

HB # 4482

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

HOUSE BILL No. 4482

(By Delegates *Whitman, Collins, Bees,*
Dempsey, Hendricks, Browning
and Stator)



Passed March 12 1994

In Effect from Passage

ENROLLED
H. B. 4482

(By DELEGATES WHITMAN, COLLINS, PREECE, DEMPSEY,
HENDRICKS, BROWNING AND STATON)

[Passed March 12, 1994; in effect from passage.]

AN ACT to amend and reenact section sixty-three, article two, chapter twenty-two-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to underground mines; miners' health, safety and training; increasing the fee to operator for certificate of approval and permit; entities performing construction or services at mine deemed operators; exceptions; and procedure for obtaining certificate or permit.

Be it enacted by the Legislature of West Virginia:

That section sixty-three, article two, 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 2 . UNDERGROUND MINES.

§22A-2-63. No mine to be opened or reopened without prior approval of the director of the office of miners' health, safety and training; certificate of approval; approval fees; extension of certificate of approval; certificates of approval not transferable; section to be printed on certificates of approval.

- 1 (a) After the first day of July, one thousand nine
- 2 hundred seventy-one, no mine shall be opened or
- 3 reopened unless prior approval has been obtained from
- 4 the director of the office of miners health, safety and

5 training, which approval shall not be unreasonably
6 withheld. The operator shall pay for such approval a fee
7 of one hundred dollars, which payment shall be tendered
8 with the application for such approval: *Provided*, That
9 mines producing coal solely for the operator's use shall
10 be issued a permit without charge if coal production will
11 be less than fifty tons a year.

12 Within thirty days after the first day of January of
13 each year, the holder of such permit to open a mine shall
14 apply for the extension of such permit for an additional
15 year. Such permit, evidenced by a document issued by
16 the director, shall be granted as a matter of right for
17 a fee of one hundred dollars if, at the time such
18 application is made, the permit holder is in compliance
19 with the provisions of section seventy-seven of this
20 article and has paid or otherwise appealed all coal mine
21 assessments issued to the mine if operated by the permit
22 holder and imposed under article one of this chapter.
23 Applications for extension of such permits not submitted
24 within the time required shall be processed as an
25 application to open or reopen a mine and shall be
26 accompanied by a fee of one hundred dollars.

27 (b) Permits issued pursuant to this section shall not
28 be transferable.

29 (c) If the operator of a mine is not the permit holder
30 as defined in subsection (a) above, then such operator
31 must apply for and obtain a certificate of approval to
32 operate the mine on which the permit is held prior to
33 commencing operations. An operator who is not the
34 permit holder operating such mine on the tenth day of
35 April, one thousand nine hundred ninety-three, must
36 apply for a certificate of approval on or before the first
37 day of July, one thousand nine hundred ninety-three.
38 The operator shall pay a fee of one hundred dollars,
39 which payment shall be tendered with the application
40 for approval. Such approval, evidenced by a certificate
41 issued by the director, shall be granted if, at the time
42 such application is made, the applicant is in compliance
43 with the provisions of section seventy-seven of this
44 article and has paid or otherwise appealed all coal mine
45 assessments imposed on such applicant for the certifi-

46 cate of approval under article one of this chapter.

47 (d) In addition to the authority to file a petition for
48 enforcement under subdivision (4), subsection (a),
49 section twenty-one, article one of this chapter, if an
50 operator holding a certificate of approval issued
51 pursuant to subsection (c) of this section, against whom
52 a civil penalty is assessed in accordance with section
53 twenty-one, article one of this chapter, and implement-
54 ing regulations, and which has become final, fails to pay
55 the penalty within the time prescribed in such order, the
56 director or the authorized representative of the director,
57 by certified mail, return receipt requested, shall send a
58 notice to such operator advising the operator of the
59 unpaid penalty. If the penalty is not paid in full within
60 sixty days from the issuance of the notice of delinquency
61 by the director, then the director may revoke such
62 operator's certificate of approval: *Provided*, That such
63 operator to whom the delinquency notice is issued shall
64 have thirty days from receipt thereof to request, by
65 certified mail, return receipt requested, a public
66 hearing held in accordance with the procedures of
67 section seventeen, article one of this chapter, and
68 implementing rules, including application for tempor-
69 ary relief. Once such operator's certificate of approval
70 is revoked pursuant to this subsection, such operator
71 shall be prohibited from obtaining any certificate of
72 approval under the provisions of this section to operate
73 any other mine until such time as that operator pays the
74 delinquent penalties that have become final.

75 (e) Every firm, corporation, partnership or individual
76 that contracts to perform services or construction at a
77 coal mine shall be deemed to be an operator and
78 beginning the first day of January, one thousand nine
79 hundred ninety-five, must apply for and obtain a
80 certificate of approval prior to commencing operations:
81 *Provided*, That such persons shall only be required to
82 obtain one certificate annually: *Provided however*, That
83 persons such as, but not limited to, consultants, mine
84 vendors, office equipment suppliers, and maintenance
85 and delivery personnel are excluded from this require-
86 ment. Any such operator shall pay a fee of one hundred

87 dollars which shall be tendered with the application for
88 approval. Such approval, evidenced by a certificate
89 issued by the director, shall be granted if, at the time
90 such application is made, the applicant has paid or
91 otherwise appealed all coal mine assessments imposed
92 on such applicant under article one of this chapter.

93 Within thirty days after the first day of January of
94 each year, the holder of such certificate of approval shall
95 apply for the extension of such approval for an addi-
96 tional year. Applications for extension must be accom-
97 panied by a fee of one hundred dollars. An extension
98 shall be granted if, at the time such application is made,
99 the applicant has paid or otherwise appealed all coal
100 mine assessments imposed on such applicant under
101 article one of this chapter. All delinquent assessments
102 which have been imposed upon a certificate of approval
103 holder or applicants under this section shall not be
104 imposed upon any permit holder or certificate of
105 approval holder or any applicant pursuant to subsection
106 (a) or (c) of section sixty-three.

107 (f) The provisions of this section shall be printed on
108 the reverse side of every permit issued under subsection
109 (a) and certificate of approval issued under subsection
110 (d) herein.

111 (g) The district mine inspector shall be contacted for
112 a pre-inspection of the area proposed for underground
113 mining prior to issuance of any new opening permit
114 approval.

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

[Handwritten signature]
.....
Chairman Senate Committee

[Handwritten signature]
.....
Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within is approved this the *30th*
day of *March* 1994

[Handwritten signature]
.....
Governor



PRESENTED TO THE
GOVERNOR

Date 3/29/94

Time 11:47 AM