.

(17) All power circuits and electric equipment shall be deenergized before work is done on such circuits and equipment, except when necessary for trouble shooting or testing.

(18) Energized trolley wires may be repaired only by a person trained to perform electrical work and to maintain electrical equipment and the operator of a mine shall require that such persons wear approved and tested insulated shoes and wireman's gloves.

(19) No electrical work shall be performed on low-, medium-, or high-voltage distribution circuits or equipment, except by a qualified person or by a person trained to perform electrical work and to maintain electrical equipment under the direct supervision of a qualified person. Disconnecting devices shall be locked out and suitably tagged by the persons who perform such work, except that in cases where locking out is not possible, such devices shall be opened and suitably tagged by such persons who installed them, or, if such persons are unavailable, by persons authorized by the operator or his agent.

(20) All electric equipment shall be examined weekly, tested, and properly maintained by a qualified person to assure safe operating conditions. When a potentially dangerous condition is found on electric equipment, such equipment shall be removed from service until such condition is corrected. A record of such examinations shall be kept and made available to an authorized representative of the director of the department of mines and to the miners in such mine.
All electric conductors shall be sufficient in size and have adequate current-carrying capacity and be of such construction that a rise in temperature resulting from normal operation will not damage the insulating material.

All electrical connections or splices in conductors shall be mechanically and electrically efficient, and suitable connectors shall be used. All electrical connections or splices in insulated wire shall be reinsulated at least to the same degree of protection as the remainder of the wire.

Cables shall enter metal frames of motors, splice boxes, and electric compartment only through proper fittings. When insulated wire, other than cables pass through metal frames, the holes shall be substantially bushed with insulated bushings.

All power wire (except trailing cables on mobile equipment, specially designed cables conducting high-voltage power to underground rectifying equipment or transformers, or bare or insulated ground and return wires) shall be supported on well-installed insulators and shall not contact combustible material, roof or ribs.

Power wires and cables, including but not limited to phone communication and control wires, except trolley wires, trolley feeder wires and bare signal wires, shall be insulated adequately and fully protected. The provisions of this paragraph shall not become effective until the first day of January, one thousand nine hundred seventy-eight.

Automatic circuit-breaking devices or fuses of the correct type and capacity shall be installed so as to protect all electric equipment and circuits against short circuit and overloads. Three-phase motors on all electric equipment shall be provided with overload protection that will deenergize all three phases in the event that any phase is overloaded.

Incandescent lamps installed along haulageways and at other locations shall not contact combustible material, and if powered from trolley or direct current
feeder circuits, need not be provided with separate short circuits or overload protection, if the lamp is not more than eight feet in distance from such circuits.

(28) In all main power circuits, disconnecting switches shall be installed underground within five hundred feet of the bottoms of shafts and boreholes through which main power circuits enter the underground area of the mine and within five hundred feet of all other places where main power circuits enter the underground area of the mine.

(29) All electric equipment shall be provided with switches or other controls that are safely designed, constructed and installed.

(30) Each underground, exposed power conductor that leads underground shall be equipped with suitable lightning arrestors of approved type within one hundred feet of the point where the circuit enters the mine. Lightning arrestors shall be connected to a low-resistance grounding medium on the surface which shall be separated from neutral ground by a distance of not less than twenty-five feet.

(31) Except for areas of a coal mine inby the last open crosscut, incandescent lamps may be used to illuminate underground areas. When incandescent lamps are used in a track entry or belt entry or near track entries to illuminate special areas other than structures, the lamps shall be installed in weatherproof sockets located in positions such that the lamps will not come in contact with any combustible material. Lamps used in all other places must be of substantial construction and be fitted with a glass enclosure.

(32) An authorized representative may require in any mine that electric face equipment be provided with devices that will permit the equipment to be deenergized quickly in the event of an emergency.

(33) An authorized representative of the director shall require manually operated emergency stop switches, designed to deenergize the traction motor circuit when
the contractors or controller fail to open, to be installed on all battery powered tractors, taken into or used in by the last open crosscut of any entry or room.

(34) Trailing cables used in coal mines shall meet the requirements for flame-resistant cables.

(35) Short circuit protection for trailing cables shall be provided by an automatic circuit breaker or other no less effective device approved by the director of the department of mines of adequate current-interrupting capacity in each ungrounded conductor. Disconnecting devices used to disconnect power from trailing cables shall be plainly marked and identified and such devices shall be equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected.

(36) When two or more trailing cables junction to the same distribution center, means shall be provided to assure against connecting a trailing cable to the wrong size circuit breaker.

(37) One temporary splice may be made in any trailing cable. Such trailing cable may only be used for the next twenty-four-hour period. No temporary splice shall be made in a trailing cable within twenty-five feet of the machine, except cable reel equipment. Temporary splices in trailing cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated. Trailing cables or hand cables which have exposed wires or which have splices that heat or spark under load shall not be used. As used in this section, the term "splice" means a mechanical joining of one or more conductors that have been severed.

(38) When permanent splices in trailing cables are made, they shall be:

(A) Mechanically strong with adequate electrical conductivity and flexibility,

(B) Effectively insulated and sealed so as to exclude moisture, and
(C) Vulcanized or otherwise treated with suitable materials to provide flame-resistant qualities and good bonding to the outer jacket.

(39) Trailing cables shall be clamped to machines in a manner to protect the cables from damage and to prevent strain on the electrical connections. No cables will be hung in a manner which will damage the insulation or conductors.

(40) Trailing cables shall be adequately protected to prevent damage by mobile equipment.

(41) Trailing cable and power cable connections to junction boxes and to electrical equipment shall not be made or broken under load.

(42) All metallic sheaths, armors, and conduits enclosing power conductors shall be electrically continuous throughout and shall be grounded by methods approved by an authorized representative of the director of the department of mines.

(43) Except where waived by the director, metallic frames, casings and other enclosures of electric equipment that can become alive through failure of insulation or by contact with energized parts shall be grounded, and on or before the first day of January, one thousand nine hundred seventy-eight, shall have a ground monitoring system.

(44) In instance where single-phase 110-220 volt circuits are used to feed electrical equipment, the only method of grounding that will be approved is the connection of all metallic frames, casings and other enclosures of such equipment to a separate grounding conductor which establishes a continuous connection to a grounded center tap of the transformer.

(45) The attachment of grounding wires to a mine tract or other grounded power conductor will be approved if separate clamps, suitable for such purpose, are used and installed to provide a solid connection.

(46) The frames of all offtrack direct-current machines and the enclosures of related detached components shall
be effectively grounded or otherwise maintained at no less safe voltages.

(47) Installation of silicon diodes shall be restricted to electric equipment receiving power from a direct-current system with one polarity grounded. Where such diodes are used on circuits having a nominal voltage rating of two hundred fifty, they must have a forward current rating of four hundred amperes or more, and have a peak inverse voltage rating of four hundred or more. Where such diodes are used on circuits having nominal voltage rating of five hundred fifty, they must have a forward current rating of two hundred fifty amperes or more, and have a peak inverse voltage rating of eight hundred or more.

(48) In addition to the grounding diode, a polarizing diode must be installed in the machine control circuit to prevent operation of the machine when the polarity of a trailing cable is reversed.

(49) When installed on permissible equipment, all grounding diodes, over-current devices, and polarizing diodes must be placed in explosion-proof compartments.

(50) High-voltage lines, both on the surface and underground, shall be deenergized and grounded before work is performed on them, except that repairs may be permitted, in the case of energized surface high-voltage lines, if such repairs are made by a qualified person in accordance with procedures and safeguards, including, but not limited to, a requirement that the operator of such mine provide, test, and maintain protective devices in making such repairs.

(51) When two or more persons are working on an energized high-voltage surface line simultaneously, and any one of them is within reach of another, such persons shall not be allowed to work on different phases or on equipment with different potentials.

(52) All persons performing work on energized high-voltage surface lines shall wear protective rubber gloves, sleeves, and climber guards if climbers are worn. Pro-
Protective rubber gloves shall not be worn wrong side out or without protective leather gloves. Protective devices worn by a person assigned to perform repairs on high-voltage surface lines shall be worn continuously from the time he leaves the ground until he returns to the ground, and, if such devices are employed for extended periods, such person shall visually inspect the equipment assigned him for defects before each use, and, in no case, less than twice each day.

Disconnecting or cutout switches on energized high-voltage surface lines shall be operated only with insulated sticks, fuse tongs, or pullers which are adequately insulated and maintained to protect the operator from the voltage to which he is exposed. When such switches are operated from the ground, the person operating such devices shall wear protective rubber gloves.

Solely for purposes of grounding ungrounded high-voltage power systems, grounded messenger wires used to suspend the cables of such systems may be used as a grounding medium.

When not in use, power circuits underground shall be deenergized on idle days and idle shifts, except that rectifiers and transformers may remain energized.

High-voltage circuits entering the underground area of any coal mine shall be protected by suitable circuit breakers of adequate interrupting capacity. Such breakers shall be equipped with devices to provide protection against undervoltage, grounded phase, short circuit, and overcurrent.

Circuit breakers protecting high-voltage circuits entering an underground area of any coal mine shall be located on the surface and in no case installed either underground or within a drift.

One circuit breaker may be used to protect two or more branch circuits, if the circuit breaker is adjusted to afford overcurrent protection for the smallest conductor.
The grounding resistor, where required, shall be of the proper ohmic value to limit the voltage drop in the grounding circuit external to the resistor to not more than one hundred volts under fault conditions. The grounding resistor shall be rated for maximum fault current continuously and insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

High-voltage circuits extending underground and supplying portable mobile or stationary high-voltage equipment shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the source transformers, and a grounding circuit originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all high-voltage equipment supplied power from the circuit, except that the director or his authorized representative may permit ungrounded high-voltage circuits to be extended underground to feed stationary electrical equipment if such circuits are either steel armored or installed in grounded, rigid steel conduit throughout their entire length, and upon his finding that such exception does not pose a hazard to the miners. Within one hundred feet of the point on the surface where high-voltage circuits enter the underground portion of the mine, disconnecting devices shall be installed and so equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected, except that the director or his authorized representative may permit such devices to be installed at a greater distance from such area of the mine if he determines, based on existing physical conditions, that such installation will be more accessible at a greater distance and will not pose any hazard to the miners.

High-voltage resistance grounded systems serving portable or mobile equipment shall include a failsafe ground check circuit to monitor continuously the grounding circuit to assure continuity, and the fail-safe ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is
broken, or other no less effective device approved by
the director or his authorized representative to assure
such continuity.

(62) Underground high-voltage cables used in re-

cistance grounded systems shall be equipped with metal-

lic shields around each power conductor with one or

more ground conductors having a total cross-sectional

area of not less than one half the power conductor, and

with an insulated internal or external conductor not

smaller than No. 10 (A.W.G.) for the ground continuity

check circuit.

(63) All such cables shall be adequate for the intended

current and voltage. Splices made in such cables shall

provide continuity of all components.

(64) Single-phase loads, such as transformer pri-

marys, shall be connected phase-to-phase.

(65) All underground high-voltage transmission cables

shall be installed only in regularly inspected air courses

and haulageways, and shall be covered, buried, or placed

so as to afford protection against damage, guarded where

men regularly work or pass under them unless they

are six and one-half feet or more above the floor or

rail, securely anchored, properly insulated, and guarded

at ends, and covered, insulated, or placed to prevent

contact with trolley wires and other low-voltage cir-

cuits.

(66) Disconnecting devices shall be installed at the

beginning of branch lines in underground high-voltage

circuits and equipped or designed in such a manner that

it can be determined by visual observation that the cir-

cuit is deenergized when the switches are open.

(67) Circuit breakers and disconnecting switches

underground shall be marked for identification.

(68) In the case of high-voltage cables used as trailing

cables, temporary splices shall not be used and all

permanent splices shall be made in accordance with the

manufacturers' specifications.
(69) Frames, supporting structures and enclosures of stationary, portable, or mobile underground high-voltage equipment and all high-voltage equipment supplying power to such equipment receiving power from resistance grounded systems shall be effectively grounded to the high-voltage ground.

(70) Low- and medium-voltage power circuits serving three-phase alternating current equipment serving portable or mobile equipment shall be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained as prescribed by the director. Such breakers shall be equipped with devices to provide protection against under-voltage, grounded phase, short circuit, and overcurrent.

(71) Power centers and portable transformers shall be deenergized before they are moved from one location to another, except that, when equipment powered by sources other than such centers or transformers is not available, the director may permit such centers and transformers to be moved while energized, if he determines that another equivalent or greater hazard may otherwise be created, and if they are moved under the supervision of a qualified person, and if such centers and transformers are examined prior to such movement by such person and found to be grounded by methods approved by an authorized representative of the director and otherwise protected from hazards to the miner. A record shall be kept of such examinations. High-voltage cables, other than trailing cables, shall not be moved or handled at any time while energized, except that such centers and transformers are moved while energized as permitted under this section, energized high-voltage cables attached to such centers and transformers may be moved only by a qualified person and the operator of such mine shall require that such person wear approved and tested insulated wireman's gloves.

(72) Low- and medium-voltage three-phase alternating-current circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a
440. Grounding circuit, originating at the grounded side of
441. the grounding resistor, shall extend along with the power
442. conductors and serve as a grounding conductor for the
443. frames of all the electrical equipment supplied power
444. from the circuit, except that the director or his autho-
445. rized representative may permit underground low- and
446. medium-voltage circuits to be used underground to feed
447. such stationary electrical equipment if such circuits are
448. either steel armored or installed in grounded rigid steel
449. conduit throughout their entire length. The grounding
450. resistor, where required, shall be of the proper ohmic
451. value to limit the ground fault current to twenty-five
452. amperes. The grounding resistor shall be rated for
453. maximum fault current continuously and insulated from
454. ground for a voltage equal to the phase-to-phase voltage
455. of the system.

456. (73) Low- and medium-voltage resistance grounded
457. systems serving portable or mobile equipment shall in-
458. clude a fail-safe ground check circuit to monitor con-
459. tinuously the grounding circuit to assure continuity
460. which ground check circuit shall cause the circuit breaker
461. to open when either the ground or pilot check wire is
462. broken, or other not less effective device approved by
463. the director or his authorized representative to assure
464. such continuity, except that an extension of time, not in
465. excess of twelve months, may be permitted by the di rec-
466. tor on a mine-to-mine basis if he determines that such
467. equipment is not available. Cable couplers shall be con-
468. structed so that the ground check continuity conductor
469. shall be broken first and the ground conductors shall
470. be broken last when the coupler is being uncoupled.

471. (74) Disconnecting devices shall be installed in con-
472. junction with circuit breakers serving portable or mobile
473. equipment to provide visual evidence that the power
474. is connected.

475. (75) Circuit breakers shall be marked for identifica-
476. tion.

477. (76) Single-phase loads shall be connected phase-to-
478. phase.
(77) Trailing cables for medium-voltage circuits shall include grounding conductors, a ground check conductor, and grounded metallic shields around each power conductor or a ground metallic shield over the assembly, except that on equipment employing cable reels, cables without shields may be used if the insulation is rated two thousand volts or more.

(78) Trolley wires and trolley feeder wires shall be provided with cutout switches at intervals of not more than two thousand feet and near the beginning of all branch lines.

(79) Trolley wires and trolley feeder wires shall be provided with overcurrent protection.

(80) Trolley wires and trolley feeder wires, high-voltage cables, and transformers shall not be located within fifteen feet of the last open crosscut and shall be kept at least one hundred fifty feet from pillar workings.

(81) Trolley wires, trolley feeder wires, and bare signal wires shall be insulated adequately where they pass through doors and stoppings and where they cross other power wires and cables. Trolley wires and trolley feeder wires shall be guarded adequately:

(A) At all points where men are required to work or pass regularly under the wires.

(B) On both sides of all doors and stoppings.

(C) At man-trip stations.

(82) Temporary guards shall be provided where trackmen and other persons work in proximity to trolley wires and trolley feeder wires.

(83) Adequate precaution shall be taken to insure that equipment being moved along haulageways will not come in contact with trolley wires or trolley feeder wires.

(84) Trolley and feeder wires shall be installed as follows: Where installed on permanent haulage, they shall be:

(A) At least six inches outside the track gauge line.
(B) Kept taut and not permitted to touch the roof, rib, or crossbars. Particular care shall be taken where they pass through door openings to preclude bare wires from coming in contact with combustible material.

(C) Installations of trolley wire hangers shall be provided within three feet of each splice in a trolley wire.

§22.2-42. Telephone service or communication facilities.

1 Telephone service or equivalent two-way communication facilities shall be provided in all mines at least one of which shall be in service at all times as follows:

2 (a) A telephone or equivalent two-way communication facility shall be located on the surface within five hundred feet of all main portals, and shall be installed either in a building or in a box-like structure designed to protect the facilities from damage by inclement weather. At least one of these communication facilities shall be at a location where a responsible person who is always on duty when men are underground can hear the facility and respond immediately in the event of an emergency. "Two-way communication facility" shall mean a system maintained to allow voice contact to come in and out of the working section at all times.

2 (b) (1) Telephones or equivalent two-way communication facilities provided at each working section shall be located not more than five hundred feet outby the last open crosscut and not more than eight hundred feet from the farthest point of penetration of the working places on such section.

2 (2) The incoming communication signal shall activate an audible alarm, distinguishable from the surrounding noise level, or a visual alarm that can be seen by a miner regularly employed on the working section.

2 (3) If a communication system other than telephones is used and its operation depends entirely upon power from the mine electric system, means shall be provided to permit continued communication in the event the mine electric power fails or is cut off: Provided, That where trolley phones and telephones are both used, an
alternate source of power for the trolley phone system is not required.

(4) Telephones or equivalent two-way communication facilities shall be maintained in good operating condition at all times. In the event of any failure in the system that results in loss of communication, repairs shall be started immediately, and the system restored to operating condition as soon as possible.

(5) Where required by the director, trucks used for haulage of coal, men or supplies by an operator shall be equipped with two-way communication instruments.

(c) On or after the first day of January, one thousand nine hundred seventy-eight, unless the director for good cause grants a waiver, all such telephone or equivalent two-way communications shall be connected to regular telephonic and other means of communication available in the community so that in the event of an emergency, emergency medical attendants or other personnel can communicate from within the mine directly to health care facilities.

(d) Telephone lines and cables shall be carried on insulators installed on the opposite side from power of 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.

§22-2-49. Safeguards for mechanical equipment.

(a) 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.

(b) Belt, chain or rope drives and the moving parts of machinery which are within seven feet of the floor, ground or platform level, unless isolated, shall be guarded adequately. Repair pits shall be kept covered or guarded at all times when not in use. Machinery shall not be lubricated or repaired while in motion, except where safe remote lubricating devices are used. Machinery shall not
13. 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.

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

21. (d) No person shall stand along the side of the boom, or pass or stand along the loading head or cutting head, on a continuous miner or loading machine in operation.

24. (e) Braking devices shall be guarded to prevent accidental release. When required by the director, track mounted mobile equipment shall be equipped with workable sanding devices.

28. (f) On and after the first day of January, one thousand nine hundred seventy-eight, all battery powered equipment shall be equipped with an under-voltage indicator which will indicate when the voltage is less than three fourths of its rated capacity, at which time such equipment shall be withdrawn from use except for the purpose of returning the vehicle to the recharging station.

§22-2-53a. Railroad cars; dumping areas.

1. Employees handling railroad cars shall have access to and use an approved distinct audible signaling device to give warning when cars are in motion. Where required by rule or regulation, safety belts shall be worn and properly attached by all car droppers handling railroad cars. All dumping ramps shall be of a sufficient width to insure safe operation of vehicles used thereon.

§22-2-60. Accessible outlets; safe roadways for emergencies.

1. (a) No operator or mine foreman of any coal mine shall employ any person to work in such mine, or permit persons to be in the mine for the purpose of working therein unless they are provided with 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.

(b) At least two separate and distinct travelable pas-
sageways designated as escapeways shall be maintained
to ensure passage at all times to any person, including
disabled persons. The escapeway openings to the surface
shall be separated in such manner as shall be prescribed
by the director. If at least two escapeways are not
available for any reason, all miners in the affected area
other than those requisite to remedy the situation shall
be withdrawn from the affected area until such time as
the escapeway is made passable. Where the height of
the coal bed is more than five feet, the escapeways shall
be maintained at a height of at least five feet excluding
necessary roof support, and the travelway in such escape-
way shall be maintained at a width of at least six feet,
excluding necessary roof support and in those situations
where the height of the coal bed is less than five feet
the escapeway should be maintained to the height of
the coal bed excluding any necessary roof support, and
the travelway in such escapeway shall be maintained
at a width of at least six feet. At least one escapeway
ventilated with intake air, maintained to the last open
crosscut, shall be provided from each working section
continuously to the nearest available opening on the
surface, and shall be maintained in safe condition and
properly marked. Mine openings shall be adequately
protected to prevent the entrance into the underground
area of the mine of floodwater. Escape facilities ap-
proved by the director of the department of mines,
properly maintained and frequently tested, shall be
present at or in each escape shaft or slope to allow all
persons, including disabled persons, to escape quickly
to the surface in event of an emergency. Return airways
entries designated as escapeways shall be provided with
permissible two-way communication systems to the sur-
face, and such systems shall be located at points not to
exceed every four thousand feet. On or after the first
day of April, one thousand nine hundred seventy-eight,
each operator shall provide lifeline cords, with reflective
material at twenty-five foot intervals, from the last open
crosscut to the surface along a designated escapeway
ventilated by return air: Provided, That in case of a
shaft mine such lifeline cords shall extend from the last
open crosscut to the bottom of the designated escape
shaft. Such lifeline cord shall be of durable construction
sufficient to allow miners to see and to use effectively to
guide themselves out of the mine in the event of an
emergency.

(c) Escapeways shall be inspected and traveled at
least once each week by a certified mine examiner who
shall place his initials and the date in a conspicuous place
or places and who shall file a written report thereon which
shall be kept on the surface.

(d) When new coal mines are opened, not more than
twenty men shall be allowed at any one time in any
mine until a connection has been made between the two
mine openings, and such connections shall be made as
soon as possible.

(e) When only one opening is available because of
final mining of pillars, not more than twenty miners shall
be allowed in such mine at any one time, and the dis-
tance between the mine opening and working face shall
not exceed five hundred feet.

(f) First aid materials and such other equipment as
the director may require shall be maintained within five
hundred feet of each area in which miners are regularly
working to which they may have access in case of an
emergency and for protection against hazards.

(g) Each working area of the mine not serviced by
track mounted or rubber tired vehicles which uses con-
voyer belts for removal of coal shall be equipped with a
special capsule in which an injured person can be placed
and transported on the belt to the surface or to other
transportation facilities. The director shall within nine
months of the effective date of this section promulgate
standards and guidelines as to what such "special capsule"
as used in this subsection shall include. Each section of
the mine using or serviced by track mounted or rubber
tired equipment shall have readily available a vehicle
which can be used to promptly remove a person in case of
injury.

§22-2-70a. Right of miner to refuse to operate unsafe equip-
ment.
No miner shall be required to operate unsafe equip-
ment. On or before the first day of January, one thousand
nine hundred seventy-eight, the board of coal mine health
and safety shall by rule or regulation establish a procedure
for resolving disputes arising out of the refusal by a
miner to operate such alleged unsafe equipment. No
action shall be taken against a miner by an operator
unless such miner is found to have acted in bad faith
and without good cause by the director or his authorized
representative.

§22-2-70b. Long wall and short wall mining.
(a) The Legislature finds that new methods of extract-
ing coal known as long wall or short wall mining is being
used in this state. The board of coal mine health and
safety shall investigate or cause to be investigated the
technology, procedures and techniques used in such
mining methods and shall promulgate by the first day
of January, one thousand nine hundred seventy-eight, and
continuously update the same, rules and regulations
governing long wall and short wall mining, which rules
and regulations shall have as their paramount objective,
the health and safety of the persons involved in such
operations, and which said regulations shall include, but
not be limited to, the certification of personnel involved in
such operation.

(b) The director may modify the application of any
provision of this section to a mine if the director deter-
mines that an alternative method of achieving the result
of such provision exists which will at all times guarantee
no less than the same measure of protection afforded the
miners of such mine by such provision, or that the ap-
plication of such provision to such mine will result in
a diminution of the health of, or safety to, the miners in
such mine. The director shall give notice to the operator and the representative of miners in the affected mine, as appropriate, and shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a hearing, at the request of such operator or representative or other interested party, to enable the operator and the representative of miners in such mine or other interested party to present information relating to the modification of such provision. The director shall issue a decision incorporating his findings of fact therein, and send a copy thereof to the operator and the representative of the miners, as appropriate. Any such hearing shall be of record.

§22-2-70c. Shafts, slopes and construction of surface facilities; legislative findings; duties of director to promulgate rules and regulations.

The board of coal mine health and safety shall investigate or cause to be investigated the technology, procedures and techniques used in the construction of shafts, slopes and surface facilities, the safety hazards, attendant therewith, and shall promulgate by the first day of January, one thousand nine hundred seventy-eight, and continuously update the same, rules and regulations governing the construction of shafts, slopes and surface facilities, which rules and regulations shall have as their paramount concern, the health and safety of the persons involved in such operations, and which said regulations shall include, but not be limited to, the certification of all supervisors, the certification and training of hoist operators and shaft workers, the certification of blasters, and approval of plans. The provisions of such rules and regulations may be enforced against operators and construction companies in accord with the provisions of article one of this chapter. For purposes of this chapter, a construction company shall be deemed an operator.

§22-2-70d. Control of respirable dust.

Each operator shall maintain the concentration of respirable dust in the mine atmosphere during each shift to which miners in active workings of such mine are exposed below such level as the board may establish.
The board of the department of mines may promulgate rules and regulations governing respirable dust, including, but not limited to, dust standards, sampling procedures, sampling devices, equipment and sample analysis by using the data gathered by the federal bureau of mines.

Any operator found to be in violation of such standards shall bring itself into compliance with such standards and rules and regulations of the board or the director of mines may thereafter order such operator to discontinue such operation.

ARTICLE 2A. BOARD OF COAL MINE HEALTH AND SAFETY.

§22-2A-1. Declaration of legislative findings and purpose.

(a) The Legislature hereby finds and declares that:

(1) The Legislature concurs with the Congressional declaration made in the “Federal Coal Mine Health and Safety Act of 1969” that “the first priority and concern of all in the coal mining industry must be the health and safety of its most precious resource—the miner”;

(2) Coal mining is highly specialized, technical and complex and it requires frequent review, refinement and improvement of standards to protect the health and safety of miners;

(3) During each session of the Legislature, coal mine health and safety standards are proposed which require knowledge and comprehension of scientific and technical data related to coal mining;

(4) The formulation of appropriate regulations and practices to improve health and safety and provide increased protection of miners can be accomplished more effectively by persons who have experience and competence in coal mining and coal mine health and safety.

(b) In view of the foregoing findings, it is the purpose of this article to:

(1) Create a board of coal mine health and safety;

(2) Require such board to adopt as standard rules and regulations the coal mine health and safety provisions of this chapter;
(3) Compel the board to review such standard rules and regulations and, when deemed appropriate to improve or enhance coal mine health and safety, to revise the same or develop and promulgate new rules and regulations dealing with coal mine health and safety; and

(4) Authorize such board to conduct such other activities as it deems necessary to implement the provisions of this chapter.

§22-2A-2. Definitions; references.

Unless the context in which a word or phrase appears clearly requires a different meaning, the words and phrases defined in section one, article one of this chapter shall have, when used in this article, the meaning therein assigned to them. For the purpose of this article “board” means the board of coal mine health and safety created by section three of this article.

§22-2A-3. Board of coal mine health and safety created; membership; method of nomination and appointment; vacancies; quorum.

(a) There is hereby created a board of coal mine health and safety, which shall consist of seven members who shall be residents of this state, six of whom shall be appointed as hereinafter specified in this section.

(1) The governor shall appoint one member to represent the viewpoint of those operators in this state whose individual aggregate production exceeds one million tons annually and one member to represent the viewpoint of those operators in this state whose individual aggregate production exceeds three hundred fifty thousand tons annually but is less than one million tons annually. When such members are to be appointed, the governor may request from the major trade association representing operators in this state a list of three nominees for each such position on the board. All such nominees shall be persons with special experience and competence in coal mine health and safety. There shall be submitted with such list a summary of the qualifications of each nominee. For purposes of this subsection, the major trade association representing operators in this state shall be deemed to be that association which represents operators
accounting for over one half of the coal produced in mines in this state in the year prior to the year in which the appointment is to be made.

(2) The governor shall appoint one member to represent the viewpoint of those operators in this state whose individual aggregate production is less than three hundred fifty thousand tons annually which tonnage shall include tonnage produced by affiliated, parent and subsidiary companies and tonnage produced by companies which have a common director or directors, shareholder or shareholders, owner or owners.

(3) Three members 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) All appointments made by the governor under this section shall be with the advice and consent of the Senate.

(b) The seventh member of the board shall be the director of the department of mines who shall serve as chairman of the board. The director shall furnish to the board such secretarial, clerical and other services as are deemed necessary to the conduct of the business of the board.

(c) The six members of the board to be appointed by the governor shall be appointed by him within ninety days of the effective date of this article. As soon as such members of the board are appointed, the director of the
department of mines shall call an organizational meeting
of the board. At such meeting, the group of members
appointed to represent the viewpoint of operators and the
group of members appointed to represent the viewpoint
of working miners shall draw lots by group to determine
the length of the term the members of each group shall
serve. One member from each group shall serve for
three years; one member from each group shall serve for
two years; and one member from each group shall serve
for one year. Thereafter, members shall be nominated
and appointed in the manner provided in this section and
shall serve for a term of three years. The board shall
meet at the call of the director, or upon the request of
any three members of the board: Provided, That no meet-
ing of the board for any purpose other than an emergency
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 practical means of com-
munication available.

(d) Whenever a vacancy on the board occurs, nomina-
tions and appointments shall be made in the manner
prescribed in this section: Provided, That in the case of
an appointment to fill a vacancy, nominations of three
persons for each such vacancy shall be requested by and
submitted to the governor within thirty days after the
vacancy occurs by the major trade association or major
employee organization, if any, which nominated the
person whose seat on the board is vacant. The vacancy
shall be filled by the governor within thirty days of his
receipt of the list of nominations.

(e) A quorum of the board shall be five members which
shall include the director, at least two members represent-
ing the viewpoint of operators and at least two members
representing the viewpoint of working miners, and the
board may act officially by a majority of those members
who are present.

§22-2A-4. Board powers and duties.

(a) At the organizational meeting of the board re-
quired by subsection (c), section three of this article, the
board shall adopt as standard rules and regulations the
“coal mine health and safety provisions of this chapter”.
Such standard rules and regulations and any other rules
and regulations shall be adopted by the board without
regard to the provisions of chapter twenty-nine-a of this
code.

(b) The board shall review such standard rules and
regulations and, when deemed appropriate to improve or
enhance coal mine health and safety, revise the same or
develop and promulgate new rules and regulations dealing
with coal mine health and safety.

(c) The board shall develop, promulgate and revise, as
may be appropriate, rules and regulations as are necessary
and proper to effectuate the purposes of article two of this
chapter and to prevent the circumvention and evasion
thereof, all without regard to the provisions of chapter
twenty-nine-a of this code.

(1) Upon consideration of the latest available scientific
data in the field, the technical feasibility of standards,
and experience gained under this and other safety
statutes, such rules and regulations may expand protec-
tions afforded by this chapter notwithstanding specific
language herein, and such rules and regulations may deal
with subject areas not covered by this chapter to the end
of affording the maximum possible protection to the
health and safety of miners.

(2) No rules or regulations promulgated by the board
of mines shall reduce or compromise the level of safety
or protection afforded miners below the level of safety
or protection afforded by this chapter.

(3) Any miner or representative of any miner, or any
coil operator shall have the power to petition the circuit
court of Kanawha county for a determination as to
whether any rule or regulation promulgated or revised
reduces the protection afforded miners below that provided
by this chapter, or is otherwise contrary to law.

(4) The director shall cause proposed rules and regula-
tions and a notice thereof to be posted and in the same
manner as notices, orders and decisions are required to
be posted in section seventeen of this article. The dir-
ector shall deliver a copy of such proposed rules and regulations and accompanying notice to each operator affected. A copy of such proposed rules and regulations shall be provided to any individual by the director upon request. The notice of proposed rules and regulations shall contain a summary in plain language explaining the effect of the proposed rules and regulations.

(5) The board shall afford interested persons a period of not less than thirty days after releasing proposed rules and regulations to submit written data or comments. The board may, upon the expiration of such period and after consideration of all relevant matters presented, promulgate such rules and regulations with such modifications as it may deem appropriate.

(6) On or before the last day of any period fixed for the submission of written data or comments under subdivision (5) of this section, any interested person may file with the board written objections to a proposed rule or regulation, stating the grounds therefor and requesting a public hearing on such objections. As soon as practicable after the period for filing such objections has expired, the board shall release a notice specifying the proposed rules or regulations to which objections have been filed and a hearing requested.

(7) Promptly after any such notice is released by the board under subdivision (6) of this section, the board shall issue notice of, and hold, a public hearing for the purpose of receiving relevant evidence. Within sixty days after completion of the hearings, the board shall make findings of fact which shall be public, and may promulgate such rules and regulations with such modifications as it deems appropriate. In the event the board determines that a proposed rule or regulation should not be promulgated or should be modified, it shall within a reasonable time publish the reasons for its determination.

(8) All rules and regulations promulgated by the board shall be published in the state register and shall continue in effect until modified or superseded in accordance with the provisions of this chapter.

(d) To effectuate the purpose of this article, the board
may, as it deems necessary, conduct research and studies, employ experts and consultants and use the services, facilities and personnel of any agency of this state.

1 The standard rules and regulations and any rules and regulations promulgated by the board shall have the same force and effect of law as if enacted by the Legislature as a part of this chapter and any violation of any such rule and regulation shall be deemed to be a violation of law or of a health or safety standard within the meaning of this chapter.

§22-2A-6. Reports.
1 Prior to each regular session of the Legislature, the board shall submit to the Legislature an annual report upon the subject matter of this article, the progress concerning the achievement of its purpose and any other relevant information, including any recommendations it deems appropriate.

ARTICLE 2C. EMERGENCY MEDICAL PERSONNEL.

§22-2C-1. Emergency personnel in coal mines.
1 Emergency medical personnel shall be employed in every mine in the state. On or before the first day of July, one thousand nine hundred seventy-eight, at least one emergency medical attendant as defined in section two, article four-c, chapter sixteen of this code, paramedic as defined in section two, article three-b, chapter thirty of this code, or physician assistant as defined in section one, article three-a, chapter thirty of this code, shall be employed at a mine for every seventy employees or any part thereof who are engaged at one time, in the extraction, production or preparation of coal: Provided, That the provision of this section shall not apply to mines employing no more than ten employees.
2 Said emergency medical attendants shall be employed at their regular duties at a central location convenient for quick response to emergencies, and further shall have available to them at all times such equipment as shall
§22-2C. First-aid training of coal mine employees.

Each coal mine operator shall provide every new employee within six months of the date of his employment with the opportunity for first-aid training as prescribed by the director unless such employee has previously received such training. Each coal mine employee shall be required to take refresher first-aid training of not less than five hours within each twenty-four months of employment. The employee shall be paid regular wages, or overtime pay if applicable, for all periods of first-aid training.

ARTICLE 6. CERTIFICATION OF UNDERGROUND AND SURFACE COAL MINERS.

§22-6. 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 supervision and direction, as an apprentice, for the purpose of learning and being instructed in the duties and calling of mining. Any mine foreman—fire boss or assistant mine foreman or fire boss may have three persons working with him under his supervision and direction, as apprentices, for the purpose of learning and being instructed in the duties and calling of mining: Provided, That a mine foreman, assistant mine foreman or fire boss supervising apprentices in an area where no coal is being produced or which is out by the working section may have as many as five apprentices under his supervision and direction, as apprentices, for the purpose of learning and being instructed in the duties and calling of mining or where the operator is using a production section under program for training of apprentice miners, approved by the board of miner training, education and certification.

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.

In all cases, it shall be the duty of every mine operator who employs 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.

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

§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, shotfirer, mine electrician and belt examiner. Notwithstanding the provisions of this section the director may by rule or regulation further subdivide the classification for certification.

(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 education, 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 established 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 to do so 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Clarence C. Chrestman, Jr.
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

J. William, Jr.
Clerk of the Senate

Clerk of the House of Delegates

W. E. Smith
President of the Senate

Donald L. Zopp
Speaker House of Delegates

The within _______ approved _______ this the ________

day of _________, 1977.

Governor