

1 AN ACT relating to mining.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 351.010 is amended to read as follows:

- 4 (1) As used in this chapter, unless the context requires otherwise:
- 5 (a) "Adulterated specimen" means a specimen containing a substance that is not a
6 normal constituent or containing an endogenous substance at a concentration
7 that is not a normal physiological concentration;
- 8 (b) "Approved" means that a device, apparatus, equipment, or machinery, or
9 practice employed in the mining of coal has been approved by the
10 commissioner of the Department for Natural Resources;
- 11 (c) "Assistant mine foreman" means a certified person designated to assist the
12 mine foreman in the supervision of a portion or the whole of a mine or of the
13 persons employed therein;
- 14 (d) "Commercial mine" means any coal mine from which coal is mined for sale,
15 commercial use, or exchange. This term shall in no instance be construed to
16 include a mine where coal is produced for own use;
- 17 (e) "Commission" means the Mine Safety Review Commission created by KRS
18 351.1041;
- 19 (f) "Commissioner" means commissioner of the Department for Natural
20 Resources;
- 21 (g) "Department" means the Department for Natural Resources;
- 22 (h) "Drift" means an opening through strata or coal seams with opening grades
23 sufficient to permit coal to be hauled therefrom or which is used for the
24 purpose of ventilation, drainage, ingress, egress, and other purposes in
25 connection with the mining of coal;
- 26 (i) "Excavations and workings" means the excavated portions of a mine;
- 27 (j) "Fire boss" (often referred to as mine examiner) means a person certified as a

- 1 mine foreman or assistant mine foreman who is designated by management to
2 examine a mine or part of a mine for explosive gas or other dangers before a
3 shift crew enters;
- 4 (k) "Gassy mine." All mines shall be classified as gassy or gaseous;
- 5 (l) "Illicit substances" includes prescription drugs used illegally or in excess of
6 therapeutic levels as well as illegal drugs;
- 7 (m) "Intake air" means air that has not passed through the last working place of the
8 split or by the unsealed entrances to abandoned workings and by analysis
9 contains not less than nineteen and one-half percent (19.5%) oxygen, no
10 dangerous quantities of flammable gas, and no harmful amounts of poisonous
11 gas or dust;
- 12 (n) "Licensee" means any owner, operator, lessee, corporation, partnership, or
13 other person who procures a license from the department to operate a coal
14 mine;
- 15 (o) "Medical review officer" or "MRO" means a licensed physician with
16 knowledge of substance abuse disorders, laboratory testing, chain of custody,
17 collection procedures, and the ability to verify positive, confirmed test results.
18 The MRO shall possess the necessary medical training to interpret and
19 evaluate a positive test result in relation to the person's medical history or any
20 other relevant biomedical information;
- 21 (p) "Mine" means any open pit or any underground workings from which coal is
22 produced for sale, exchange, or commercial use, and all shafts, slopes, drifts,
23 or inclines leading thereto, and includes all buildings and equipment, above or
24 below the surface of the ground, used in connection with the workings.
25 Workings that are adjacent to each other and under the same management, but
26 which are administered as distinct units, shall be considered a separate mine;
- 27 (q) "Mine foreman" means a certified person whom the licensee or superintendent

1 places in charge of the workings of the mine and of the persons employed
2 therein;

3 (r) "Mine manager" means a certified or noncertified person whom the licensee
4 places in charge of a mine or mines and whose duties include but are not
5 limited to operations at the mine or mines and supervision of personnel when
6 qualified to do so;

7 (s) "Open-pit mine" shall include open excavations and open-cut workings,
8 including but not limited to auger operations and highwall mining systems for
9 the extraction of coal. However, excavation of refuse from a coarse coal
10 refuse fill for reprocessing of the refuse, and which is permitted and bonded
11 under KRS Chapter 350 and is regulated by the Mine Safety and Health
12 Administration shall not be required to obtain a license under this chapter;

13 (t) "Operator" means the licensee, owner, lessee, or other person who operates or
14 controls a coal mine;

15 (u) "Permissible" refers to any equipment, device, or explosive that has been
16 approved by the United States Bureau of Mines, the Mining Enforcement and
17 Safety Administration, or the Mine Safety and Health Administration and that
18 meets all requirements, restrictions, exceptions, limitations, and conditions
19 attached to the classification by the approving agency;

20 (v) "Preshift examination" means the examination of a mine or any portion
21 thereof where miners are scheduled to work or travel, which shall be
22 conducted not more than three (3) hours before any oncoming shift;

23 (w) "Return air" means air that has passed through the last active working place on
24 each split, or air that has passed through abandoned, inaccessible, or pillared
25 workings;

26 (x) "Serious physical injury" means an injury which has a reasonable potential to
27 cause death;

- 1 (y) "Shaft" means a vertical opening through the strata that is used in connection
2 with the mining of coal, for the purpose of ventilation or drainage, or for
3 hoisting men, coal, or materials;
- 4 (z) "Slope" means an inclined opening used for the same purpose as a shaft;
- 5 (aa) "Superintendent" means the person who, on behalf of the licensee, has
6 immediate supervision of one (1) or more mines;
- 7 (ab) "Supervisory personnel" means a person certified under the provisions of this
8 chapter to assist in the supervision of a portion or the whole of the mine or of
9 the persons employed therein;
- 10 (ac) "Division" means the Division of Mine Safety;
- 11 (ad) "Director" means the director of the Division of Mine Safety;
- 12 (ae) "Probation" means the status of a certification or license issued by the
13 Division of Mine Safety that conditions the validity of the certification or
14 license upon compliance with orders of the Mine Safety Review Commission;
15 and
- 16 (af) "Final order of the commission" means an order which has not been appealed
17 to the Franklin Circuit Court within thirty (30) days of entry, or an order
18 affirming the commission's order that has been entered by any court within the
19 Commonwealth and for which all appeals have been exhausted.
- 20 (2) Except as the context otherwise requires, this chapter applies only to commercial
21 coal mines.
- 22 (3) The definitions in KRS 352.010 apply also to this chapter, unless the context
23 requires otherwise.
- 24 ➔Section 2. KRS 352.010 is amended to read as follows:
- 25 (1) As used in this chapter, unless the context requires otherwise:
- 26 (a) "Abandoned workings" means excavations, either caved or sealed, that are
27 deserted and in which further mining is not intended, or open workings which

- 1 are ventilated and not inspected regularly;
- 2 (b) "Active workings" means all places in a mine that are ventilated and inspected
3 regularly;
- 4 (c) "Approved" means that a device, apparatus, equipment, machinery, or practice
5 employed in the mining of coal has been approved by the commissioner of the
6 Department for Natural Resources;
- 7 (d) "Assistant mine foreman" means a certified person designated to assist the
8 mine foreman in the supervision of a portion or the whole of a mine or of the
9 persons employed therein;
- 10 (e) "Commercial mine" means any coal mine from which coal is mined for sale,
11 commercial use, or exchange. This term shall in no instance be construed to
12 include a mine where coal is produced for own use;
- 13 (f) "Commissioner" means commissioner of the Department for Natural
14 Resources;
- 15 (g) "Department" means the Department for Natural Resources;
- 16 (h) "Drift" means an opening through strata or coal seams with opening grades
17 sufficient to permit coal to be hauled therefrom, or which is used for the
18 purpose of ventilation, drainage, ingress, egress, and other purposes in
19 connection with the mining of coal;
- 20 (i) "Director" means the director of the Division of Mine Safety;
- 21 (j) "Excavations and workings" means the excavated portions of a mine;
- 22 (k) "Face equipment" means mobile or portable mining machinery having electric
23 motors or accessory equipment normally installed or operated in by the last
24 open crosscut in any entry or room;
- 25 (l) "Fire boss" (often referred to as mine examiner) means a person certified as a
26 mine foreman or assistant mine foreman who is designated by management to
27 examine a mine or part of a mine for explosive gas or other dangers before a

- 1 shift crew enters;
- 2 (m) "Gassy mine." All underground mines shall be classified as gassy or gaseous;
- 3 (n) "High voltage" means any voltage of one thousand (1,000) volts or more;
- 4 (o) "Imminent danger" means the existence of any condition or practice which
- 5 could reasonably be expected to cause death or serious physical injury before
- 6 the condition or practice can be abated;
- 7 (p) "Inactive workings" shall include all portions of a mine in which operations
- 8 have been suspended for an indefinite period, but have not been abandoned;
- 9 (q) "Intake air" means air that has not passed through the last working place of the
- 10 split or by the unsealed entrances to abandoned workings and by analysis
- 11 contains not less than nineteen and one-half percent (19.5%) of oxygen, no
- 12 dangerous quantities of flammable gas, and no harmful amounts of poisonous
- 13 gas or dust;
- 14 (r) "Licensee" means any owner, operator, lessee, corporation, partnership, or
- 15 other person who procures a license from the department to operate a coal
- 16 mine;
- 17 (s) "Low voltage" means up to and including six hundred sixty (660) volts;
- 18 (t) "Medium voltage" means voltages greater than six hundred sixty (660) and up
- 19 to nine hundred ninety-nine (999) volts;
- 20 (u) "Mine" means any open pit or any underground workings from which coal is
- 21 produced for sale, exchange, or commercial use, and all shafts, slopes, drifts,
- 22 or inclines leading thereto, and includes all buildings and equipment, above or
- 23 below the surface of the ground, used in connection with the workings.
- 24 Workings that are adjacent to each other and under the same management and
- 25 which are administered as distinct units shall be considered separate mines;
- 26 (v) "Mine foreman" means a certified person whom the licensee, mine manager,
- 27 or superintendent places in charge of the workings of the mine and of persons

- 1 employed therein;
- 2 (w) "Mine manager" means a certified or noncertified person whom the licensee
3 places in charge of a mine or mines and whose duties include but are not
4 limited to operations at the mine or mines and supervision of personnel when
5 qualified to do so;
- 6 (x) "NAD 83" means the North American Datum, 1983 version, in feet units;
- 7 (y) "Open-pit mine" shall include open excavations and open-cut workings
8 including auger operations and highwall mining systems for the extraction of
9 coal. However, excavation of refuse from a coarse coal refuse fill for
10 reprocessing of the refuse, and which is permitted and bonded under KRS
11 Chapter 350 and is regulated by the Mine Safety and Health Administration
12 shall not be required to obtain a license under this chapter;
- 13 (z) "Operator" means the licensee, owner, lessee, or other person who operates or
14 controls a coal mine;
- 15 (aa) "Permissible" means that any equipment, device, or explosive that has been
16 approved by the United States Bureau of Mines, the Mining Enforcement and
17 Safety Administration, or the Mine Safety and Health Administration meets
18 all requirements, restrictions, exceptions, limitations, and conditions attached
19 to the classification;
- 20 (ab) "Preshift examination" refers to the examination of an underground mine or
21 part of a mine where miners are scheduled to work or travel, and shall be
22 conducted not more than three (3) hours before any oncoming shift;
- 23 (ac) "Return air" means air that has passed through the last active working place on
24 each split, or air that has passed through abandoned, inaccessible, or pillared
25 workings;
- 26 (ad) "Serious physical injury" means an injury which has a reasonable potential to
27 cause death;

- 1 (ae) "Shaft" means a vertical opening through the strata that is or may be used, in
2 connection with the mining of coal, for the purpose of ventilation or drainage,
3 or for hoisting men, coal, or materials;
- 4 (af) "Single Zone Projection" means the Kentucky Single Zone State Plane
5 Coordinate System of 1983, based on the Lambert Conformal Conical map
6 projection with double standard parallels on the North American Datum, 1983
7 version, as established in 10 KAR 5:010;
- 8 (ag) "Slope" means an inclined opening used for the same purpose as a shaft;
- 9 (ah) "Superintendent" means the person who, on behalf of the licensee, has
10 immediate supervision of one (1) or more mines;
- 11 (ai) "Supervisory personnel" shall mean a person or persons certified under the
12 provisions of KRS Chapter 351 to assist in the supervision of a portion or the
13 whole of the mine or of the persons employed therein;
- 14 (aj) "Tipple or dumping point" means the structure where coal is dumped or
15 unloaded from the mine car into railroad cars, trucks, wagons, or other means
16 of conveyance;
- 17 (ak) "Working face" means any place in a coal mine at which the extraction of coal
18 from its natural deposit in the earth is performed during the mining cycle;
- 19 (al) "Working place" means the area of a coal mine inby the last open crosscut;
- 20 (am) "Working section" means all areas of a coal mine from the loading point to
21 and including the working faces; and
- 22 (an) "Workmanlike manner" means consistent with established practices and
23 methods utilized in the coal industry.
- 24 (2) The definitions in KRS 351.010 apply also to this chapter, unless the context
25 requires otherwise.
- 26 (3) Except as the context otherwise requires, this chapter applies only to commercial
27 mines as defined in KRS 351.010 and shall not apply to electrical facilities owned,

1 operated, or otherwise controlled by a retail electric supplier or generation and
2 transmission cooperative as defined in KRS 278.010 or organized under KRS
3 Chapter 279 for the purpose of communication, metering, or for the generation,
4 control, transformation, transmission, and distribution of electric energy located in
5 buildings used exclusively by utilities for such purposes or located outdoors on
6 property owned or leased by the utility or on public highways, streets, roads, or
7 outdoors by established easement rights on private property and that are covered by
8 the National Electric Safety Code (NESC) or other applicable safety codes, or other
9 authorities having jurisdiction and shall not apply to installations under the
10 exclusive control of utilities for the purpose of communication, metering, or for the
11 generation, control, transformation, transmission, and distribution of electric energy
12 located in buildings used exclusively by utilities for such purposes or located
13 outdoors on property owned or leased by the utility or on public highways, streets,
14 roads, or outdoors by established rights on private property.