WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1986

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ENROLLED

HOUSE BILL No. 2183

(By Delegate Schifano and Delegate Damron)

Passed March 8, 1986

In Effect from Passage
AN ACT to amend and reenact section one, article five, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend article six of said chapter by adding thereto a new section, designated section four-c; to amend and reenact sections four, five, thirty-seven, thirty-nine, forty-two, forty-three, forty-six, forty-nine and fifty-three-a, article two, chapter twenty-two-a of said code; and to further amend said article two by adding thereto two new sections, designated sections fifty-three-b and fifty-three-c, all relating to coal mine health and safety; chairman of board of appeals required to subpoena witnesses; witnesses to receive daily witness fee, plus reasonable expenses in lieu of any lost wages; establishing a state coal mine safety and technical review committee and providing the purposes thereof; providing for appointment of members; terms and compensation; committee meetings; authority of committee to accept and make recommendations on requests for site-specific rule making and make recommendation on an industry-wide basis; relating to the powers and duties of the board of coal mine health and safety to promulgate regulations in accordance with recommendations made by the committee and the effect of such regulations; ventilation of mines and requiring an operator to provide safety committee with access to anonometers and smoke tubes; increasing distance
between cross cuts for air; requiring that check curtains be substantially constructed of translucent material or have a window of such material; allowing director to authorize variances or waivers for ventilation and shelter holes; allowing a dispatcher to also serve as the responsible person and perform other duties; requiring self-propelled track haulage equipment to have certain equipment for de-energizing traction; requiring belt conveyors to be inspected by a certified belt examiner, mine foreman-fire boss or assistant mine foreman-fire boss and specifying when inspections must be made; recording inspections; requiring the board of miner training and certification to establish criteria and standards for the training, examination and certification of "belt examiners" and specifying minimum requirements therefor; prohibiting persons from performing work within the confines of the cargo space of a crusher or feeder unless it has been de-energized and locked out; telephone service and communication facilities; specifying permissible percentage of methane, specifying approved apparatus for propane torches and other requirements for welding and cutting; required voltage on battery powered equipment; manually operated valves and levers; dropping and coupling of railroad cars; access roads; inspections of mobile surface loading and haulage equipment; provision of safety equipment for prevention of falling; haulage on surface areas; traffic directions and warning signs on roads; construction and maintenance of haulage roads; ramp, tipples, cleaning plants and other surface areas; surface installations generally; machinery guards; fire protection; repairs of machinery; stairs and platforms; conveyors and crossovers; ladders; hoisting; and railroad track construction and maintenance.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 22. ENERGY

ARTICLE 5. BOARD OF APPEALS.

§22-5-1. Board of appeals.

1 There is hereby continued a board of appeals, consisting of three members. Two members of the board shall be appointed by the governor, one person who by reason of previous training and experience may reasonably be said to represent the viewpoint of miners, and one person who by reason of previous training and experience may reasonably be said to represent the viewpoint of the operators. The third person, who shall be chairman of the board, and who must not have had any connection at any time with the coal industry or an organization representing miners, shall be selected by the two members appointed by the governor. The term of office of members of the board shall be five years.

14 The function and duties of the board shall be to hear appeals, make determinations on questions of miners' entitlements due to withdrawal orders and appeals from discharge or discrimination, and suspension of certification certificates.

19 The chairman of the board shall have the power to administer oaths and subpoena witnesses and require production of any books, papers, records or other documents relevant or material to the appeal inquiry.

23 The chairman shall subpoena any witness requested by a party to a hearing to testify or produce books, records or documents. Any witness responding to a subpoena so issued shall receive a daily witness fee to be paid out of the state treasury upon a requisition of the state auditor equivalent to the rate of pay under the wage agreement currently in effect plus all reasonable expenses for meals, loading and travel at the rate applicable to state employees. Any full payments as hereinbefore specified shall be in full and exclusive
payment for meals, lodging, actual travel and similar
expenses and shall be made in lieu of any lost wages
occasioned by such appearance in connection with any
hearing conducted by the board.

Each member of the board shall receive one hundred
dollars per diem while actually engaged in the perform-
ance of the work of the board. Each member shall be
reimbursed for all reasonable and necessary expenses
actually incurred during the performance of their
duties. Each member shall receive mileage expense
reimbursement at the rate established by rule and
regulation of the commissioner of the department of
finance and administration for in-state travel of public
employees. No reimbursement for expenses shall be
made except upon an itemized account, properly
certified by such members of the board. All reimburse-
ment for expenses shall be paid out of the state
treasury upon a requisition upon the state auditor.

Board members, before performing any duty, shall
take and subscribe to the oath required by section five,
agearticle IV, of the constitution of West Virginia.

ARTICLE 6. BOARD OF COAL MINE HEALTH AND SAFETY.

§22-6-4c. Coal mine safety and technical review commit-
tee; membership; method of nomination and
appointment; meetings; quorum; powers and
duties of the committee; powers and duties of
the board of coal mine health and safety.

(1) There is hereby established a state coal mine safety
and technical review committee. The purposes of this
committee are to:

(a) Assist the board of coal mine health and safety in
the development of technical data relating to mine
safety issues, including related mining technology;

(b) Provide suggestions and technical data to the
board and propose rules and regulations with general
mining industry application;

(c) Accept and consider petitions submitted by
individual mine operators or miners seeking site-specific
rule-making pertaining to individual mines and make
recommendations to the board concerning such rule-
making; and

(d) Provide a forum for the resolution of technical
issues encountered by the board.

(2) The committee shall consist of two members who
shall be residents of this state, and who shall be
appointed as hereinafter specified in this section:

(a) The governor shall appoint one member to repres-
ent the viewpoint of the coal operators in this state from
a list containing one or more nominees submitted by the
major trade association representing coal operators in
this state within thirty days of submission of such
nominee or nominees.

(b) The governor shall appoint one member to
represent the viewpoint of the working miners of this
state from a list containing one or more nominees
submitted by the highest ranking official within the
major employee organization representing coal mines
within this state within thirty days of submission of the
nominee or the nominees.

(c) The members appointed in accordance with the
provisions of subdivision (a) and (b) of this subsection
shall be initially appointed to serve a term of three
years.

(d) The members appointed in accordance with the
provision of subdivisions (a) and (b) of this subsection
may be, but are not required to be, members of the
board of coal mine health and safety, and shall be
compensated on a per diem basis in the same amount
as provided in section seven of this article, plus all
reasonable expenses.

(3) The committee shall meet at least once during each
calendar month, or more often as may be necessary.

(4) A quorum of the committee shall require both
members, and the committee may only act officially by
a quorum.

(5) The committee may review any matter relative to
mine safety and mining technology, and may pursue
development and resolution of issues related thereto.
The committee may make recommendations to the
board for the promulgation of rules and regulations with
general mining industry application. Upon receipt of a
unanimous recommendation for rule-making from the
committee and only thereon, the board may adopt or
reject such rule or regulations, without modification
except as approved by the committee: Provided, That
any adopted rule or regulation shall not reduce or
compromise the level of safety or protection below the
level of safety or protection afforded by applicable
statutes and regulations. When so promulgated, such
rules or regulations shall be effective, notwithstanding
the provisions of applicable statutes or regulations.

(6) (a) Upon application of a coal mine operator, or on
its own motion, the committee has the authority to
accept requests for site-specific rule-making on a mine-
by-mine basis, and make unanimous recommendations
to the board for site-specific rules and regulations
thereon. The committee has authority to approve a
request if it concludes that the request does not reduce
or compromise the level of safety or protection afforded
miners below the level of safety or protection afforded
by any applicable statutes or regulations. Upon receipt
of a request for site-specific rule-making, the committee
may conduct an investigation of the conditions in the
specific mine in question, which investigation shall
include consultation with the mine operator and
authorized representatives of the miners. Such
authorized representatives of the miners shall include
any person designated by the employees at the mine,
persons employed by an employee organization repres-
entating one or more miners at the mine, or a person
designated as a representative by one or more persons
at the mine.

(b) If the committee determines to recommend a
request made pursuant to subdivision (1), of this
subsection, the committee shall provide the results of its
investigation to the board of coal mine health and safety
along with recommendations for the development of the
site-specific rules and regulations applicable to the individual mine, which recommendations may include a written proposal containing draft rules and regulations.

(c) Within thirty days of receipt of the committee's recommendation, the board shall adopt or reject, without modification, except as approved by the committee, the committee's recommendation to promulgate site-specific regulations applicable to an individual mine, adopting such site-specific regulations only if it determines that the application of the requested rule to such mine will not reduce or compromise the level of safety or protection afforded miners below that level of safety or protection afforded by any applicable statutes or regulations. When so promulgated, such rules or regulations shall be effective notwithstanding the provisions of applicable statutes or regulations.

(7) The board shall consider all regulations proposed by the coal mine safety and technical review committee and adopt or reject, without modification, except as approved by the committee, such rules and regulations, dispensing with the preliminary procedures set forth in subdivisions (1) through (7), subsection (a), section four-a; and, in addition, with respect to site-specific regulations also dispensing with the procedures set forth in subdivisions (4) through (8), subsection (c), section four of this article.

(8) In performing its functions, the committee shall have access to the services of the coal mine health and safety administrator appointed under section four-b of this article. The commissioner shall make clerical support and assistance available in order that the committee can carry out its duties. Upon the request of both members of the committee, the health and safety administrator shall draft proposed regulations and reports or make investigations.

(9) The powers and duties provided for in this section for the committee are not intended to replace or precondition the authority of the board of coal mine health and safety to act in accordance with sections one through four-b and five through seven of this article.

(a) The operator or mine foreman of every coal mine, whether worked by shaft, slope or drift, shall provide and hereafter maintain for every such mine adequate ventilation. In all mines the quantity of air passing through the last open crosscut between the intake and return in any pair or set of entries shall be not less than nine thousand cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. All working faces in a working section between the intake and return airway entries shall be ventilated with a minimum quantity of three thousand cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. The quantity of air reaching the last crosscut in pillar sections may be less than nine thousand cubic feet of air per minute if at least nine thousand cubic feet of air per minute is being delivered to the intake of the pillar line. The air current shall under any conditions have a sufficient volume and velocity to reduce and carry away smoke from blasting and any flammable or harmful gases. The operator shall provide to the safety committee access to anonometers and smoke tubes while performing their duties. All active underground working places in a mine shall be ventilated by a current of air containing not less than nineteen and five-tenths percent of oxygen, not more than five-tenths percent of carbon dioxide, and no harmful quantities of other noxious or poisonous gases.

(b) Airflow shall be maintained in all intake and return air courses of a mine, and where multiple fans are used, neutral areas created by pressure equalization between main fans shall not be permitted. Production activities in working faces shall cease while tubing, line brattice, or other ventilation devices are being installed inby the machine operator.

(c) Properly installed and adequately maintained line
brattice or other approved devices shall be continuously used from the last open crosscut of an entry or room of each working section to provide adequate ventilation to the working faces for the miners and to remove flammable, explosive and noxious gases, dust and explosive fumes. When damaged by falls or otherwise, such line brattice or other devices shall be repaired immediately.

(d) Brattice cloth used underground shall be of flame-resistant material. The space between the line brattice or other approved device and the rib shall be large enough to permit the flow of a sufficient volume and velocity of air to keep the working face clear of flammable, explosive and noxious gases, dust and explosive fumes.

(e) Each working unit newly developed in virgin coal hereafter, shall be ventilated by a separate split of air: Provided, That in areas already under development and in areas where physical conditions prevent compliance with this provision, the director may grant temporary relief from compliance until such time as physical conditions make compliance possible. The quantity of air reaching the last crosscut shall not be less than nine thousand cubic feet of air per minute and shall under any condition have sufficient volume and velocity to reduce and carry away smoke and flammable or harmful gases from each working face in the section.

(f) As working places advance, crosscuts for air shall be made not more than one-hundred-five feet apart. Where necessary to render harmless and carry away noxious or flammable gases, line brattice or other approved methods of ventilation shall be used so as to properly ventilate the face. All crosscuts between the main intake and return airways not required for passage of air and equipment shall be closed with stoppings substantially built with incombustible or fire-resistant material so as to keep working places well ventilated. In mines where it becomes necessary to provide larger pillars for adequate roof support, working places shall not be driven more than two hundred feet without providing a connection that will
allow the free flow of air currents. In such cases, a minimum of twelve thousand cubic feet of air a minute shall be delivered to the last open crosscut and as much more as is necessary to dilute and render harmless and carry away flammable and noxious gases.

(g) In special instances for the construction of sidetracks, haulageways, airways, or openings in shaft bottom or slope bottom layouts where the size and strength of pillars is important, the director may issue a permit approving greater distances. The permit shall specify the conditions under which such places may be driven.

(h) In all mines a system of bleeder openings on air courses designed to provide positive movement of air through and/or around abandoned or caved areas, sufficient to prevent dangerous accumulation of gas in such areas and to minimize the effect of variations in atmospheric pressure shall be made a part of pillar recovery plans projected after the first day of July, one thousand nine hundred seventy-one.

(i) If a bleeder return is closed as a result of roof falls or water during pillar recovery operations, pillar operations may continue without reopening the bleeder return if at least twenty thousand cubic feet of air per minute is delivered to the intake of the pillar line.

(j) No operator or mine foreman shall permit any person to work where he is unable to maintain the quantity and quality of the air current as heretofore required: *Provided*, That such provisions shall not prohibit the employment of men to make the place of employment safe.

(k) The ventilation of any mine shall be so arranged by means of air locks, overcasts, or undercasts, that the use of doors on passageways where men or equipment travel may be kept to a minimum. Where doors are used in a mine they shall be erected in pairs so as to provide a ventilated air lock unless the doors are operated mechanically.

(l) A crosscut shall be provided at or near the face of
each entry or room before such places are abandoned.

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

(n) After the first day of January, one thousand nine hundred eighty-seven, all run through check curtains shall be substantially constructed of translucent material, except that where belting material has to be used because of high velocity, there shall be a window of translucent material at least thirty inches square or one half the height of the coal seam, whichever is less.

§22A-2-5. Unused and abandoned parts of mine.

(a) In any mine, all workings which are abandoned after the first day of July, one thousand nine hundred seventy-one, shall be sealed or ventilated. If such workings are sealed, the sealing shall be done with incombustible material in a manner prescribed by the director, and one or more of the seals of every sealed area shall be fitted with a pipe and cap or valve to permit the sampling of gases and measuring of hydrostatic pressure behind the seals. For the purpose of this section, working within a panel shall not be deemed to be abandoned until such panel is abandoned.

(b) Air that has passed through an abandoned area or an area which is inaccessible or unsafe for inspection shall not be used to ventilate any working place in any working mine, unless permission is granted by the director with unanimous agreement of the technical and mine safety review committee. Air that has been used to ventilate seals shall not be used to ventilate any working place in any working mine. No air which has been used to ventilate an area from which the pillars have been removed shall be used to ventilate any working place in a mine, except that such air, if it does not contain 0.25 volume percent or more of methane, may be used to ventilate enough advancing working places immediately adjacent to the line of retreat to maintain an orderly sequence of pillar recovery on a set of entries. Before sealed areas, temporary or permanent, are reopened, the director shall be notified.
TRANSPORTATION

§22A-2-37. Haulage roads and equipment; shelter holes; prohibited practices; signals; inspection.

(a) The roadbed, rails, joints, switches, frogs and other elements of all haulage roads shall be constructed, installed and maintained in a manner consistent with the speed and type of haulage operations being conducted to ensure 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 effective date of this article shall have a continuous, unobstructed clearance of at least twenty-four inches from the farthest projection of any moving equipment on the clearance side.

(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, except when variances are authorized by the director with unanimous agreement of the mine safety and technical review committee. Shelter holes shall be on the side of the entry opposite the trolley wire except that 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.

(j) Shelter holes made after the effective date of this article, unless the director with unanimous agreement of the mine safety and technical review committee grants a waiver, 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 miners 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 headlights shall be provided on each locomotive and
each shuttle car. All other mobile equipment, using the face areas of the mine, purchased after the effective date of this article, shall be provided with a conspicuous light or other 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, however, that trip lights need not be used on cars being shifted to and from loading machines, on cars being handled at loading heads during gathering operations at working faces, or on trips being pulled by animals. No 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 long timbers are being hauled. A safe clearance shall be maintained between the end car or trips placed on side tracks and moving traffic. On haulage roads the clearance point shall be marked with an approved 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 under-
ground, 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:
Provided, That the dispatcher's duties may also include
those of the responsible person required by section forty-
two of this article: Provided, however, That the dis-
patcher may perform other duties which do not interfere
with his dispatching responsibilities and do not require
him to leave the dispatcher's station except as approved
by the mine safety and technical review committee.

(4) Any dispatcher's station provided after the
effective 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.

(z) All self-propelled track haulage equipment shall be equipped with an emergency stop switch, self centering valves, or other devices designed to de-energize the traction motor circuit in the event of an emergency: Provided, That such equipment in operation in a mine on or before the first day of January, one thousand nine hundred eighty-seven, shall not be required to be retrofitted. On or before the first day of January, one thousand nine hundred eighty-seven, all track mounted equipment shall be equipped with trolley pole swing limiters or other means approved by the mine safety and technical review committee to restrict movement of the trolley pole when it is disengaged from the trolley wire. Battery powered mobile equipment shall have the operating controls clearly marked to distinguish the forward and reverse positions.

§22A-2-39. Belt conveyors; installation; maintenance; examination of belt conveyors and belt entries.

(a) On or after the first day of July, one thousand nine hundred seventy-one, all conveyor belts acquired for use underground shall be flame-resistant conveyor belts.

(b) A clear travelway at least twenty-four inches wide shall be provided on both sides of all belt conveyors installed after the first day of July, one thousand nine hundred seventy-one. Where roof supports are installed within twenty-four inches of a belt conveyor, a clear travelway at least twenty-four inches wide shall be provided on the side of such support farthest from the conveyor.

(c) On belt conveyors that do not transport men, stop and start controls shall be installed at intervals not to exceed one thousand feet. Such controls shall be
properly installed and positioned so as to be readily accessible.

(d) Persons shall not cross moving belt conveyors, except where suitable crossing facilities are provided.

(e) All belt conveyors shall be inspected by a certified belt examiner, mine foreman-fireboss or assistant mine foreman-fireboss for frozen rollers and fire hazards following the last production shift each week, also before holidays, vacation periods, as hereinafter provided, with records kept of daily inspection.

(f) (1) Belt conveyors on which coal is transported on any shift shall be examined during each coal-producing shift. Such examination shall be made of belt conveyors and belt conveyor entries for unsafe conditions including, but not limited to, mine gases, frozen rollers, hazardous roof or rib conditions and fires.

(2) Whenever an on-shift examination of a belt conveyor and belt conveyor entry has not been made during the preceding shift, an examination shall be made of the belt conveyor and belt conveyor entry prior to the conveyor being started; or if any miner is going to enter the belt conveyor entry, then the area where such miner will be working shall be examined. Such examination shall be made by a certified mine foreman-fireboss, assistant mine foreman-fireboss, or a certified belt examiner. Thereafter, on-shift examinations by a certified belt examiner, mine foreman-fireboss or assistant mine foreman-fireboss shall be made as herein required.

(g) In the conduct of the examination, the belt examiner, mine foreman-fireboss or assistant mine foreman-fireboss shall travel the full extent of the belt conveyor or belt conveyor entry assigned and shall place his initials and the date and time of his examination at or near each belt head and along each belt conveyor he examines. Should the belt examiner, mine foreman-fireboss or assistant mine foreman-fireboss find a condition which he considers dangerous to persons entering such area, he shall erect a danger sign to prevent other persons from entering the area and notify
his immediate supervisor of the condition. Only state or
federal inspectors or authorized representatives of the
miners, and persons authorized by mine management to
correct the condition, may enter such area while the
danger sign is posted. At the conclusion of each shift,
belt examiners, mine foreman-firebosses or assistant
mine foreman-firebosses shall record in a book provided
for that purpose the results of their examination,
including comments concerning the physical condition
of the belt conveyor and the area where the belt
conveyor is located. Such book shall be examined and
countersigned by the mine foreman or his assistant and
by the person conducting such examination on the next
oncoming shift.

(h) The examinations set forth in this section shall be
the only examinations required of belt conveyors and
belt conveyor entries, notwithstanding any provision of
sections fourteen, twenty or any other section of this
chapter relating to the examination of belt conveyors
and belt conveyor entries.

(i) The board of miner training, education and
certification shall establish criteria and standards for
the training, examination and certification of “belt
examiners”. Persons seeking to be certified as a “belt
examiner” must hold a miner's certificate and have at
least two years practical underground mining expe-
rience. Such training, examination and certification
program shall, as a minimum, require a demonstration
of knowledge of belt conveyors, roof control, ventilation
and gases.

(j) Deluge-type water sprays, water sprinklers, dry
chemical sprinkler system or foam generators (designed
to be automatically activated in the event of a fire or
rise in the temperature at or near the belt drive) shall
be installed at each main and secondary conveyor drive
that are located underground.

(k) All underground belt conveyors shall be equipped
with slippage and sequence switches.

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

(m) After supplies have been transported on belt conveyors, such belts shall be examined by a belt examiner, mine foreman-fireboss or assistant mine foreman-fireboss for unsafe conditions prior to the transportation of men.

(n) No person shall be permitted to perform any work within the confines of the cargo space of a crusher or feeder, unless the crusher or feeder has been de-energized and locked out.

§22A-2-42. Telephone service or communication facilities.

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:

(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 miners 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.

(b) (1) Telephones or equivalent two-way communication facilities provided at each working section shall be located not more than five hundred feet out by 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) 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.

(3) If a communication system other than telephones
(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, miners, 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 to and from the mine directly to health care facilities.

(d) Telephone lines and cables shall be carried on insulators installed on the opposite side from power or trolley wires, and where they cross power or trolley wires, they shall be insulated adequately. Lightning arrestors shall be provided at the points where telephone circuits enter the mine.


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

(b) In all mines, electric haulage locomotives operated from trolley wire and other electrical equipment or
devices which may ignite gas shall not be used in return
air, unless permission is granted by the director for a
specified area. For the purpose of this provision, air
used to ventilate a section of mine shall not be consid-
dered return air until such time as the air has ventilated
all of the workings in the section.

(c) No person shall be placed in charge of a coal-
cutting machine in any mine who is not a qualified
person, capable of determining the safety of the roof and
sides of the working places and of detecting the presence
of explosive gas, unless they are accompanied by a
certified or qualified person who has passed such an
examination.

(d) In any mine no machine shall be brought in by the
last breakthrough next to the working face until the
machine man shall have made an inspection for gas in
the place where the machine is to work. If explosive gas
in excess of one percent is found in the place, the
machine shall not be taken in until the danger is
removed.

(e) In working places a safety lamp, or other suitable
approved apparatus for the detection of explosive gas,
shall be provided for use with each mining machine
when working, and should any indication of explosive
gas in excess of one percent appear on the flame of the
safety lamp, or on other apparatus used for the detection
of explosive gas, the person in charge shall immediately
stop the machine, cut off the current at the nearest
switch and report the condition to the mine foreman or
supervisor. The machine shall not again be started in
such place until the condition found has been corrected
and has been pronounced safe by a certified person.

(f) No electric equipment shall be operated in a mine
for a longer period than twenty minutes without an
examination as above described being made for gas; and
if gas is found in excess of one percent, the current shall
at once be switched off the machine, and the trailing
cable shall forthwith be disconnected from the power
supply until the place is pronounced safe.

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

§22A-2-46. Welding and cutting.

(a) A record shall be kept of oxygen and gas tanks or cylinders taken into a mine and the date shall be recorded when they are removed from the mine. No more tanks or cylinders than necessary to perform the work efficiently shall be permitted underground at one time.

(b) Propane torches may be used in lieu of blow-torches. Only approved apparatus such as torches, regulators, pressure reducing valves, hoses, check valves and gas cylinders shall be used.

(c) Welding and cutting may be done in mines: Provided, That all equipment and gauges are maintained in safe condition and not abused, that suitable precautions are taken against ignition of methane, coal dust, or combustible materials, that means are provided for prompt extinguishment of fires accidentally started, and that only persons who have demonstrated competency in welding and cutting are entrusted to do this work. Adequate eye protection shall be used by all persons doing welding or cutting, and precautions shall be taken to prevent other persons from exposure that might be harmful to their eyes. A suitable wrench designed for compressed tanks shall be provided to the person authorized to use the equipment.

(d) Transportation of oxygen and gas tanks or cylinders shall be permitted on self-propelled machinery or belt conveyors specially equipped for safe holding for the containers in transportation. In no instance shall such transportation be permitted in conjunction with any man trip.

(e) Empty oxygen and gas tanks or cylinders shall be marked "empty" and shall be removed from the mine
promptly in safe containers provided for transportation of the same.

(f) When tanks and cylinders are not in use and when they are being transported, valve protection caps and plugs shall be placed on all tanks or cylinders for which caps and plugs are available. No oxygen tanks, gas tanks or cylinders shall be transported with the hoses and guages attached thereto.

(g) In all mines a certified person, pursuant to section twelve of this article, shall examine for gas with permissible flame safety lamps or other approved detectors before and during welding or cutting. The safety of the equipment and methods used in such cases shall be subject to approval of the director. If equipment is mobile, it shall be removed outby the last open breakthrough before cutting and welding may be performed on such equipment.

SAFEGUARDS FOR MECHANICAL EQUIPMENT

§22A-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 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.

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

(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.

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

(f) 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.

(g) On or after the first day of January, one thousand nine hundred eighty-eight, all manually operated valves and levers of equipment of the same manufacturer and model shall have the same direction of activation and direction of operations.

MISCELLANEOUS SAFETY PROVISIONS AND REQUIREMENTS

§22A-2-53a. Railroad cars; dumping areas; other surface 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. Safety belts shall be worn and properly attached by all car droppers handling railroad cars. Railroad cars shall be maintained under control at all times. Cars shall be dropped at a safe rate of speed and in such a manner that will ensure the car dropper maintains a safe position while working and traveling around the car. Railroad cars shall not be coupled or uncoupled manually from the inside of curves unless the railroad and cars are so designed to eliminate any hazard from coupling or uncoupling cars from inside of curves.

(2) All dumping ramps shall be of a sufficient width to ensure safe operation of vehicles used thereon.
(3) All access roads leading to and from bath houses, portals, and other areas on which persons are expected to travel to and from work, shall be of sufficient width and be maintained in good condition. On haulage roads, guardrails or berms shall be provided on the outer bank of all elevated roadways.

(4) Mobile surface loading and haulage equipment shall be inspected by a competent person before such equipment is placed into operation. Equipment defects affecting safety shall be corrected before the equipment is used.

(5) Safety protection, such as safety belts, lifelines, or lanyards to prevent a person from falling shall be provided at all times that miners are working in an area where the potential fall distance exceeds fifteen feet, except that safety belts shall not be used where they are impractical or would pose a greater hazard. Safety nets shall be provided when work places are more than twenty-five feet above the ground where the use of ladders, scaffolds, catch platforms, temporary floors, safety lines, or safety belts are impractical.

§22A-2-53b. Haulage or surface areas.

(1) Traffic directions which differ from standard highways practice shall be posted on signs along the haulage roads at strategic points in letters at least three inches high.

(2) Well marked signs conspicuously placed, shall be properly located to alert drivers to existing danger areas, such as the approach to a dangerous curve or an extreme grade.

(3) Traffic rules, signals and warning signs shall be standardized at each mine.

(4) Where side or overhead clearances on haulage roads or loading or dumping locations are hazardous to mine workers, such areas shall be conspicuously marked and warning devices shall be installed when necessary to ensure the safety of the workers.

(5) Flashers, flares, or other means of signaling shall
be used to warn approaching drivers of a hazard created by an obstruction in the roadway.

(6) Regulatory signs shall be used to indicate the required method of traffic movement.

(7) Posted warning signs shall be used where necessary to indicate potential hazardous conditions.

(8) Object marking shall be used to mark physical obstructions in or near the haulageway that presents possible hazards.

(9) All signs and markings shall be displayed and utilized so as to be as effective as possible.

(10) Where side or overhead clearance on any haulage road or at any loading or dumping location at a surface mine is hazardous to any person, such hazard shall be corrected immediately, and all necessary precautions taken while such hazard is being corrected.

(11) Haulage roads shall be located an adequate distance from highwalls and spoil banks to minimize the danger of falling material onto personnel and equipment.

(12) When dust created by haulage is thrown into suspension in such quantities that may obscure the vision of the operators of vehicles, an adequate means shall be taken to allay such dust.

(13) Only authorized persons shall be permitted on haulage roads and at loading or dumping locations.

(14) Berms or guards shall be provided where required on the outer bank of elevating roadways.

(15) The width and grade to be utilized in haulage road construction shall be determined for each specific situation based upon terrain configuration, vehicle characteristics and driver visibility for safe haulage.

(16) Haulage roads shall be constructed of sufficient width to permit the driver to maneuver his vehicle to avoid striking unexpected obstacles on the roadway where reclamation regulations permit.
(17) Provisions shall be made to adequately drain and remove excessive water from the haulage roads.

(18) Haulage roads shall be constructed, installed and maintained in a manner consistent with the speed and type of haulage operations being conducted to ensure safe operation. All roads leading to and from work sites on which persons are expected to travel to and from work or to haul coal or supplies, shall be of sufficient width and be maintained in good condition.

(19) Haulage operations shall be stopped when the haulage surface has deteriorated to the extent that it presents a danger to the safety of the haulage operation.

(20) All haulage vehicles placed into service after the effective date of this section shall be equipped with an approved supplementary emergency braking system.

(21) All power lines constructed over haulage roads after the effective date of this section shall be maintained at a minimum of twelve feet above all equipment used on haulage roads, including dump trucks in a raised position.

§22A-2-53c. Ramps; tipples; cleaning plants; other surface areas.

(1) Surface installations generally—Surface installations, all general mine structures, enclosures and other facilities, including custom coal preparation facilities shall be maintained in good condition. In unusually dusty locations, electric motors, switches and controls shall be of dust-tight construction, or enclosed with reasonable dust-tight housings or enclosures. Openings in surface installations through which men or material may fall shall be protected by railings, barriers, covers or other protective devices. Illumination sufficient to provide safe working conditions shall be provided in and on all surface structures, paths, walkways, switch panels, loading and dumping sites, working areas and parking areas. Materials shall be stored and/or stacked in a manner to prevent stumbling or falling. Compressed and liquid gas cylinders shall be secured in a safe manner. Adequate ventilation shall be provided
in tipples and preparation plants. Coal dust in or around
tipples or cleaning plants shall not be permitted to exist
or accumulate in dangerous amounts.

(2) Machinery guards—Gears, sprockets, chains, drive
head, tail and takeup pulleys, flywheels, couplings,
shafts, sawblades, fan inlets, and similar exposed
moving machine parts with which persons may come in
contact shall be guarded adequately. Except when
testing is necessary, machinery guards shall be secured
in place while being operated. Belt rollers shall not be
cleaned while belts are in motion.

(3) Fire protection—Where cutting or welding is
performed at any location, a means of prompt extin-
guishment of any fire accidently started shall be
provided. Adequate fire-fighting facilities, required by
the department of energy, shall be provided on all floors.
At least two exits shall be provided for every floor of
tipples and cleaning plants constructed after the
effective date of this section. Signs warning against
smoking and open flames shall be posted so they can be
readily seen in areas or places where fire or explosion
hazards exists. Smoking or an open flame in or about
surface structures shall be restricted to locations where
it will not cause fire or an explosion.

(4) Repairs of machinery—Machinery shall not be
lubricated or repaired while in motion, except where
safe remote lubricating devices are used. Machinery
shall not be started until the person lubricating or
repairing it has given a clear signal. Means and methods
shall be provided to assure that structures and the
immediate area surrounding the same shall be
reasonably free of coal dust accumulations. Where
repairs are made to tipples, or cleaning plants, proper
scaffolding and proper overhead protection shall be
provided for workmen when necessary. Where overhead
repair work is being performed at surface installations,
adequate protection shall be provided for all persons
working or passing below.

(5) Stairs, platforms, etc.—Stairways, elevated plat-
forms and runways shall be equipped with handrails.
Railroad car trimmer platforms are exempted from such requirements. Where required, elevated platforms and stairways shall be provided with toeboards. They shall be kept clear of refuse and ice and maintained in good condition.

(6) Belts, etc.—Drive belts shall not be shifted while in motion unless such machines are provided with mechanical shifters. Belt dressing shall not be applied while in motion. Belts, chains and ropes shall not be guided into power-driven moving pulleys, sprockets or drums with the hand except with equipment especially designed for hand feeding.

(7) Conveyors and crossovers—When the entire length of a conveyor is visible from the starting switch, the operator shall visually check to make certain that all persons are in the clear before starting the conveyor. When the entire length of the conveyor is not visible from the starting switch, a positive audible or visible warning system shall be installed and operated to warn persons when the conveyor will be started. Crossovers shall be provided where necessary to cross conveyors. All crossovers shall be of substantial construction, with rails, and maintained in good condition. Moving conveyors shall be crossed only at designated crossover points. A positive audible or visible warning system shall be installed and operated to warn persons that a conveyor or other tippie equipment is to be started. Pulleys of conveyors shall not be cleaned manually while the conveyor is in operation. Guards, nets or other suitable protection shall be provided where tramways pass over roadways, walkways or buildings. Where it is required to cross under a belt, adequate means shall be taken to prohibit a person from making contact with a moving part.

(8) Ladders—All ladders shall be securely fastened. Permanent ladders more than ten feet in height shall be provided with backguards. Ladders shall be of substantial construction and maintained in good condition. Wooden ladders shall not be painted. Fixed ladders shall not incline backward at any point unless equipped with backguards. Fixed ladders shall be anchored
securely and installed with at least three inches of toe clearance. Side rails of fixed ladders shall project at least three feet above landings, or substantial handholds shall be provided above the landing. No person shall be permitted to work off of the top step of any ladder. Metal ladders shall not be used with electrical work, where there is danger of the ladder coming into contact with power lines or an electrical conductor. The maximum length of a step ladder shall be twenty feet and an extension ladder sixty feet.

(9) Hoisting—Hitches and slings used to hoist materials shall be suitable for handling the type of material being hoisted. Persons shall stay clear of hoisted loads. Tag lines shall be attached to hoisted materials that require steadying or guidance. A hoist shall not lift leads greater than the rated capacity of the hoist being used.

(10) Railroad track construction and maintenance

(a) All parts of the track haulage road under the ownership or control of the operator shall be strictly constructed and maintained. Rails shall be secured at all points by means of plates or welds. When plates are used, plates conforming with the weight of the rail shall be installed and broken plates shall be replaced immediately. Appropriate bolts shall be inserted and maintained in all bolt holes. The appropriate number of bolts conforming with the appropriate rail plate for the weight of the rail shall be inserted, tightly secured, and maintained.

(b) All points shall be installed and maintained so as to prevent bad connections. Varying weights of rail shall not be joined without proper adapters. Tracks shall be blocked and leveled and so maintained so as to prevent high and low joints.

(c) Tracks shall be gauged so as to conform with the track mounted equipment. Curves shall not be constructed so sharp as to put significant pressure on the trucks of the track mounted equipment.

(d) Severely worn or damaged rails and ties shall be
replaced immediately.

(e) When mining operations are performed within any twenty-four hour period, operations shall be inspected at least every twenty-four hours to assure safe operation and compliance with the law and regulations. The results of which inspection shall be recorded.

(f) Personnel who are required frequently and regularly to travel on belts or chain conveyors extended to heights of more than ten feet shall be provided with adequate space and protection in order that they may work safely. Permanent ladders extending more than ten feet shall be provided with back guards. Walkways around thickeners that are less than four feet above the walkway shall be adequately guarded. Employees required to work over thickener shall wear a safety harness adequately secured, unless walkways or other suitable safety devices are provided.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Bruce C. Williams  
Chairman Senate Committee

Floyd Fulla  
Chairman House Committee

Originating in the House.

Takes effect from passage.

Tate C. Smith  
Clerk of the Senate

Donald E. Long  
Clerk of the House of Delegates

Dan Thomas  
President of the Senate

Joseph P. Alvey  
Speaker of the House of Delegates

The within .............................................................. this the 26th
day of ........................................................., 1986.

Andrew B. Parchman  
Governor