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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



ENROLLED

House Bill No. 4414

(By Delegates Varner, Staton, Kuhn,
Collins, Williams, Martin and Beach)



Passed March 14, 1998

In Effect Ninety Days from Passage

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H. B. 4414

(BY DELEGATES VARNER, STATON, KUHN,
COLLINS, WILLIAMS, MARTIN AND BEACH)

[Passed March 14, 1998; in effect ninety days from passage.]

AN ACT to amend and reenact section thirty-five, article one, chapter twenty-two-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to office of miners' health, safety and training; administration; enforcement; mine rescue teams; qualification of members; and removing the requirement that an applicant for initial mine rescue training be under fifty years of age.

Be it enacted by the Legislature of West Virginia:

That section thirty-five, article one, chapter twenty-two-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 1. OFFICE OF MINERS' HEALTH, SAFETY AND
TRAINING; ADMINISTRATION; ENFORCE-
MENT.**

§22A-1-35. Mine rescue teams.

- 1 (a) It is the responsibility of the operator to provide
- 2 mine rescue coverage at each active underground mine.
- 3 (b) Mine rescue coverage may be provided by:

4 (1) Establishing at least two mine rescue teams which
5 are available at all times when miners are underground; or

6 (2) Entering into an arrangement for mine rescue
7 services which assures that at least two mine rescue teams
8 are available at all times when miners are underground.

9 (c) As used in this section, mine rescue teams shall be
10 considered available where teams are capable of
11 presenting themselves at the mine site(s) within a
12 reasonable time after notification of an occurrence which
13 might require their services. Rescue team members will be
14 considered available even though performing regular
15 work duties or while in an off-duty capacity. The
16 requirement that mine rescue teams be available does not
17 apply when teams are participating in mine rescue contests
18 or providing rescue services to another mine.

19 (d) In the event of a fire, explosion or recovery
20 operations in or about any mine, the director is hereby
21 authorized to assign any mine rescue team to said mine to
22 protect and preserve life and property. The director may
23 also assign mine rescue and recovery work to inspectors,
24 instructors or other qualified employees of the office as he
25 or she deems necessary.

26 (e) The ground travel time between any mine rescue
27 station and any mine served by that station shall not
28 exceed two hours. To ensure adequate rescue coverage
29 for all underground mines, no mine rescue station may
30 provide coverage for more than seventy mines within the
31 two-hour ground travel limit as defined in this subsection.

32 (f) Each mine rescue team shall consist of five
33 members and one alternate, who are fully qualified,
34 trained and equipped for providing emergency mine
35 rescue service. Each mine rescue team shall be trained by
36 a state certified mine rescue instructor.

37 (g) Each member of a mine rescue team must have
38 been employed in an underground mine for a minimum
39 of one year. For the purpose of mine rescue work only,
40 miners who are employed on the surface but work
41 regularly underground meet the experience requirement.

42 The underground experience requirement is waived for
43 those members of a mine rescue team on the effective date
44 of this statute.

45 (h) An applicant for initial mine rescue training shall
46 pass, on at least an annual basis, a physical examination by
47 a licensed physician certifying his or her fitness to
48 perform mine rescue work. A record that such
49 examination was taken, together with pertinent data
50 relating thereto, shall be kept on file by the operator and a
51 copy shall be furnished to the director.

52 (i) Upon completion of the initial training, all mine
53 rescue team members shall receive at least forty hours of
54 refresher training annually. This training shall be given at
55 least four hours each month, or for a period of eight hours
56 every two months, and shall include:

57 (1) Sessions underground at least once every six
58 months;

59 (2) The wearing and use of a breathing apparatus by
60 team members for a period of at least two hours, while
61 under oxygen, once every two months;

62 (3) Where applicable, the use, care, capabilities and
63 limitations of auxiliary mine rescue equipment, or a
64 different breathing apparatus;

65 (4) Mine map training and ventilation procedures.

66 (j) When engaged in rescue work required by an
67 explosion, fire or other emergency at a mine, all members
68 of mine rescue teams assigned to rescue operations shall,
69 during the period of their rescue work, be employees of
70 the operator of the mine where the emergency exists, and
71 shall be compensated by the operator at the rate
72 established in the area for such work. In no case shall this
73 rate be less than the prevailing wage rate in the industry
74 for the most skilled class of inside mine labor. During the
75 period of their emergency employment, members of mine
76 rescue teams shall be protected by the workers'
77 compensation subscription of such emergency employer.

78 (k) During the recovery work and prior to entering
79 any mine at the start of each shift, all rescue or recovery
80 teams shall be properly informed of existing conditions
81 and work to be performed by the designated company
82 official in charge.

83 (1) For every two teams performing rescue or
84 recovery work underground, one six-member team shall
85 be stationed at the mine portal.

86 (2) Each rescue or recovery team performing work
87 with a breathing apparatus shall be provided with a backup
88 team of equal number, stationed at each fresh air base.

89 (3) Two-way communication and a lifeline or its
90 equivalent shall be provided at each fresh air base for all
91 mine rescue or recovery teams and no mine rescue team
92 member shall advance more than one thousand feet in by
93 the fresh air base: *Provided*, That if a life may possibly be
94 saved and existing conditions do not create an
95 unreasonable hazard to mine rescue team members, the
96 rescue team may advance a distance agreed upon by those
97 persons directing the mine rescue or recovery operations:
98 *Provided, however*, That a lifeline or its equivalent shall be
99 provided in each fresh air base for all mine rescue or
100 recovery teams.

101 (4) A rescue or recovery team shall immediately
102 return to the fresh air base when the atmospheric pressure
103 of any member's breathing apparatus depletes to sixty
104 atmospheres, or its equivalent.

105 (1) Mine rescue stations shall provide a centralized
106 storage location for rescue equipment. This storage
107 location may be either at the mine site, affiliated mines or
108 a separate mine rescue structure. All mine rescue teams
109 shall be guided by the mine rescue apparatus and
110 auxiliary equipment manual. Each mine rescue station
111 shall be provided with at least the following equipment:

112 (1) Twelve self-contained oxygen breathing
113 apparatuses, each with a minimum of two hours capacity,
114 and any necessary equipment for testing such breathing
115 apparatuses;

116 (2) A portable supply of liquid air, liquid oxygen,
117 pressurized oxygen, oxygen generating or carbon dioxide
118 absorbent chemicals, as applicable to the supplied
119 breathing apparatuses and sufficient to sustain each team
120 for six hours while using the breathing apparatuses during
121 rescue operations;

122 (3) One extra, fully charged, oxygen bottle for each
123 self-contained compressed oxygen breathing apparatus, as
124 required under subdivision (1) of this subsection;

125 (4) One oxygen pump or a cascading system,
126 compatible with the supplied breathing apparatuses;

127 (5) Twelve permissible cap lamps and a charging rack;

128 (6) Two gas detectors appropriate for each type of gas
129 which may be encountered at the mines served;

130 (7) Two oxygen indicators or two flame safety lamps;

131 (8) One portable mine rescue communication system
132 or a sound-powered communication system. The wires or
133 cable to the communication system shall be of sufficient
134 tensile strength to be used as a manual communication
135 system. The communication system shall be at least one
136 thousand feet in length; and

137 (9) Necessary spare parts and tools for repairing the
138 breathing apparatuses and communication system, as
139 presently prescribed by the manufacturer.

140 (m) Mine rescue apparatuses and equipment shall be
141 maintained in a manner that will ensure readiness for
142 immediate use. A person trained in the use and care of
143 breathing apparatuses shall inspect and test the apparatuses
144 at intervals not exceeding thirty days and shall certify by
145 signature and date that the inspections and tests were done.
146 When the inspection indicates that a corrective action is
147 necessary, the corrective action shall be made and
148 recorded by said person. The certification and corrective
149 action records shall be maintained at the mine rescue
150 station for a period of one year and made available on
151 request to an authorized representative of the director.

152 (n) Authorized representatives of the director have the
153 right of entry to inspect any designated mine rescue
154 station.

155 (o) When an authorized representative finds a violation
156 of any of the mine rescue requirements, the representative
157 shall take appropriate corrective action in accordance with
158 section fifteen of this article.

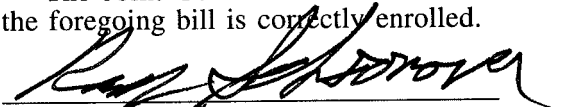
159 (p) Operators affiliated with a station issued an order
160 by an authorized representative will be notified of that
161 order and that their mine rescue program is invalid. The
162 operators shall have twenty-four hours to submit to the
163 director a revised mine rescue program.

164 (q) Every operator of an underground mine shall
165 develop and adopt a mine rescue program for submission
166 to the director within thirty days of the effective date of
167 this statute: *Provided*, That a new program need only be
168 submitted when conditions exist as defined in subsection
169 (p) of this section, or when information contained within
170 the program has changed.

171 (r) A copy of the mine rescue program shall be posted
172 at the mine and kept on file at the operator's mine rescue
173 station or rescue station affiliate and the state regional
174 office where the mine is located. A copy of the mine
175 emergency notification plan filed pursuant to 30 CFR
176 §49.9(a) will satisfy the requirements of subsection (q) of
177 this section if submitted to the director.

178 (s) The operator shall immediately notify the director
179 of any changed conditions materially affecting the
180 information submitted in the mine rescue program.

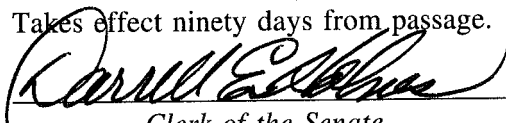
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

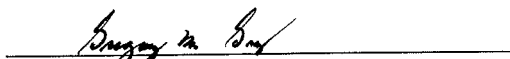

Chairman Senate Committee


Chairman House Committee


Originating in the House.

Takes effect ninety days from passage.

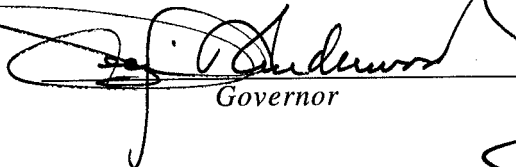

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 7th
day of April, 1998.


Governor

PRESENTED TO THE

GOVERNOR

Date

Time

4/6/98
11:52 am