GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2015 REGULAR SESSION

HOUSE BILL NO. 407

AS ENACTED

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

1 AN ACT relating to reorganization.

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

3 ➔Section 1. KRS 2.108 is amended to read as follows:

4 (1) The Hurricane Creek coal mine site in Leslie County, at which thirty-eight (38)
5 miners lost their lives on December 30, 1970, is designated as a state historic site.

6 (2) As funds are available, Leslie County shall construct a memorial to those who
7 perished, which shall include but not be limited to:

8 (a) A monument to the miners, to be built at the mine site with the names of the
9 thirty-eight (38) miners who lost their lives and the one (1) survivor;

10 (b) Informational materials about the mining disaster;

11 (c) Signage, off-street parking, and other features to encourage visitors; and

12 (d) A plan for construction and periodic maintenance of the monument site.

13 (3) Leslie County's fiscal court is authorized to establish a restricted account for the
14 site, and to raise funds from federal, state, and local entities and from private
15 sources for this account. Funds in the account shall be expended only for the mining
16 disaster memorial. Moneys received and expended shall be reported separately in
17 the county's budget.

18 (4) The Governor shall, prior to December 30, 2010, issue a proclamation recognizing
19 the fortieth anniversary of the Hurricane Creek mine disaster, memorializing the
20 deceased miners and their families, and honoring the courage of all Kentucky's
21 miners. The Governor shall call upon all citizens to observe the occasion honoring
22 miners in communities across the Commonwealth. The Governor is authorized to
23 recognize the mine disaster anniversary in future years, on or before December 30,
24 through a proclamation.

25 (5) Working with Leslie County officials, state agencies shall provide assistance in
26 informing the public about the site. The Tourism, Arts and Heritage Cabinet, with
27 assistance from the Kentucky Heritage Council, the Kentucky Historical Society,

1 the ***Division of Mine Safety***[~~Office of Mine Safety and Licensing~~], and the
2 Kentucky Mining Board, and within the limits of funds available, shall prepare and
3 distribute information about the Hurricane Creek mining disaster, the risks which
4 miners faced historically, and the advances in mining safety since the 1970 disaster.
5 ➔Section 2. KRS 12.020 is amended to read as follows:
6 Departments, program cabinets and their departments, and the respective major
7 administrative bodies that they include are enumerated in this section. It is not intended
8 that this enumeration of administrative bodies be all-inclusive. Every authority, board,
9 bureau, interstate compact, commission, committee, conference, council, office, or any
10 other form of organization shall be included in or attached to the department or program
11 cabinet in which they are included or to which they are attached by statute or statutorily
12 authorized executive order; except in the case of the Personnel Board and where the
13 attached department or administrative body is headed by a constitutionally elected officer,
14 the attachment shall be solely for the purpose of dissemination of information and
15 coordination of activities and shall not include any authority over the functions,
16 personnel, funds, equipment, facilities, or records of the department or administrative
17 body.
18 I. Cabinet for General Government - Departments headed by elected officers:
19 (1) The Governor.
20 (2) Lieutenant Governor.
21 (3) Department of State.
22 (a) Secretary of State.
23 (b) Board of Elections.
24 (c) Registry of Election Finance.
25 (4) Department of Law.
26 (a) Attorney General.
27 (5) Department of the Treasury.

1 (a) Treasurer.
2 (6) Department of Agriculture.
3 (a) Commissioner of Agriculture.
4 (b) Kentucky Council on Agriculture.
5 (7) Auditor of Public Accounts.
6 II. Program cabinets headed by appointed officers:
7 (1) Justice and Public Safety Cabinet:
8 (a) Department of Kentucky State Police.
9 (b) Department of Criminal Justice Training.
10 (c) Department of Corrections.
11 (d) Department of Juvenile Justice.
12 (e) Office of the Secretary.
13 (f) Office of Drug Control Policy.
14 (g) Office of Legal Services.
15 (h) Office of the Kentucky State Medical Examiner.
16 (i) Parole Board.
17 (j) Kentucky State Corrections Commission.
18 (k) Office of Legislative and Intergovernmental Services.
19 (l) Office of Management and Administrative Services.
20 (m) Department for Public Advocacy.
21 (2) Education and Workforce Development Cabinet:
22 (a) Office of the Secretary.
23 1. Governor's Scholars Program.
24 (b) Office of Legal and Legislative Services.
25 1. Client Assistance Program.
26 (c) Office of Communication.
27 (d) Office of Budget and Administration.

1 1. Division of Human Resources.
2 2. Division of Administrative Services.
3 (e) Office of Technology Services.
4 (f) Office of Educational Programs.
5 (g) Office for Education and Workforce Statistics.
6 (h) Board of the Kentucky Center for Education and Workforce Statistics.
7 (i) Board of Directors for the Center for School Safety.
8 (j) Department of Education.
9 1. Kentucky Board of Education.
10 2. Kentucky Technical Education Personnel Board.
11 (k) Department for Libraries and Archives.
12 (l) Department of Workforce Investment.
13 1. Office for the Blind.
14 2. Office of Vocational Rehabilitation.
15 3. Office of Employment and Training.
16 a. Division of Grant Management and Support.
17 b. Division of Workforce and Employment Services.
18 c. Division of Unemployment Insurance.
19 (m) Foundation for Workforce Development.
20 (n) Kentucky Office for the Blind State Rehabilitation Council.
21 (o) Kentucky Workforce Investment Board.
22 (p) Statewide Council for Vocational Rehabilitation.
23 (q) Statewide Independent Living Council.
24 (r) Unemployment Insurance Commission.
25 (s) Education Professional Standards Board.
26 1. Division of Educator Preparation.
27 2. Division of Certification.

1 3. Division of Professional Learning and Assessment.
2 4. Division of Legal Services.
3 (t) Kentucky Commission on the Deaf and Hard of Hearing.
4 (u) Kentucky Educational Television.
5 (v) Kentucky Environmental Education Council.
6 (3) Energy and Environment Cabinet:
7 (a) Office of the Secretary.
8 1. Office of Legislative and Intergovernmental Affairs.
9 2. Office of General Counsel.
10 3. Office of Administrative Hearings.
11 4. Mine Safety Review Commission.
12 5. Kentucky State Nature Preserves Commission.
13 6. Kentucky Environmental Quality Commission.
14 7. Kentucky Public Service Commission.
15 (b) Department for Environmental Protection.
16 1. Office of the Commissioner.
17 2. Division for Air Quality.
18 3. Division of Water.
19 4. Division of Environmental Program Support.
20 5. Division of Waste Management.
21 6. Division of Enforcement.
22 7. Division of Compliance Assistance.
23 (c) Department for Natural Resources.
24 1. Office of the Commissioner.
25 2. Division of Technical and Administrative Support.
26 3. Division of Mine Permits.
27 4. Division of Mine Reclamation and Enforcement.

1 5. Division of Abandoned Mine Lands.
2 6. Division of Oil and Gas.
3 7. ***Division***[~~Office~~] of Mine Safety[~~ and Licensing~~].
4 8. Division of Forestry.
5 9. Division of Conservation.
6 10. Office of the Reclamation Guaranty Fund.
7 ***11. Kentucky Mining Board.***
8 (d) Department for Energy Development and Independence.
9 1. Division of Efficiency and Conservation.
10 2. Division of Renewable Energy.
11 3. Division of Biofuels.
12 4. Division of Energy Generation Transmission and Distribution.
13 5. Division of Carbon Management.
14 6. Division of Fossil Energy Development.
15 (4) Public Protection Cabinet.
16 (a) Office of the Secretary.
17 1. Office of Communications and Public Outreach.
18 2. Office of Legal Services.
19 a. Insurance Legal Division.
20 b. Charitable Gaming Legal Division.
21 c. Alcoholic Beverage Control Legal Division.
22 d. Housing, Buildings and Construction Legal Division.
23 e. Financial Institutions Legal Division.
24 (b) Crime Victims Compensation Board.
25 (c) Board of Claims.
26 (d) Kentucky Board of Tax Appeals.
27 (e) Kentucky Boxing and Wrestling Authority.

1 (f) Kentucky Horse Racing Commission.
2 1. Division of Licensing.
3 2. Division of Incentives and Development.
4 3. Division of Veterinary Services.
5 4. Division of Security and Enforcement.
6 (g) Department of Alcoholic Beverage Control.
7 1. Division of Distilled Spirits.
8 2. Division of Malt Beverages.
9 3. Division of Enforcement.
10 (h) Department of Charitable Gaming.
11 1. Division of Licensing and Compliance.
12 2. Division of Enforcement.
13 (i) Department of Financial Institutions.
14 1. Division of Depository Institutions.
15 2. Division of Non-Depository Institutions.
16 3. Division of Securities.
17 (j) Department of Housing, Buildings and Construction.
18 1. Division of Fire Prevention.
19 2. Division of Plumbing.
20 3. Division of Heating, Ventilation, and Air Conditioning.
21 4. Division of Building Code Enforcement.
22 (k) Department of Insurance.
23 1. Property and Casualty Division.
24 2. Health and Life Division.
25 3. Division of Financial Standards and Examination.
26 4. Division of Agent Licensing.
27 5. Division of Insurance Fraud Investigation.

1 6. Consumer Protection Division.
2 7. Division of Kentucky Access.
3 (l) Office of Occupations and Professions.
4 (5) Labor Cabinet.
5 (a) Office of the Secretary.
6 1. Division of Management Services.
7 2. Office of General Counsel.
8 (b) Office of General Administration and Program Support for Shared
9 Services.
10 1. Division of Human Resource Management.
11 2. Division of Fiscal Management.
12 3. Division of Budgets.
13 4. Division of Information Services.
14 (c) Office of Inspector General for Shared Services.
15 (d) Department of Workplace Standards.
16 1. Division of Employment Standards, Apprenticeship, and
17 Mediation.
18 2. Division of Occupational Safety and Health Compliance.
19 3. Division of Occupational Safety and Health Education and
20 Training.
21 4. Division of Workers' Compensation Funds.
22 (e) Department of Workers' Claims.
23 1. Office of General Counsel for Workers' Claims.
24 2. Office of Administrative Law Judges.
25 3. Division of Claims Processing.
26 4. Division of Security and Compliance.
27 5. Division of Information and Research.

1 6. Division of Ombudsman and Workers' Compensation Specialist
2 Services.
3 7. Workers' Compensation Board.
4 8. Workers' Compensation Advisory Council.
5 9. Workers' Compensation Nominating Commission.
6 (f) Workers' Compensation Funding Commission.
7 (g) Kentucky Labor-Management Advisory Council.
8 (h) Occupational Safety and Health Standards Board.
9 (i) Prevailing Wage Review Board.
10 (j) Apprenticeship and Training Council.
11 (k) State Labor Relations Board.
12 (l) Employers' Mutual Insurance Authority.
13 (m) Kentucky Occupational Safety and Health Review Commission.
14 (6) Transportation Cabinet:
15 (a) Department of Highways.
16 1. Office of Project Development.
17 2. Office of Project Delivery and Preservation.
18 3. Office of Highway Safety.
19 4. Highway District Offices One through Twelve.
20 (b) Department of Vehicle Regulation.
21 (c) Department of Aviation.
22 (d) Department of Rural and Municipal Aid.
23 1. Office of Local Programs.
24 2. Office of Rural and Secondary Roads.
25 (e) Office of the Secretary.
26 1. Office of Public Affairs.
27 2. Office for Civil Rights and Small Business Development.

1 3. Office of Budget and Fiscal Management.
2 4. Office of Inspector General.
3 (f) Office of Support Services.
4 (g) Office of Transportation Delivery.
5 (h) Office of Audits.
6 (i) Office of Human Resource Management.
7 (j) Office of Information Technology.
8 (k) Office of Legal Services.
9 (7) Cabinet for Economic Development:
10 (a) Office of the Secretary.
11 1. Office of Legal Services.
12 2. Department for Business Development.
13 a. Office of Entrepreneurship.
14 i. Commission on Small Business Advocacy.
15 b. Office of Research and Public Affairs.
16 c. Bluegrass State Skills Corporation.
17 3. Office of Financial Services.
18 a. Kentucky Economic Development Finance Authority.
19 b. Division of Finance and Personnel.
20 c. Division of Network Administration.
21 d. Compliance Division.
22 e. Incentive Assistance Division.
23 (8) Cabinet for Health and Family Services:
24 (a) Office of the Secretary.
25 (b) Office of Health Policy.
26 (c) Office of Legal Services.
27 (d) Office of Inspector General.

1 (e) Office of Communications and Administrative Review.
2 (f) Office of the Ombudsman.
3 (g) Office of Policy and Budget.
4 (h) Office of Human Resource Management.
5 (i) Office of Administrative and Technology Services.
6 (j) Department for Public Health.
7 (k) Department for Medicaid Services.
8 (l) Department for Behavioral Health, Developmental and Intellectual
9 Disabilities.
10 (m) Department for Aging and Independent Living.
11 (n) Department for Community Based Services.
12 (o) Department for Income Support.
13 (p) Department for Family Resource Centers and Volunteer Services.
14 (q) Kentucky Commission on Community Volunteerism and Service.
15 (r) Kentucky Commission for Children with Special Health Care Needs.
16 (s) Governor's Office of Electronic Health Information.
17 (9) Finance and Administration Cabinet:
18 (a) Office of General Counsel.
19 (b) Office of the Controller.
20 (c) Office of Administrative Services.
21 (d) Office of Public Information.
22 (e) Office of Policy and Audit.
23 (f) Department for Facilities and Support Services.
24 (g) Department of Revenue.
25 (h) Commonwealth Office of Technology.
26 (i) State Property and Buildings Commission.
27 (j) Office of Equal Employment Opportunity and Contract Compliance.

1 (k) Kentucky Employees Retirement Systems.
2 (l) Commonwealth Credit Union.
3 (m) State Investment Commission.
4 (n) Kentucky Housing Corporation.
5 (o) Kentucky Local Correctional Facilities Construction Authority.
6 (p) Kentucky Turnpike Authority.
7 (q) Historic Properties Advisory Commission.
8 (r) Kentucky Tobacco Settlement Trust Corporation.
9 (s) Kentucky Higher Education Assistance Authority.
10 (t) Kentucky River Authority.
11 (u) Kentucky Teachers' Retirement System Board of Trustees.
12 (v) Executive Branch Ethics Commission.
13 (10) Tourism, Arts and Heritage Cabinet:
14 (a) Kentucky Department of Travel and Tourism.
15 1. Division of Tourism Services.
16 2. Division of Marketing and Administration.
17 3. Division of Communications and Promotions.
18 (b) Kentucky Department of Parks.
19 1. Division of Information Technology.
20 2. Division of Human Resources.
21 3. Division of Financial Operations.
22 4. Division of Facilities Management.
23 5. Division of Facilities Maintenance.
24 6. Division of Customer Services.
25 7. Division of Recreation.
26 8. Division of Golf Courses.
27 9. Division of Food Services.

1 10. Division of Rangers.
2 11. Division of Resort Parks.
3 12. Division of Recreational Parks and Historic Sites.
4 (c) Department of Fish and Wildlife Resources.
5 1. Division of Law Enforcement.
6 2. Division of Administrative Services.
7 3. Division of Engineering.
8 4. Division of Fisheries.
9 5. Division of Information and Education.
10 6. Division of Wildlife.
11 7. Division of Public Affairs.
12 (d) Kentucky Horse Park.
13 1. Division of Support Services.
14 2. Division of Buildings and Grounds.
15 3. Division of Operational Services.
16 (e) Kentucky State Fair Board.
17 1. Office of Administrative and Information Technology Services.
18 2. Office of Human Resources and Access Control.
19 3. Division of Expositions.
20 4. Division of Kentucky Exposition Center Operations.
21 5. Division of Kentucky International Convention Center.
22 6. Division of Public Relations and Media.
23 7. Division of Venue Services.
24 8. Division of Personnel Management and Staff Development.
25 9. Division of Sales.
26 10. Division of Security and Traffic Control.
27 11. Division of Information Technology.

1 12. Division of the Louisville Arena.
2 13. Division of Fiscal and Contract Management.
3 14. Division of Access Control.
4 (f) Office of the Secretary.
5 1. Office of Finance.
6 2. Office of Research and Administration.
7 3. Office of Governmental Relations and Tourism Development.
8 4. Office of the Sports Authority.
9 5. Kentucky Sports Authority.
10 (g) Office of Legal Affairs.
11 (h) Office of Human Resources.
12 (i) Office of Public Affairs and Constituent Services.
13 (j) Office of Creative Services.
14 (k) Office of Capital Plaza Operations.
15 (l) Office of Arts and Cultural Heritage.
16 (m) Kentucky African-American Heritage Commission.
17 (n) Kentucky Foundation for the Arts.
18 (o) Kentucky Humanities Council.
19 (p) Kentucky Heritage Council.
20 (q) Kentucky Arts Council.
21 (r) Kentucky Historical Society.
22 1. Division of Museums.
23 2. Division of Oral History and Educational Outreach.
24 3. Division of Research and Publications.
25 4. Division of Administration.
26 (s) Kentucky Center for the Arts.
27 1. Division of Governor's School for the Arts.

1 (t) Kentucky Artisans Center at Berea.
2 (u) Northern Kentucky Convention Center.
3 (v) Eastern Kentucky Exposition Center.
4 (11) Personnel Cabinet:
5 (a) Office of the Secretary.
6 (b) Department of Human Resources Administration.
7 (c) Office of Employee Relations.
8 (d) Kentucky Public Employees Deferred Compensation Authority.
9 (e) Office of Administrative Services.
10 (f) Office of Legal Services.
11 (g) Governmental Services Center.
12 (h) Department of Employee Insurance.
13 (i) Office of Diversity and Equality.
14 (j) Center of Strategic Innovation.
15 III. Other departments headed by appointed officers:
16 (1) Council on Postsecondary Education.
17 (2) Department of Military Affairs.
18 (3) Department for Local Government.
19 (4) Kentucky Commission on Human Rights.
20 (5) Kentucky Commission on Women.
21 (6) Department of Veterans' Affairs.
22 (7) Kentucky Commission on Military Affairs.
23 (8) Office of Minority Empowerment.
24 (9) Governor's Council on Wellness and Physical Activity.
25 ➔Section 3. KRS 148.876 is amended to read as follows:
26 (1) The power of eminent domain may only be exercised to acquire land in fee within
27 the boundaries of the trail, except that the power of eminent domain shall not be

1 exercised to acquire any privately owned dwelling, areas designated for residential
2 structures and their surrounding properties, or property owned or leased, including
3 adjacent or contiguous tracts of land leased or owned or which may be acquired, for
4 the purposes of operating an oil or gas well, surface or underground coal mine
5 operation, or surface or underground mineral quarrying operation, if the person
6 holds a state permit or license issued by the Energy and Environment Cabinet,
7 Division of Mine Permits or ***Division of Mine Safety***[~~Office of Mine Safety and~~
8 ~~Licensing~~].
9 (2) Within the boundaries of the trail, the department may acquire, on behalf of the
10 Commonwealth, fee title or lesser interests in land. Acquisition of land may be by
11 gift, by purchase with donated funds, by funds appropriated by the General
12 Assembly, by the use of proceeds from the sale of bonds, by exchange, by
13 assumption of property tax payments, or by other authorized means.
14 Notwithstanding the provisions in KRS 350.085(3) and 353.610, in acquiring any
15 interests the Commonwealth or its agencies shall waive the three hundred (300) foot
16 restriction contained in KRS 350.085(3) and boundary restrictions for a well set
17 forth in KRS 353.610.
18 ➔Section 4. KRS 224.10-020 is amended to read as follows:
19 (1) There is established within the cabinet a Department for Natural Resources, a
20 Department for Environmental Protection, and a Department for Energy
21 Development and Independence. Each department shall be headed by a
22 commissioner appointed by the secretary with the approval of the Governor as
23 required by KRS 12.050. The commissioners shall be directly responsible to the
24 secretary and shall perform such functions, powers, and duties as provided by law
25 and as the secretary may prescribe.
26 (2) There is established within the Department for Natural Resources a Division of
27 Forestry, a Division of Conservation, a Division of Technical and Administrative

1 Support, a Division of Mine Reclamation and Enforcement, a Division of Mine
2 Permits, a Division of Abandoned Mine Lands, a Division of Oil and Gas, ***a***
3 ***Division of Mine Safety, and an Office of the Reclamation Guaranty Fund***[~~and an~~
4 ~~Office of Mine Safety and Licensing. There shall be established within the Office of~~
5 ~~Mine Safety and Licensing a Division of Safety Inspection and Licensing and a~~
6 ~~Division of Safety Analysis, Training, and Certification~~]. The Kentucky Mining
7 Board is attached to the ***Department for Natural Resources***[~~Office of Mine Safety~~
8 ~~and Licensing~~] for administrative purposes. Each division shall be headed by a
9 director, and each office shall be headed by an executive director. Directors and
10 executive directors shall be appointed by the secretary with the approval of the
11 Governor as required by KRS 12.050, except for the director of the Division of
12 Conservation, who shall be appointed in accordance with KRS 146.100. Both
13 directors and executive directors shall be directly responsible to the commissioner
14 and shall perform the functions, powers, and duties as provided by law and as
15 prescribed by the secretary.
16 (3) There is established within the Department for Environmental Protection a Division
17 of Water, a Division for Air Quality, a Division of Waste Management, a Division
18 of Enforcement, a Division of Compliance Assistance, and a Division of
19 Environmental Program Support. Each division shall be headed by a director
20 appointed by the secretary with the approval of the Governor as required by KRS
21 12.050. Directors shall be directly responsible to the commissioner and shall
22 perform the functions, powers, and duties as provided by law and as prescribed by
23 the secretary.
24 (4) There is established within the Department for Energy Development and
25 Independence a Division of Energy Efficiency and Conservation, a Division of
26 Renewable Energy, a Division of Biofuels, a Division of Energy Generation,
27 Transmission and Distribution, a Division of Carbon Management, and a Division

1 of Fossil Energy Development. Each division shall be headed by a director.
2 Directors shall be appointed by the secretary with the approval of the Governor as
3 required by KRS 12.050.
4 ➔Section 5. KRS 304.13-412 is amended to read as follows:
5 (1) Any employer who is also a licensee of a coal mine that has implemented a drug-
6 free workplace program, including an employee assistance program, certified by the
7 ***Division of Mine Safety***[~~Office of Mine Safety and Licensing~~] shall be eligible to
8 obtain a credit on the licensee's premium for workers' compensation insurance.
9 (2) Each insurer authorized to write workers' compensation insurance policies shall
10 provide the credit on the workers' compensation premium to any employer who is
11 also a licensee of a coal mine for which the insurer has written a workers'
12 compensation policy. The credit on the workers' compensation premium shall not:
13 (a) Be available to those employers that are also licensees who do not maintain
14 their drug-free workplace program for the entire workers' compensation policy
15 period; or
16 (b) Apply to minimum premium policies.
17 (3) The Department of Insurance shall approve workers' compensation rating plans that
18 give a credit on the premium for a certified drug-free workplace so long as the
19 credit is actuarially sound. The credit shall be at least five percent (5%) unless the
20 Department of Insurance determines that five percent (5%) is actuarially unsound.
21 (4) The credit on the workers' compensation premium may be applied by the insurer at
22 the final audit.
23 ➔Section 6. KRS 342.012 is amended to read as follows:
24 (1) For the purposes of this chapter, an owner or owners of a business, including
25 qualified partners of a partnership owning a business, or qualified members of a
26 limited liability company, whether or not employing any other person to perform a
27 service for hire, shall be included within the meaning of the term employee if the

1 owner, owners, qualified partners, or qualified members of a limited liability
2 company elect to come under the provisions of this chapter and provide the
3 insurance required thereunder. Nothing in this section shall be construed to limit the
4 responsibilities of the owners, partners, or members of a limited liability company
5 to provide coverage for their employees, nonqualified partners, or nonqualified
6 members, if any, required under this chapter.
7 (2) When an owner, owners, qualified partners, or qualified members of a limited
8 liability company have elected to be included as employees, this inclusion shall be
9 accomplished by the issuance of an appropriate endorsement to a workers'
10 compensation insurance policy.
11 (3) For the purpose of this section, "qualified partner" or "qualified member or
12 members" means, respectively, a partner who has entered into a meaningful
13 partnership agreement or a member who has entered into meaningful articles of
14 organization or a meaningful operating agreement of a limited liability company,
15 which document shows on its face that the partner will substantially participate in
16 the profit or loss of the business engaged in by the partnership or limited liability
17 company and that the partner or member has made some contribution to the
18 partnership or limited liability company which entitles him or her to participate in
19 the profits of the business as well as to participate in the decision-making process of
20 the partnership or limited liability company.
21 (4) For the purposes of this section, "nonqualified partner" or "nonqualified member"
22 means, respectively, a person who has entered into a partnership agreement, or
23 articles of organization or operating agreement of a limited liability company, which
24 document shows on its face that this person will receive regular payments in
25 exchange for work for the business engaged in by the partnership or limited liability
26 company; that the person will not participate in the decision-making of the
27 partnership or limited liability company and will not participate in the profits and

1 losses of the business engaged in by the partnership or limited liability company.
2 (5) Every partnership and limited liability company shall provide, upon the request of
3 the commissioner or his or her representative, a copy of its partnership agreement or
4 articles of organization for purposes of demonstrating compliance with this section
5 and KRS 342.340. With particular reference to employers engaged in coal mining,
6 the commissioner shall promptly report the failure to comply with the provisions of
7 this subsection to the Energy and Environment Cabinet, Department for Natural
8 Resources, ***Division of Mine Safety***[~~Office of Mine Safety and Licensing~~], so that
9 appropriate action may be undertaken pursuant to KRS 351.175.
10 (6) For purposes of this section, a "limited liability company" means an entity defined
11 in KRS 275.015 and organized under the provisions of KRS Chapter 275.
12 ➔Section 7. KRS 351.010 is amended to read as follows:
13 (1) As used in this chapter, unless the context requires otherwise:
14 (a) "Adulterated specimen" means a specimen containing a substance that is not a
15 normal constituent or containing an endogenous substance at a concentration
16 that is not a normal physiological concentration;
17 (b) "Approved" means that a device, apparatus, equipment, or machinery, or
18 practice employed in the mining of coal has been approved by the
19 commissioner of the Department for Natural Resources;
20 (c) "Assistant mine foreman" means a certified person designated to assist the
21 mine foreman in the supervision of a portion or the whole of a mine or of the
22 persons employed therein;
23 (d) "Board" means the Mining Board created in KRS 351.105;
24 (e) "Commercial mine" means any coal mine from which coal is mined for sale,
25 commercial use, or exchange. This term shall in no instance be construed to
26 include a mine where coal is produced for own use;
27 (f) "Commission" means the Mine Safety Review Commission created by KRS

1 351.1041;
2 (g) "Commissioner" means commissioner of the Department for Natural
3 Resources;
4 (h) "Department" means the Department for Natural Resources;
5 (i) "Drift" means an opening through strata or coal seams with opening grades
6 sufficient to permit coal to be hauled therefrom or which is used for the
7 purpose of ventilation, drainage, ingress, egress, and other purposes in
8 connection with the mining of coal;
9 (j) "Excavations and workings" means the excavated portions of a mine;
10 (k) "Fire boss" (often referred to as mine examiner) means a person certified as a
11 mine foreman or assistant mine foreman who is designated by management to
12 examine a mine or part of a mine for explosive gas or other dangers before a
13 shift crew enters;
14 (l) "Gassy mine." All mines shall be classified as gassy or gaseous;
15 (m) "Illicit substances" includes prescription drugs used illegally or in excess of
16 therapeutic levels as well as illegal drugs;
17 (n) "Intake air" means air that has not passed through the last working place of the
18 split or by the unsealed entrances to abandoned workings and by analysis
19 contains not less than nineteen and one-half percent (19.5%) oxygen, no
20 dangerous quantities of flammable gas, and no harmful amounts of poisonous
21 gas or dust;
22 (o) "Licensee" means any owner, operator, lessee, corporation, partnership, or
23 other person who procures a license from the department to operate a coal
24 mine;
25 (p) "Medical review officer" or "MRO" means a licensed physician with
26 knowledge of substance abuse disorders, laboratory testing, chain of custody,
27 collection procedures, and the ability to verify positive, confirmed test results.

1 The MRO shall possess the necessary medical training to interpret and
2 evaluate a positive test result in relation to the person's medical history or any
3 other relevant biomedical information;
4 (q) "Mine" means any open pit or any underground workings from which coal is
5 produced for sale, exchange, or commercial use, and all shafts, slopes, drifts,
6 or inclines leading thereto, and includes all buildings and equipment, above or
7 below the surface of the ground, used in connection with the workings.
8 Workings that are adjacent to each other and under the same management, but
9 which are administered as distinct units, shall be considered a separate mine;
10 (r) "Mine foreman" means a certified person whom the licensee or superintendent
11 places in charge of the workings of the mine and of the persons employed
12 therein;
13 (s) "Mine manager" means a certified or noncertified person whom the licensee
14 places in charge of a mine or mines and whose duties include but are not
15 limited to operations at the mine or mines and supervision of personnel when
16 qualified to do so;
17 (t) "Open-pit mine" shall include open excavations and open-cut workings,
18 including but not limited to auger operations and highwall mining systems for
19 the extraction of coal;
20 (u) "Operator" means the licensee, owner, lessee, or other person who operates or
21 controls a coal mine;
22 (v) "Permissible" refers to any equipment, device, or explosive that has been
23 approved by the United States Bureau of Mines, the Mining Enforcement and
24 Safety Administration, or the Mine Safety and Health Administration and that
25 meets all requirements, restrictions, exceptions, limitations, and conditions
26 attached to the classification by the approving agency;
27 (w) "Preshift examination" means the examination of a mine or any portion

1 thereof where miners are scheduled to work or travel, which shall be
2 conducted not more than three (3) hours before any oncoming shift;
3 (x) "Return air" means air that has passed through the last active working place on
4 each split, or air that has passed through abandoned, inaccessible, or pillared
5 workings;
6 (y) "Serious physical injury" means an injury which has a reasonable potential to
7 cause death;
8 (z) "Shaft" means a vertical opening through the strata that is used in connection
9 with the mining of coal, for the purpose of ventilation or drainage, or for
10 hoisting men, coal, or materials;
11 (aa) "Slope" means an inclined opening used for the same purpose as a shaft;
12 (ab) "Superintendent" means the person who, on behalf of the licensee, has
13 immediate supervision of one (1) or more mines;
14 (ac) "Supervisory personnel" means a person certified under the provisions of this
15 chapter to assist in the supervision of a portion or the whole of the mine or of
16 the persons employed therein;
17 (ad) ***"Division" means the Division of Mine Safety***[~~"Office" means the Office of~~
18 ~~Mine Safety and Licensing~~];
19 (ae) ***"Director" means the director of the Division of Mine Safety***[~~"Executive~~
20 ~~director" means the executive director of the Office of Mine Safety and~~
21 ~~Licensing~~];
22 (af) "Probation" means the status of a certification or license issued by the
23 ***Division of Mine Safety***[~~Office of Mine Safety and Licensing~~] that conditions
24 the validity of the certification or license upon compliance with orders of the
25 Mine Safety Review Commission; and
26 (ag) "Final order of the commission" means an order which has not been appealed
27 to the Franklin Circuit Court within thirty (30) days of entry, or an order

1 affirming the commission's order that has been entered by any court within the
2 Commonwealth and for which all appeals have been exhausted.
3 (2) Except as the context otherwise requires, this chapter applies only to commercial
4 coal mines.
5 (3) The definitions in KRS 352.010 apply also to this chapter, unless the context
6 requires otherwise.
7 ➔Section 8. KRS 351.025 is amended to read as follows:
8 The department shall:
9 (1) Promulgate administrative regulations that establish comprehensive criteria for the
10 imposition and enforcement of sanctions against certified and noncertified
11 personnel and owners and part-owners of licensed premises whose intentional
12 violation of, or order to violate, mine safety laws places miners in imminent danger
13 of serious injury or death. These criteria shall include but not be limited to the
14 following:
15 (a) In the case of individuals that are certified miners, the Mine Safety Review
16 Commission may revoke or suspend an individual's certification, or probate an
17 individual's certification for first offenses, and the Mine Safety Review
18 Commission shall establish a maximum penalty for subsequent offenses;
19 (b) In the case of individuals that are owners or part-owners of licensed premises,
20 the Mine Safety Review Commission may impose civil monetary penalties
21 against individuals not to exceed ten thousand dollars ($10,000); and
22 (c) In the case of noncertified personnel, the Mine Safety Review Commission
23 may impose civil monetary fines equivalent to the value of the wages they
24 receive for up to ten (10) working days for first offenses and the commission
25 shall establish maximum penalties for subsequent offenses;
26 (2) Notwithstanding KRS 351.070(15), promulgate administrative regulations that
27 establish comprehensive criteria for the Mine Safety Review Commission's

1 imposition of penalties against licensed premises for violations of mine safety laws
2 that place miners in imminent danger of serious injury or death. These penalties
3 shall include but not be limited to the revocation or suspension of the mine's
4 license, the probation of a mine's license, or the imposition of a penalty against the
5 licensee not to exceed the gross value of the production of the licensed premise for
6 up to ten (10) working days;
7 (3) Direct that an employer shall not directly or indirectly reimburse a sanctioned miner
8 or mine supervisor for days of work lost as a result of sanctions imposed by the
9 Mine Safety Review Commission;
10 (4) Establish procedures by which the department shall communicate with the Federal
11 Mine Safety and Health Administration (MSHA) concerning allegations of mine
12 safety violations against Kentucky coal operators and miners and for reports made
13 to the ***division***~~[Office of Mine Safety and Licensing]~~ under KRS 351.193;
14 (5) Jointly with the Mine Safety Review Commission establish a process for referring
15 allegations of mine safety violations to the Mine Safety Review Commission for
16 adjudication and for the hearing of appeals from penalties imposed by the
17 ***division***~~[Office of Mine Safety and Licensing]~~, and the underlying violation,
18 authorized under KRS 351.070(15); and
19 (6) Establish procedures to distribute quarterly reports to every licensed entity
20 describing mine fatalities, serious mine accidents, and penalties imposed on
21 certified and noncertified personnel and licensed premises and to require the report
22 to be distributed to every certified working miner employed by the licensed entity,
23 posted at work sites, and reviewed at regular mine safety meetings.
24 ➔Section 9. KRS 351.030 is amended to read as follows:
25 (1) All administrative hearings conducted by the department shall be conducted in
26 accordance with KRS Chapter 13B and this section. Following the hearing, the
27 department shall decide each matter in controversy. No person shall be discharged

1 or otherwise discriminated against by his or her employer for testifying, or for his
2 failure to testify, at these hearings.
3 (2) The executor or administrator of a deceased miner's estate, or his or her designee, in
4 the case of a fatality, miners that are injured as a result of an accident, and miners
5 that are significantly affected by the conduct that gave rise to a disciplinary
6 proceeding shall be granted the right of intervention in the penalty phase of that
7 proceeding. The petition for intervention shall be made in accordance with KRS
8 13B.060(3). All hearings before the Mine Safety Review Commission shall be open
9 proceedings. Any party with pertinent information regarding a mine accident may
10 submit that information directly to the ***division's***[~~Office of Mine Safety and~~
11 ~~Licensing's~~] chief accident investigator.
12 ➔Section 10. KRS 351.060 is amended to read as follows:
13 (1) The [~~executive~~]director of the ***Division of Mine Safety***[~~Office of Mine Safety and~~
14 ~~Licensing~~] shall be a citizen of Kentucky and shall be thoroughly familiar with all
15 methods of safety pertaining to the operation of mines.
16 (2) The [~~executive~~]director shall have a practical knowledge of:
17 (a) The different systems of working and ventilating coal mines;
18 (b) The nature, chemistry, and properties of noxious, poisonous, and explosive
19 gases, the dangers due to these gases, and the prevention of these dangers;
20 (c) The dangers incident to blasting and the prevention of these dangers;
21 (d) The methods for the management and extinguishment of mine fires;
22 (e) The methods for rescue and relief work in mine disasters;
23 (f) The application of electricity in mining operations;
24 (g) The application of mechanical loading in mining operations;
25 (h) The equipment and explosives manufactured for use in coal mines;
26 (i) The methods used in locating oil and gas wells when drilled through any coal
27 seam;

1 (j) The proper manner of drilling and plugging oil and gas wells;
2 (k) Mining engineering; and
3 (l) The methods for the prevention of explosions in mines due to gas or dust.
4 (3) The [~~executive~~]director shall be capable of efficiently reporting on any proposed
5 development in mining operations or the possibility of operating any coal or clay
6 seam.
7 (4) The [~~executive~~]director shall hold a mine inspector's ***or mine safety specialist's***
8 certificate.
9 ➔Section 11. KRS 351.070 is amended to read as follows:
10 (1) The commissioner shall have full authority over the department and shall
11 superintend and direct the activities of the mine ***safety specialists***[~~inspectors~~] and
12 other personnel of the department. There is created within the Department for
13 Natural Resources ***a Division of Mine Safety***[~~an Office of Mine Safety and~~
14 ~~Licensing~~].
15 (2) The secretary shall appoint ***a***[~~an executive~~] director to the ***Division of Mine***
16 ***Safety***[~~Office of Mine Safety and Licensing~~] in accordance with KRS 224.10-
17 020(2) and prescribe his ***or her*** powers and duties.
18 (3) The commissioner may, whenever necessary, divide the coal fields of the state into
19 as many inspection ***regions***[~~districts~~] as necessary, so as to equalize as nearly as
20 practicable the work of each ***mine safety specialist***[~~inspector~~], and may assign to
21 the ***specialists***[~~inspectors~~] their respective ***regions***[~~districts~~].
22 (4) The commissioner may, whenever he or she deems it necessary in the interest of
23 efficient supervision of the mines, temporarily employ the services of additional
24 mine ***safety specialists***[~~inspectors~~] or change ***specialists***[~~inspectors~~] from one (1)
25 ***region***[~~district~~] to another.
26 (5) The commissioner shall superintend and direct the inspection of mines and cause to
27 be investigated the character and quality of air in mines whenever conditions

1 indicate the necessity of doing so.
2 (6) The commissioner shall collect statistics relating to coal mining in the state and
3 make an annual report of the statistics.
4 (7) The commissioner shall see that maps, plans, projections, and proposed
5 developments of all underground coal mines are made and filed in his office.
6 (8) The commissioner shall keep a properly indexed, permanent record of all
7 inspections made by himself and the personnel of the department.
8 (9) The commissioner shall exercise general supervision over the training of officials
9 and workmen in safety and first aid and mine rescue methods, and may conduct
10 demonstrations in safety whenever he deems it advisable.
11 (10) The commissioner shall exercise general supervision over the dissemination of
12 information among officials and employees concerning mine ventilation, mining
13 methods, and mine accidents and their prevention, and shall assume full charge in
14 the event of mine fire or explosion or other serious accident at any mine in the state.
15 (11) The commissioner may assist in the resumption of operations of any mine or gather
16 data for the development of any coal seams that would be of any benefit to the state
17 or create new employment.
18 (12) The commissioner may prescribe reasonable safety standards governing the use of
19 explosives, and electrical and mechanical equipment in the operation of open-pit or
20 surface mines.
21 (13) The secretary of the Energy and Environment Cabinet shall have the power and
22 authority to promulgate, amend, or rescind any administrative regulations he or she
23 deems necessary and suitable for the proper administration of this chapter.
24 Administrative regulations may be promulgated, amended, or rescinded by the
25 secretary only after public hearing or an opportunity to be heard thereon of which
26 proper notice by publication pursuant to KRS Chapter 424, has been given.
27 Administrative regulations so promulgated shall carry the full force and effect of

1 law.

2 (14) The commissioner shall ascertain the cause or causes of any coal mining fatality and
3 any accidents involving serious physical injury and, within sixty (60) days of
4 completion of the investigation, shall report his or her findings and
5 recommendations to the Governor, the Mine Safety Review Commission, the
6 Mining Board, and the Legislative Research Commission. Accident interviews
7 conducted by the ***division***[~~Office of Mine Safety and Licensing~~] shall be closed
8 proceedings. The recommendations may include without being limited to the need
9 to promulgate or amend administrative regulations to prevent the recurrence of the
10 conditions causing the fatality. Effective January 1, 2009, the ***division***[~~Office of~~
11 ~~Mine Safety and Licensing~~] shall appoint an existing full-time employee to act as a
12 family liaison. The family liaison shall have the responsibility during an accident
13 investigation to keep the families of miners informed of the progress and findings of
14 the accident investigation. The family liaison shall be trained in mining and in grief
15 counseling.

16 (15) The commissioner shall assess civil monetary penalties against licensed facilities
17 for violations of laws in this chapter and KRS Chapter 352 pertaining to roof
18 control plans, mine seal construction plans, unsafe working conditions, and mine
19 ventilation plans that could lead to imminent danger or serious physical injury. The
20 Energy and Environment Cabinet shall promulgate administrative regulations
21 within ninety (90) days of July 12, 2006, providing for the manner and method of
22 the assessment of the penalties and appeals therefrom. In no event shall the civil
23 penalty assessed pursuant to this subsection for the violation exceed five thousand
24 dollars ($5,000). Nothing contained in this subsection shall be construed to impair
25 or contravene the authority granted under KRS 351.025(2) for imposing penalties
26 against licensed facilities.

27 ➔Section 12. KRS 351.090 is amended to read as follows:

1 (1) The Governor shall appoint an adequate number of mine ***safety***
2 ***specialists***[~~inspectors~~] to ensure at least two (2) inspections annually at all surface
3 mines, provided the mine is in operation the entire year or the proportionate thereof,
4 of all mines in the Commonwealth and sufficient additional ***mine safety specialists***
5 [~~inspectors~~] to enable the commissioner to provide adequate surveillance of coal
6 mines where conditions or management policy dictate that more inspections are
7 needed to ensure the safety of miners; except the commissioner shall inspect all
8 underground coal mines not less than six (6) times annually. Two (2) of the six (6)
9 general inspections of underground mines shall be full electrical inspections. One
10 (1) or more of the appointees shall be designated as electrical mine inspectors. The
11 Governor shall also appoint an adequate number of mine safety ***specialists to***
12 ***perform safety analysis and safety instruction***[~~analysts and mine safety~~
13 ~~instructors~~]. The term of office of each mine ***safety specialist***[~~inspector, each mine~~
14 ~~safety analyst, each electrical inspector, and each mine safety instructor~~] shall be
15 during the period of capable, efficient service and good behavior.
16 (2) All mine ***safety specialists***[~~inspectors, mine safety analysts, electrical inspectors,~~
17 ~~and mine safety instructors~~] shall have a thorough knowledge of first aid and mine
18 rescue and be able to instruct in first aid and mine rescue, and shall possess
19 thoroughly the knowledge required of the commissioner by KRS 351.060, and shall
20 have a thorough and practical knowledge of mining gained by at least five (5) years'
21 experience in coal mines in the Commonwealth. [~~All surface mine safety analysts~~
22 ~~shall have at least five (5) years' experience in surface mines in the Commonwealth.~~
23]For the purposes of this subsection, a degree in mining engineering from a
24 recognized institution shall be deemed equivalent to two (2) years of practical
25 experience in coal mines or an associate degree in mining technology from a
26 recognized institution shall be deemed equivalent to one (1) year practical
27 experience in coal mines. A person desiring to use a mining engineering or

technology degree for practical experience credit shall file proof of having received a degree prior to examination.

(3) No person shall be appointed to the office of mine ***safety specialist***[~~inspector, underground mine safety analyst, electrical inspector, or mine safety instructor~~] unless he ***or she*** holds a current mine foreman's certificate. [~~No person shall be appointed to the office of surface mine safety analyst unless he holds a current surface mine foreman's certificate.~~]A person appointed as mine ***safety specialist***[~~inspector, mine safety analyst, electrical inspector, and mine safety instructor~~] shall pass an examination administered by the board. The commissioner may recommend to the Governor applicants for the positions of mine ***safety specialist***[~~inspector, mine safety analyst, electrical inspector, or mine safety instructor~~] who have successfully passed the examination and are proved by worth, training, and experience to be the most competent of the applicants.

(4) Mine ***safety specialists***[~~inspectors, mine safety analysts, electrical inspectors, and mine safety instructors~~] shall be of good moral character and temperate habits and shall not, while holding office, act in any official capacity in operating any coal mine.

(5) No reimbursement for traveling expenses shall be made except on an itemized accounting for the expenses submitted by ***mine safety specialists***[~~inspectors, analysts, and safety instructors~~] who shall verify upon oath that the expenses were incurred in the discharge of their official duties.

(6) Each mine ***safety specialist***[~~inspector, mine safety analyst, electrical inspector, and mine safety instructor~~] shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate, shall be filed in the office of the Secretary of State.

(7) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall give bond with surety approved by the Governor.

1 (8) Each mine ***safety specialist***[~~inspector, mine safety analyst, electrical inspector, and~~
2 ~~mine safety instructor~~] shall provide authorization to the ***division***[~~Office of Mine~~
3 ~~Safety and Licensing~~] to perform a criminal background check by means of a
4 fingerprint check by the Department of Kentucky State Police. The results of the
5 state criminal background check shall be sent to the[~~ executive~~] director of the
6 ***division***[~~Office of Mine Safety and Licensing~~]. Any fee charged by the Department
7 of Kentucky State Police shall be an amount no greater than the actual cost of
8 processing the request and conducting the search.
9 ➔Section 13. KRS 351.102 is amended to read as follows:
10 (1) No person shall be assigned mining duties by a licensee as a laborer or supervisor
11 unless the person holds a valid certificate of competency and qualification or a valid
12 permit as trainee issued in accordance with this section.
13 (2) The ***division***[~~Office of Mine Safety and Licensing~~] shall require that all applicants
14 for certified miner and initial applicants for other mining certifications pursuant to
15 this chapter shall submit proof that he or she is drug and alcohol free. The proof
16 shall be submitted in accordance with KRS 351.182 and 351.183.
17 (3) A permit as trainee miner shall be issued by the commissioner to any person who
18 has submitted proof that he or she is drug and alcohol free in accordance with KRS
19 351.182 and 351.183, and has completed a program of education of a minimum of
20 forty (40) hours for underground mining or twenty-four (24) hours for surface
21 mining comprised of sixteen (16) hours of classroom training and eight (8) hours of
22 mine specifics or who has completed a certified mine technology program and has
23 passed an examination approved by the commissioner. An additional eight (8) hours
24 of mine-specific training shall be administered to the trainee miner by the licensee,
25 which training shall be documented on a form approved by the commissioner. This
26 education and training program shall be determined and established by the board, as
27 provided in KRS 351.106. A requirement for a permit as a trainee miner shall be

1 one (1) hour of classroom training dedicated to alcohol and substance abuse
2 education.
3 (4) Trainee miners shall work within the sight and sound of a certified miner.
4 (5) Any miner holding a certificate of competency and qualification may have one (1)
5 person working with him and under his direction as a trainee miner. Any person
6 certified as a mine foreman or assistant mine foreman shall have no more than five
7 (5) persons working under his supervision or direction as trainee miners for the
8 purpose of learning and being instructed in the duties of underground coal mining.
9 (6) A certificate of competency and qualification as a miner shall be issued by the
10 commissioner to any person who has a minimum of forty-five (45) working days'
11 experience within a thirty-six (36) month period as a trainee miner and
12 demonstrated competence as a miner. Any trainee miner who exceeds six (6)
13 months in obtaining the forty-five (45) working days of experience required in this
14 section, shall submit proof of alcohol- and drug-free status in accordance with the
15 provisions of KRS 351.182 and 351.183.
16 (7) All examinations for the certification of a miner shall be of a practical nature and
17 shall determine the competency and qualification of the applicant to engage in the
18 mining of coal with reasonable safety to himself and his fellow employees. The
19 examination may be given orally, upon approval by the commissioner, if the miner
20 is unable to read or comprehend a written examination.
21 (8) Examinations shall be held in any ***regional***[~~district~~] office during regular business
22 hours.
23 (9) If the commissioner or his authorized representative finds that an applicant is not
24 qualified and competent, he shall notify the applicant as soon as possible, but in no
25 case more than thirty (30) days after the date of examination.
26 (10) Any applicant aggrieved by an action of the commissioner or his authorized
27 representative in failing or refusing to issue a certificate of qualification and

1 competency shall, within ten (10) days of notice of the action complained of, appeal
2 to the commissioner who shall either affirm the action or issue the certificate to the
3 applicant.
4 (11) If the applicant is aggrieved by the action of the commissioner, he may appeal to the
5 commission which shall hold a hearing on the matter in accordance with KRS
6 Chapter 13B.
7 (12) The applicant may appeal from the final order of the commission by filing in the
8 Franklin Circuit Court a petition for appeal in accordance with KRS Chapter 13B.
9 ➔Section 14. KRS 351.1055 is amended to read as follows:
10 (1) There is hereby established a Mine Equipment Review Panel attached to the
11 Department for Natural Resources in the Energy and Environment Cabinet.
12 (2) The Mine Equipment Review Panel shall be a permanent panel of recognized
13 experts who shall review and make recommendations annually to the ~~[executive~~
14 ~~]~~director of the ***division***~~[Office of Mine Safety and Licensing]~~ and the Interim Joint
15 Committee on Natural Resources and Environment regarding best available mine
16 safety technologies, including but not limited to wireless tracking and
17 communications devices for use by miners in underground mines. Subject to
18 budgetary constraints and approval by the United States Mine Safety and Health
19 Administration (MSHA), if there is no existing law to the contrary, the
20 commissioner may implement the recommendations of the panel. Based on the
21 recommendations provided by the panel, the~~[executive]~~ director shall comprise a
22 list of commercially available mine safety equipment, including wireless tracking
23 and communications devices that may be approved for use by coal miners.
24 (3) The panel shall meet at the call of the chair. The chair of the panel shall be the
25 ~~[executive]~~director of ***the division*** ~~[mine safety and licensing]~~. Members of the
26 panel shall serve without pay, but shall be entitled to reimbursement of travel-
27 related expenses.

1 (4) The Mine Equipment Review Panel shall be composed of the following members,
2 who shall be appointed by the commissioner not less than thirty (30) days after July
3 12, 2006:
4 (a) One (1) member shall represent the National Institute of Occupational Safety
5 and Health;
6 (b) One (1) member shall represent the federal Mine Safety and Health
7 Administration;
8 (c) One (1) member shall represent the coal industry;
9 (d) One (1) member shall be appointed from the membership of the United Mine
10 Workers of America and shall represent mine labor, preferably a member of a
11 Kentucky mine rescue team;
12 (e) One (1) member shall represent the Department of Mining Engineering at the
13 University of Kentucky; and
14 (f) One (1) member shall be the ~~[executive]~~director of the ***division***~~[Office of~~
15 ~~Mine Safety and Licensing]~~.
16 (5) ~~[The Mine Equipment Review Panel shall provide initial recommendations to the~~
17 ~~executive director of the Office of Mine Safety and Licensing not more than one~~
18 ~~hundred twenty (120) days after the panel members have been appointed and the~~
19 ~~panel is duly constituted to conduct business.]~~Periodically, the panel shall review
20 and make recommendations to the ~~[executive]~~director on changes to or innovations
21 in mine safety equipment that could be deployed in coal mines.
22 ➔Section 15. KRS 351.105 is amended to read as follows:
23 (1) The Mining Board is created.
24 (2) The board shall be made up of eight (8) persons, all of whom shall be citizens of
25 Kentucky and from the coal industry in Kentucky. The board's membership shall
26 reflect a fair representation from eastern Kentucky and western Kentucky, large and
27 small operations, and union and nonunion coal production. The Governor shall

1 appoint the members of the board to include:
2 (a) Three (3) members representing management; the Alliance of Kentucky Coal
3 shall submit three (3) nominees for each management position on the board;
4 (b) Three (3) members representing labor; the United Mine Workers of America
5 shall submit three (3) nominees for each labor position on the board;
6 (c) One (1) citizen member with knowledge of mining who is not a coal operator
7 and is not employed in a supervisory or nonsupervisory position in a mine;
8 and
9 (d) The director of the Division of ***Mine Safety or his or her designee***[~~Safety~~
10 ~~Analysis, Training, and Certification~~].
11 The board shall elect one (1) of its members to serve as chairman. The director ***or***
12 ***his or her designee***[~~ of the Division of Safety Analysis, Training, and Certification~~]
13 shall be a nonvoting member.
14 (3) Excluding the citizen member and the director ***or his or her designee***[~~of the~~
15 ~~Division of Safety Analysis, Training, and Certification~~], initial appointments to the
16 board shall be made in the following manner and shall reflect equal representation
17 as to number and term regarding both the management and the labor positions: two
18 (2) members for a period of two (2) years; two (2) members for a period of three (3)
19 years; and two (2) members for a period of four (4) years. After the initial
20 appointments, members of the board shall be appointed to four (4) year terms. The
21 citizen member shall be appointed for a term of four (4) years. Members of the
22 board may be reappointed at the expiration of their previous appointment at the
23 pleasure of the Governor. Members shall continue to serve until a successor is
24 appointed and qualified.
25 (4) Two (2) of the persons appointed to the board shall be employed in nonsupervisory
26 positions at mines in this Commonwealth and shall have a minimum of five (5)
27 years' underground experience in the industry and a mine foreman's certificate. Two

1 (2) of the persons shall be employed in supervisory positions by coal companies
2 operating in the Commonwealth and shall have a minimum of five (5) years'
3 experience in the coal mining industry and a mine foreman's certificate. One (1) of
4 each of the members holding supervisory and nonsupervisory mine positions shall
5 have a minimum of five (5) years' practical experience working in a surface or
6 underground coal mine. The director[~~ of the Division of Safety Analysis, Training,~~
7 ~~and Certification~~] shall have a minimum of five (5) years' practical underground
8 mining experience.
9 (5) Whenever a vacancy on the board occurs, appointments shall be made in the
10 manner prescribed in this section. The vacancy shall be filled by the Governor
11 within thirty (30) days from the date the vacancy occurs.
12 (6) A quorum of the board shall be five (5) voting members; the board may act
13 officially by a majority of those members who are present, except that no action
14 shall be taken without a majority of affirmative votes.
15 (7) Each member of the board shall receive one hundred fifty dollars ($150) each day
16 while actually engaged in the performance of the work of the board, shall receive
17 mileage at the rate provided by the state's travel regulation for each mile actually
18 traveled from the home of the member to the place of the meeting and returning
19 therefrom, and shall receive reimbursement for food and lodging at a reasonable and
20 customary rate, which shall be paid out of the State Treasury upon proper
21 requisition approved by the commissioner.
22 (8) The board shall act on all matters it deems appropriate for board action or brought
23 before it by the department.
24 (9) The board shall meet periodically on the call of the chair or a majority of the
25 members of the board. The Governor shall remove any member who fails to appear
26 at three (3) consecutive meetings of the board, or at one-half (1/2) of the meetings
27 held in a one (1) year period.

1 (10) The board shall review this chapter and KRS Chapter 352 and make
2 recommendations regarding the amendment of those chapters.
3 (11) The board shall review and approve all administrative regulations, including
4 administrative regulations required by KRS 351.025, proposed by the department
5 that relate to the mining of coal, penalties, or the certification of miners before those
6 administrative regulations are promulgated in accordance with KRS Chapter 13A.
7 (12) No member of the board shall be subject to any personal liability or accountability
8 for any loss sustained or damage suffered on account of any action or inaction of the
9 board.
10 (13) The board may conduct hearings, compel the attendance of witnesses, administer
11 oaths, and conduct oversight activities as may be required to ensure the full
12 implementation of its programs and standards.
13 ➔Section 16. KRS 351.106 is amended to read as follows:
14 (1) The Mining Board shall establish criteria and standards for a program of education
15 and training to be required of prospective miners, miners, and all certified persons.
16 This education and training shall be provided in a manner determined by the
17 commissioner to be adequate to meet the standards established by the board, which
18 shall include as a minimum the requirements of KRS 351.102 and the requirements
19 of the federal government for the training of miners for new work assignments, and
20 at least sixteen (16) hours of annual retraining and reeducation for all certified
21 persons, of which thirty (30) minutes annually shall be dedicated to alcohol and
22 substance abuse education. Effective January 1, 2009, in addition, six (6) hours of
23 annual training on changes in mine safety laws, safe retreat mining practices,
24 disciplinary cases litigated before the Mine Safety Review Commission, changes in
25 mine safety technology, and ways to improve safe working procedures shall be
26 required for all mine foremen. This annual training for mine foremen shall be
27 provided exclusively by the ***division***[~~Office of Mine Safety and Licensing~~].

1 (2) One (1) hour of initial substance abuse training and education shall be required as
2 part of the certified miner's first annual retraining conducted in a classroom that
3 occurs after August 1, 2006. This requirement shall not apply to certified persons
4 who received the one (1) hour initial substance abuse training and education as part
5 of their forty (40) hour or twenty-four (24) hour new miner training.
6 (3) In addition to the thirty (30) minutes of annual alcohol and substance abuse
7 education required for certified miners, supervisory personnel shall be required to
8 receive an additional thirty (30) minutes of alcohol and substance abuse awareness
9 training annually.
10 (4) Beginning with the first full calendar year after the effective date established by the
11 board and during each calendar year thereafter, each certified miner shall receive at
12 least sixteen (16) hours of retraining and reeducation.
13 (5) Newly hired experienced miner training shall satisfy the miner's annual retraining
14 requirement if a time lapse occurs between the miner's last training anniversary date
15 and the next scheduled training anniversary date for the mine where he is newly
16 employed, if the miner has complied with the annual retraining requirements within
17 the last twelve (12) months from the date of his newly hired experienced miner
18 training.
19 (6) Retraining and reeducation sessions shall be conducted at times and in numbers to
20 reasonably assure each certified miner an opportunity to attend.
21 (7) The licensee shall pay all certified miners their regular wages and benefits while
22 they receive training required by the department.
23 (8) Willful failure of a working miner to complete annual retraining and reeducation
24 requirements shall constitute grounds for revocation, suspension, or probation of his
25 certificate.
26 (9) If the department discovers a miner working without proper training or the licensee
27 cannot provide proof of training, the miner shall be withdrawn immediately from

1 the mine and the licensee shall pay the miner his regular wages until the training is
2 administered and properly documented.
3 (10) When employment is terminated, the licensee shall provide the employee a copy of
4 his training records, upon request. If the employee does not request his training
5 records immediately, the licensee shall, within fifteen (15) days, provide the
6 employee with those training records.
7 (11) The board may, upon its own motion or whenever requested to do so by the
8 commissioner, deem applicable certificates issued by other states to be proof of
9 training and education equal to the requirements of KRS 351.102 or deem training
10 provided by appropriate federal agencies to be adequate to meet training and
11 education requirements established by the board, if the training and education meet
12 the minimum requirements of this chapter.
13 (12) The secretary may promulgate administrative regulations necessary to establish a
14 program to implement the provisions of this chapter according to the criteria and
15 standards established by the board. This program shall include but not be limited to
16 implementation of a program of instruction and the conduct of examinations to test
17 each applicant's knowledge and understanding of the training and instruction.
18 (13) The commissioner shall keep and maintain current records on all certified miners,
19 all of which shall be maintained by computer for ready access. The commissioner
20 shall not grant certification to any person that, at the time of application, had his or
21 her miner certification, foreman certification, electrician certification, or any other
22 mining specialty certification suspended or revoked by another state. If a person has
23 his or her miner certification, foreman certification, electrician certification, or other
24 mining specialty certification probated in another state, the commissioner or the
25 Mining Board may, at his or its discretion, grant the equivalent certification.
26 However, that certification shall be placed on probation in Kentucky until the
27 probationary period in the other state has expired.

1 (14) The commissioner is authorized and directed to utilize state mine ***safety***
2 ***specialists***[~~inspectors, mine safety instructors, the state mine foreman examiner~~],
3 private and public institutions of education, and other qualified persons available to
4 him in implementing the program of instruction and examination.
5 (15) The commissioner may make recommendations to the board as he may deem
6 appropriate. The commissioner shall provide information to the board at the board's
7 request. The commissioner is authorized and directed to utilize state and federal
8 moneys and personnel that may be available to the department for educational and
9 training purposes in the implementation of the provisions of this chapter.
10 (16) All training and education required by this section may be conducted in classrooms,
11 on the job, or in simulated mines.
12 ➔Section 17. KRS 351.120 is amended to read as follows:
13 (1) The commissioner shall issue a certificate to each person who possesses the
14 qualifications required by law for mine inspector, electrical inspector, surface or
15 underground mine safety instructor, surface mine safety analyst, assistant mine
16 foreman, mine foreman, shotfirer, and other mining specialties as established by the
17 board, or miner who has passed the examination given by direction of the board for
18 that position, and who has met the requirements for drug- and alcohol-free status.
19 (2) The certificate shall be in such form as the commissioner prescribes, shall be signed
20 by the commissioner, and shall show that the holder has passed the required
21 examination and possesses the qualifications required by law for mine inspector,
22 electrical inspector, surface or underground mine safety instructor, surface mine
23 safety analyst, assistant mine foreman, mine foreman, shotfirer, and other mining
24 specialties as established by the board, or miner and is authorized to act as such.
25 (3) Certificates issued to mine foremen and assistant mine foremen shall be classified
26 as follows:
27 (a) Mine foreman certificates, authorizing the holder to act as foreman for all

1 classes of coal mines; and
2 (b) Assistant mine foreman certificates, authorizing the holder to act as assistant
3 foreman.
4 (4) Any mine foreman or assistant mine foreman may act as a fire boss or mine
5 examiner. This shall not apply to persons holding a second class mine foreman
6 certificate issued before June 16, 1972.
7 (5) The class of mine foreman's certificate awarded shall be determined by the board
8 according to the experience of the applicant.
9 (6) No certificate shall be granted to any person who does not present to the board
10 satisfactory evidence, in the form of affidavits, that the applicant has had the
11 required practical experience in underground or surface coal mines. A data sheet
12 shall be filed by each applicant showing places of employment, beginning month
13 and year and ending month and year employed by each company and list jobs
14 performed, showing at least the number of required years. Affidavit and data sheet
15 forms shall be furnished by the department. The applicant also shall submit proof
16 that he or she is drug and alcohol free. The proof shall be submitted in accordance
17 with KRS 351.182 and 351.183. For the purpose of this section, persons holding a
18 four (4) year degree in mining engineering from a recognized institution shall be
19 credited with the equivalent of two (2) years of practical experience in coal mines
20 when applying for any mine foreman or assistant mine foreman certificate. Persons
21 holding an associate degree in mining from a recognized institution shall be credited
22 with the equivalent of two (2) years' experience when applying for a mine foreman
23 certificate and one (1) year when applying for an assistant mine foreman certificate.
24 Persons desiring to use their mining engineering or mining technology degree as
25 credit for practical experience toward a mine foreman or assistant mine foreman
26 certificate shall file proof of having received their degree prior to the examination.
27 (7) Applicants for an underground mine foreman certificate shall have five (5) years'

1 practical underground coal mining experience acquired after achieving the age of
2 eighteen (18), with at least one (1) year of this experience acquired on an active
3 working section of an underground mine. Applicants for an underground assistant
4 mine foreman certificate shall have three (3) years' practical underground
5 experience acquired after achieving the age of eighteen (18), with at least one (1)
6 year of this experience acquired on an active working section of an underground
7 mine.
8 (8) Applicants for surface mine foremen certification shall have three (3) years'
9 practical surface mine experience acquired after achieving the age of eighteen (18);
10 for surface mine foreman certification with a specialty in coal extraction, at least
11 one (1) year of the required practical experience shall have been acquired from
12 direct involvement in the mining or extraction of coal at a surface mine. For a
13 surface mine foreman certification with a specialty in postmining activities, at least
14 one (1) year of the required experience shall have been acquired from direct
15 involvement in the performance of such activities at a surface or underground mine,
16 coal preparation plant, or other coal-handling facility. Notwithstanding any
17 requirement in this subsection to the contrary, a person having three (3) years' of
18 underground or surface mining experience shall qualify for a surface mine foreman
19 certification with a specialty in postmining activities if the person has documented
20 experience of at least one (1) year in the performance of these activities. Persons
21 holding a surface mine foreman certificate prior to July 15, 1998, are not affected by
22 this section.
23 (9) Persons possessing certificates of qualifications to act as mine inspector, mine
24 foreman, assistant mine foreman, or fire boss prior to July 15, 1982, are not affected
25 by this section.
26 (10) When approved by the commissioner, a person who has successfully completed any
27 mine foreman or assistant mine foreman examination and submitted proof that he or

she is drug and alcohol free in accordance with KRS 351.182 and 351.183 may be granted a temporary certification that is valid only until the board acts upon his or her certification at its next regularly scheduled meeting.

(11) A member of the supervisory personnel shall be present at the working section except in cases of emergencies at all times employees under his supervision are at the working section on coal-producing shifts.

(12) The commissioner immediately shall suspend any certification for violation of drug- and alcohol-free status or for failure or refusal to submit to a drug and alcohol test authorized by KRS 351.182, 351.183, 351.184, 351.185, and 352.180. The commissioner shall, by certified mail, notify the holder of the certification of his or her suspension and of the following:

(a) The right to pursue one (1) of the following options:

1. Appeal the suspension to the Mine Safety Review Commission within thirty (30) days of the notification; or

2. Notify the commissioner of the Department for Natural Resources or the ~~[executive]~~director of the ***Division of Mine Safety***~~[Office of Mine Safety and Licensing]~~ within thirty (30) days of the notification that the holder intends to be evaluated by a medical professional trained in substance treatment, to complete any prescribed treatment, and to submit an acceptable result from a drug and alcohol test as required by KRS 351.182;

(b) Failure to file an appeal or failure to notify the commissioner of the Department for Natural Resources or the ~~[executive]~~director of the ***Division of Mine Safety***~~[Office of Mine Safety and Licensing]~~ of the holder's intent to comply with paragraph (a)2. of this subsection within thirty (30) days of the notification shall result in the revocation of all licenses and certifications issued by the ***Division of Mine Safety***~~[Office of Mine Safety and Licensing]~~

1 for a period of not less than three (3) years, and the holder shall remain
2 ineligible for any other certification issued by the ***Division of Mine***
3 ***Safety***~~[Office of Mine Safety and Licensing]~~ during the revocation period.
4 Certifications and licenses revoked under this paragraph may be reissued by:
5 1. Compliance with all training and testing requirements;
6 2. Satisfying the requirements of KRS 351.182 and 351.183; and
7 3. Compliance with all orders of the Mine Safety Review Commission; and
8 (c) The completion of the evaluation, treatment, and submission of an acceptable
9 drug test pursuant to paragraph (a)2. of this subsection or the revocation
10 described under paragraph (b) of this subsection shall be considered a first
11 offense.
12 (13) The licenses and certifications of a miner who notifies the commissioner of the
13 Department for Natural Resources or the ~~[executive]~~director of the ***Division of***
14 ***Mine Safety***~~[Office of Mine Safety and Licensing]~~ of his or her intent to comply
15 with subsection (12)(a)2. of this section shall remain suspended until the miner has
16 provided proof of the evaluation and successful completion of any prescribed
17 treatment and has submitted a negative drug and alcohol test as required by KRS
18 351.182 to the ***division***~~[Office of Mine Safety and Licensing]~~. The drug and alcohol
19 test shall be taken no more than thirty (30) days prior to the submission of the proof
20 required by this section. Upon receipt and review of the proof by the ***division***~~[Office~~
21 ~~of Mine Safety and Licensing]~~, the miner's licenses and certifications shall be
22 restored. In the event that the miner fails to successfully complete the evaluation,
23 treatment, and drug test within one hundred twenty (120) days of his or her
24 notification pursuant to subsection (12)(a)2. of this section, the miner's licenses and
25 certifications issued by the ***division***~~[Office of Mine Safety and Licensing]~~ shall be
26 revoked for a period prescribed under KRS 351.990(8). The one hundred twenty
27 (120) day time period set out in this section shall be extended upon proof that the

1 miner is complying with the recommendations of the medical professional.
2 (14) If the suspension described in subsection (12) of this section occurs following the
3 miner's first offense as described in this section or KRS 351.184, the notification
4 sent to the miner shall not include the option of notifying the ***division***[~~Office of~~
5 ~~Mine Safety and Licensing~~] of the miner's intent to seek an evaluation and
6 treatment. The miner shall only have the right to appeal the suspension to the Mine
7 Safety Review Commission within thirty (30) days of notification. If the miner fails
8 to appeal the suspension, the penalty shall be assessed according to KRS
9 351.990(8)(b) or (c).
10 ➔Section 18. KRS 351.122 is amended to read as follows:
11 (1) In lieu of an examination prescribed by law or regulation, the board may enter into a
12 reciprocal agreement with another state regarding the certification of miners. The
13 board may, pursuant to a reciprocal agreement, issue to any person holding a
14 certificate issued by another state a certificate permitting him or her to perform
15 similar tasks in the Commonwealth if:
16 (a) The board finds that the requirements for certification in the other state are
17 substantially equivalent to those of Kentucky;
18 (b) The person passes only the applicable part of the examination with regard to
19 Kentucky law which is uniquely different from the other state;
20 (c) The person has submitted proof, in accordance with KRS 351.182, that he or
21 she is drug and alcohol free;
22 (d) The person's retraining is sufficient to meet Kentucky requirements; and
23 (e) The person's certification in Kentucky or in any other state has not been
24 suspended, revoked, or probated.
25 (2) Upon receipt of notice from a reciprocal state of a disciplinary action relating to any
26 of the certifications or licenses issued to a miner who also holds corresponding
27 licenses or certifications issued by the ***Division of Mine Safety***[~~Office of Mine~~

1 ~~Safety and Licensing~~], the commissioner shall impose analogous sanctions against
2 the miner's Kentucky licenses or certifications. These sanctions shall terminate upon
3 proof of compliance with the orders from the reciprocal state.
4 ➔Section 19. KRS 351.170 is amended to read as follows:
5 (1) All reports of any facility licensed pursuant to this chapter shall be made to the
6 ~~[executive]~~director. The licensee of each commercial coal mine shall give at the
7 end of each calendar year accurate information, on blank forms furnished by the
8 commissioner, as to the number of accidents that have occurred, the number of
9 persons employed, the tons of coal mined, and any other related information that the
10 commissioner requests.
11 (2) The operator or superintendent of each licensed facility shall report, by the close of
12 the next business day, any certified persons who:
13 (a) Have been discharged for violation of a company's substance or alcohol abuse
14 policies;
15 (b) Refused to submit to a test required by the company's substance or alcohol
16 abuse policies or KRS 351.182, 351.183, 351.184, 351.185, and 352.180; or
17 (c) Tested positive and failed to complete an employee assistance program.
18 ➔Section 20. KRS 351.175 is amended to read as follows:
19 (1) The operation of a coal mine in Kentucky is a privilege granted by the
20 Commonwealth of Kentucky to a licensee who satisfies the requirements of this
21 section and demonstrates that the mine is or will be operated in a safe manner and in
22 accordance with the laws of this Commonwealth.
23 (2) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the
24 owner, operator, lessee, or licensee of each mine shall procure from the department
25 a license to operate the mine, and the license shall not be transferable. Any owner,
26 operator, lessee, or licensee who assumes control of a mine, opens a new mine, or
27 reopens an abandoned mine during any calendar year shall procure a license before

1 mining operations are begun.
2 (3) The license shall be in printed form as the commissioner may prescribe and when
3 issued shall be kept posted at a conspicuous place near the main entrance of the
4 mine.
5 (4) Requests for a license shall be made to the department and shall be accompanied by
6 a United States postal money order or cashier's check drawn in favor of the State
7 Treasurer in an amount established by administrative regulations of a minimum of
8 one hundred dollars ($100) and a maximum of fifteen hundred dollars ($1,500). The
9 license shall be issued when the following are properly submitted to the
10 commissioner:
11 (a) The annual report of the licensee and the annual mine map required in KRS
12 351.170 and 352.450;
13 (b) A certification from the commissioner of the Department of Workers' Claims
14 that the licensee has provided positive proof of compliance with the
15 provisions of KRS Chapter 342;
16 (c) A certification from the commissioner of the Department of Revenue that the
17 licensee is not a "delinquent taxpayer" as defined in KRS Chapter 131;
18 (d) Mine seal construction plan filed with the state and approved by MSHA;
19 (e) Roof control plan filed with the state and approved by MSHA;
20 (f) The ventilation plan required in KRS 352.020; and
21 (g) An approved emergency action plan required by KRS 352.640.
22 (5) The department shall immediately revoke any license if the department receives:
23 (a) Withdrawal of the certification of compliance with KRS Chapter 342 issued
24 by the commissioner of the Department of Workers' Claims; or
25 (b) Notice from the commissioner of the Department of Revenue that the licensee
26 is a "delinquent taxpayer" as defined in KRS Chapter 131.
27 (6) The commissioner, the ~~[executive]~~director of the ***Division of Mine Safety***~~[Office~~

1 ~~of Mine Safety and Licensing~~], or the mine ***safety specialist***[~~inspector~~] shall have
2 the authority to stop production or close any mine whose operator fails to procure a
3 license or fails to furnish a certification of workers' compensation coverage as
4 required under this section.
5 (7) The department shall be authorized to seek injunctive relief for any violation of this
6 section. Revocation of a license by the department shall be an administrative
7 function of the department. Appeals from revocation by the department shall be
8 brought in Franklin Circuit Court.
9 (8) A license which has been revoked under the "delinquent taxpayer" provision shall
10 not be reissued until a written tax clearance has been received from the
11 commissioner of revenue.
12 (9) No mine underlying a cemetery shall be licensed by the commissioner unless two-
13 thirds (2/3) of the governing body of that cemetery vote in approval of the
14 operation. The application for a license shall contain an affidavit setting forth the
15 approval of the cemetery's governing body. This subsection applies only to those
16 cemeteries with governing bodies.
17 ➔Section 21. KRS 351.182 is amended to read as follows:
18 (1) All applicants for certification as new miners and all initial applicants for all other
19 certifications provided for in this chapter shall provide proof of drug- and alcohol-
20 free status prior to certification in accordance with the provisions of this section.
21 (2) Proof of drug- and alcohol-free status shall be provided in one (1) of two (2)
22 methods:
23 (a) By participation in a drug and alcohol testing program offered by the
24 ***division***[~~Office of Mine Safety and Licensing~~] and paid for by the applicant,
25 in accordance with this section and KRS 351.183; or
26 (b) By the submission of drug and alcohol test results from other sources, as
27 provided in KRS 351.183(2).

1 (3) If a newly certified miner gains employment in the coal industry, the initial
2 employer shall reimburse the certified miner for the cost of one (1) drug and alcohol
3 test required by this section and KRS 351.183, 351.184, and 351.185.
4 (4) If the applicant is currently certified in any category other than that for which he is
5 applying by the ***division***[~~Office of Mine Safety and Licensing~~] and the applicant is
6 currently employed in the coal industry, the applicant's employer shall reimburse the
7 applicant for the cost of one (1) drug and alcohol test required by this section and
8 KRS 351.183, 351.184, and 351.185.
9 (5) The fee charged to an applicant for the drug and alcohol tests offered by the
10 ***division***[~~Office of Mine Safety and Licensing~~] shall not exceed the actual cost of
11 collection, analysis, and medical review officer (MRO) review.
12 (6) The ***division***[~~Office of Mine Safety and Licensing~~] shall provide, at each site of
13 examinations for the certifications provided for in Chapter 351, a breath alcohol
14 testing device and a person certified in the operation of the breath alcohol testing
15 device. The breath alcohol test shall be administered prior to examination to
16 determine the applicant's alcohol-free status. The ***division***[~~Office of Mine Safety~~
17 ~~and Licensing~~] may satisfy the requirement to furnish an alcohol testing device and
18 certified personnel by:
19 (a) The use of equipment and appropriately certified personnel of the
20 ***division***[~~Office of Mine Safety and Licensing~~];
21 (b) A memorandum of agreement with state or local police agencies for the
22 provision of equipment and appropriately trained personnel at the examination
23 site; or
24 (c) Inclusion of breath alcohol testing as part of the contract to provide drug
25 testing and collection services set out in KRS 351.183(1).
26 (7) A breath alcohol concentration of .04 shall be the maximum acceptable level of
27 concentration for participation in the examination and subsequent certification.

1 (8) Except for an alternative testing protocol provided for post-accident victims under
2 KRS 352.180(5) to (7), the minimum testing protocol acceptable for the
3 establishment of drug-free status for certification under KRS Chapter 351 shall be at
4 least a ten (10) panel urine test that shall include testing for the following
5 substances:
6 (a) Amphetamines;
7 (b) Cannabanoids/THC;
8 (c) Cocaine;
9 (d) Opiates;
10 (e) Phencyclidine (PCP);
11 (f) Benzodiazepines;
12 (g) Propoxyphene;
13 (h) Buprenorphine;
14 (i) Methadone;
15 (j) Barbiturates; and
16 (k) The remaining panels to be used in the urine test shall be set by order of the
17 Mine Safety Review Commission no later than June 1 of each year.
18 ➔Section 22. KRS 351.183 is amended to read as follows:
19 (1) The ***division***[~~Office of Mine Safety and Licensing~~] may contract with qualified
20 companies to provide the collection of samples and administer the required drug
21 and alcohol tests. The contract may provide that the collection of samples or testing
22 be subcontracted, except that the contract shall require:
23 (a) The contractor and any subcontractors to follow all standards, procedures, and
24 protocols set forth by the United States Department of Health and Human
25 Services' Substance Abuse and Mental Health Services Administration
26 (SAMHSA) for the collection and testing required by KRS 351.182 and this
27 section;

1 (b) The contractor's or subcontractor's drug-testing protocol shall be a ten (10)
2 panel test described in KRS 351.182(8) and any other test required by order of
3 the Mine Safety Review Commission; and
4 (c) The contractor or the subcontractor shall provide a medical review officer
5 (MRO) who shall:
6 1. Possess the ability and medical training necessary to verify positive
7 confirmed test results and evaluate those results in relation to an
8 applicant's medical history or other biomedical information; and
9 2. Follow all procedures outlined in the SAMHSA Medical Review Officer
10 Manual.
11 (2) The~~[executive]~~ director of the ***Division of Mine Safety***~~[Office of Mine Safety and~~
12 ~~Licensing]~~ may accept proof of drug- and alcohol-free status from other sources
13 whose tests conform to the requirements set forth in KRS 351.182(7) and (8) and in
14 accordance with KRS 351.182(2)(b) under the following conditions:
15 (a) An applicant shall submit a request for acceptance of his or her drug- and
16 alcohol-free status to the executive director accompanied by pass/fail results
17 of a drug and alcohol test taken within thirty (30) days prior to the request;
18 and
19 (b) The test results shall have been performed by laboratories certified in
20 accordance with the National Laboratory Certification Program (NLCP) by the
21 United States Department of Health and Human Services Administration's
22 SAMHSA and in accordance with subsection (1) of this section.
23 (3) The ***division***~~[Office of Mine Safety and Licensing]~~ shall maintain and publish
24 annually a list of certified specimen collection services and testing laboratories from
25 which it will accept data.
26 ➔Section 23. KRS 351.184 is amended to read as follows:
27 (1) The results of any testing performed by the ***division***~~[Office of Mine Safety and~~

1 ~~Licensing]~~ shall be given to the applicant at the time of his or her notification of the
2 granting or denial of certification.
3 (2) Certification of an applicant shall be denied if any one (1) or more of the following
4 occur:
5 (a) The applicant's positive drug test results for any of the substances either listed
6 in KRS 351.182(8) or otherwise required to be tested for by order of the Mine
7 Safety Review Commission are deemed to fail by a medical review officer;
8 (b) The applicant's blood alcohol level is above .04 concentration at the time of
9 testing;
10 (c) The applicant's test results demonstrate the submission of an adulterated
11 specimen; or
12 (d) The applicant refuses to submit to a drug or alcohol test as required by KRS
13 351.182.
14 (3) (a) Any applicant who is denied certification due to the results of the drug and
15 alcohol testing required by KRS 351.182 may:
16 1. Appeal to the Mine Safety Review Commission within thirty (30) days
17 of receiving the notification required under KRS 351.120(12); or
18 2. Notify the commissioner of the Department for Natural Resources or the
19 ~~[executive]~~director of the ***division***~~[Office of Mine Safety and~~
20 ~~Licensing]~~ within thirty (30) of receiving the notification required under
21 KRS 351.120(12) that the applicant intends to be evaluated by a medical
22 professional trained in substance abuse treatment, to complete any
23 prescribed treatment, and to submit an acceptable result from a drug and
24 alcohol test as required by KRS 351.182.
25 (b) Failure to file an appeal or failure to notify the commissioner of the
26 Department for Natural Resources or the ~~[executive]~~director of the
27 ***division***~~[Office of Mine Safety and Licensing]~~ of his or her intent to comply

with paragraph (a)2. of this subsection within thirty (30) days of the notification shall result in the revocation of all licenses and certifications issued by the ***division***~~[Office of Mine Safety and Licensing]~~ for a period of not less than three (3) years, and the holder shall remain ineligible for any other certification issued by the ***division***~~[Office of Mine Safety and Licensing]~~ during the revocation period. Certifications and licenses revoked under this paragraph may be reissued by:

1. Compliance with all training and testing requirements;
2. Satisfying the requirements of KRS 351.182 and 351.183; and
3. Compliance with all orders of the Mine Safety Review Commission.

(c) For the purposes of this subsection, the completion of evaluation, treatment, and submission of an acceptable drug test pursuant to paragraph (a)2. of this subsection or the revocation described under paragraph (b) of this subsection shall be considered a first offense.

(4) The licenses and certifications of a miner who notifies the commissioner of the Department for Natural Resources or the ~~[executive]~~director of the ***division***~~[Office of Mine Safety and Licensing]~~ of his or her intent to comply with subsection (3)(a)2. of this section shall remain suspended until the miner has provided proof of the evaluation and successful completion of any prescribed treatment and has submitted a negative drug and alcohol test as required by KRS 351.182 to the ***division***~~[Office of Mine Safety and Licensing]~~. The drug and alcohol test shall be taken no more than thirty (30) days prior to the submission of the proof required by this section. Upon receipt and review of the proof by the ***division***~~[Office of Mine Safety and Licensing]~~, the miner's licenses and certifications shall be restored. In the event that the miner fails to successfully complete the evaluation, treatment, and drug test within one hundred twenty (120) days of the notification required under KRS 351.120(12), the miner's licenses and certifications issued by the

1 ***division***[~~Office of Mine Safety and Licensing~~] shall be revoked for a period
2 prescribed under KRS 351.990(8). The one hundred twenty (120) day time period
3 set out in this section shall be extended upon proof that the miner is complying with
4 the recommendations of the medical professional.
5 (5) If the denial described in subsection (3) of this section occurs following the miner's
6 first offense as described in this section or KRS 351.120, the miner shall not have
7 the option of notifying the ***division***[~~Office of Mine Safety and Licensing~~] of his or
8 her intent to comply with subsection (3)(a)2. of this section. The miner shall only
9 have the right to appeal the denial to the Mine Safety Review Commission within
10 thirty (30) days of notification. If the miner fails to appeal the denial, the penalty
11 shall be assessed according to KRS 351.990(8)(b) or (c).
12 ➔Section 24. KRS 351.185 is amended to read as follows:
13 (1) Records of drug or alcohol test results, written or otherwise, received by the
14 ***division***[~~Office of Mine Safety and Licensing~~], its contractors, subcontractors, or
15 other employees are confidential communications and exempt from disclosure
16 under the Kentucky Open Records Act, except as follows:
17 (a) Where release of the information is authorized solely pursuant to a written
18 consent form signed voluntarily by the person tested. The consent form shall
19 contain the following:
20 1. The name of the person who is authorized to obtain the information;
21 2. The purpose of the disclosure;
22 3. The precise information to be disclosed;
23 4. The duration of the consent; and
24 5. The signature of the person authorizing the release of the information;
25 (b) Where release of the information is compelled by a hearing officer or court of
26 competent jurisdiction pursuant to an appeal taken under KRS 351.182,
27 351.183, 351.184, 351.185, 351.102, 351.103, 351.1041, 351.106, 351.110,

1 351.120, 351.127, 351.1291, 351.170, 352.010, 352.180, 352.210, and
2 352.390;
3 (c) Where release of the information is relevant to a legal claim asserted by the
4 applicant;
5 (d) Where the information is used by the entity conducting drug or alcohol testing
6 when consulting with legal counsel in connection with matters brought under
7 or related to KRS 351.182, 351.183, 351.184, 351.185, 351.102, 351.103,
8 351.1041, 351.106, 351.110, 351.120, 351.127, 351.1291, 351.170, 352.010,
9 352.180, 352.210, and 352.390, or in its defense of civil or administrative
10 actions related to the testing or results; or
11 (e) Where release of the information is deemed appropriate by the Mine Safety
12 Review Commission or a court of competent jurisdiction in disciplinary
13 proceeding brought under the terms of KRS 351.182, 351.183, 351.184,
14 351.185, 351.102, 351.103, 351.1041, 351.106, 351.110, 351.120, 351.127,
15 351.1291, 351.170, 352.180, 352.210, and 352.390.
16 (2) Information on drug and alcohol test results for tests administered pursuant to KRS
17 351.182, 351.183, 351.184, 351.185, 351.102, 351.103, 351.1041, 351.106,
18 351.110, 351.120, 351.127, 351.1291, 351.170, 352.010, 352.180, 352.210, and
19 352.390 shall not be released or used in any criminal proceeding against the
20 applicant.
21 ➔Section 25. KRS 351.186 is amended to read as follows:
22 (1) Any employer who is also a licensee that has implemented a drug-free workplace
23 program certified by the ***division***[~~Office of Mine Safety and Licensing~~] shall be
24 eligible to obtain a credit on the licensee's premium for workers' compensation
25 insurance.
26 (2) Each insurer authorized to write workers' compensation insurance policies shall
27 provide the credit on the workers' compensation premium to any employer who is

1 also a licensee for which the insurer has written a workers' compensation policy.
2 The credit on the workers' compensation premium shall not:
3 (a) Be available to those employers that are also licensees who do not maintain
4 their drug-free workplace program for the entire workers' compensation policy
5 period; or
6 (b) Apply to minimum premium policies.
7 (3) The Department of Insurance shall approve workers' compensation rating plans that
8 give a credit on the premium for a certified drug-free workplace so long as the
9 credit is actuarially sound. The credit shall be at least five percent (5%) unless the
10 Department of Insurance determines that five percent (5%) is actuarially unsound.
11 (4) The credit on the workers' compensation premium may be applied by the insurer at
12 the final audit.
13 ➔Section 26. KRS 351.242 is amended to read as follows:
14 (1) There is hereby created in the department a mine safety analysis program.
15 (2) ***Mine safety specialists***[~~Persons~~] employed in the department ***and conducting***[~~as~~]
16 underground or surface mine safety ***analysis***[~~analysts~~] shall satisfy the applicable
17 requirements established in KRS 351.090.
18 (3) ***A***[~~The~~] primary responsibility of the ***mine*** safety ***specialist***[~~analyst~~] is to prevent
19 mine accidents and fatalities by observing and evaluating the work habits of persons
20 involved in the direct production of coal and to contact, advise, and assist these
21 persons in correcting their unsafe or potentially hazardous actions.
22 (4) [~~The safety analyst shall have the same powers as a mine inspector of the~~
23 ~~department, but these powers shall be considered secondary to the primary~~
24 ~~responsibilities provided in subsection (3) of this section.~~]Each time a ***mine*** safety
25 ***specialist***[~~analyst~~] enters a mine to perform ***mine safety analysis***[~~his primary~~
26 ~~responsibility~~], he ***or she*** shall confer with the foreman as to the conditions of the
27 mine and the work practices of the employees.

1 (5) The ***mine*** safety ***specialist***[~~analyst~~] shall keep mine management, representatives of
2 the employees, and the commissioner informed about all hazardous conditions and
3 all matters which may improve the safety of mines.
4 (6) The ***division***[~~office~~] shall assist the department in assessing the effectiveness of
5 miner training programs.
6 (7) The commissioner shall at his or her discretion assign ***mine*** safety
7 ***specialist***[~~analysts~~] to all mines in the state taking into consideration such factors as
8 the history of accidents at the mine, experience of the workforce, physical condition
9 of the mine, and size of the mine.
10 (8) The commissioner may coordinate the assignment of ***mine*** safety
11 ***specialists***[~~analysts~~] with the appropriate federal authorities to minimize duplication
12 of accident prevention efforts.
13 (9) The commissioner shall report annually to the General Assembly and to the
14 Governor on the effectiveness of the ***mine*** safety ***specialists***[~~analysts~~] in improving
15 mine safety.
16 ➔Section 27. KRS 351.990 is amended to read as follows:
17 (1) Any person who violates any of the provisions of KRS 351.315 to 351.375 or any
18 administrative regulation, determination, or order promulgated in accordance with
19 KRS 351.315 to 351.375 shall be subject to a civil fine not less than two hundred
20 fifty dollars ($250) nor more than five thousand dollars ($5,000) for each violation.
21 (2) Any person who willfully violates any of the provisions of KRS 351.315 to 351.375
22 or any administrative regulation, determination, or order promulgated in accordance
23 with KRS 351.315 to 351.375 which has become final shall be guilty of a Class A
24 misdemeanor.
25 (3) Any person who violates any of the provisions of KRS 351.330(16) shall be guilty
26 of a Class B misdemeanor.
27 (4) Any person who violates any of the provisions of KRS 351.345(2) shall be guilty of

1 a Class D felony.

2 (5) Any operator who fails to obtain his license as required by KRS 351.175 shall be
3 guilty of a Class A misdemeanor as defined in KRS 532.090. Each day the mine is
4 operated without a license constitutes a separate offense. Venue for the offenses
5 shall lie in the county in which the offense occurred.

6 (6) Any operator operating a mine with knowledge that the mine has been placed under
7 a valid closure order pursuant to KRS 351.175 shall be guilty of a Class D felony.
8 Jurisdiction shall lie in the Circuit Court of the county in which the offense
9 occurred.

10 (7) Any blasting operation that results in the death or serious physical injury of a person
11 may be subject to a civil fine not more than twenty thousand dollars ($20,000). For
12 the purposes of this subsection, "serious physical injury" means an injury which has
13 a reasonable potential to cause death.

14 (8) Any person who fails a drug or alcohol test required by KRS 351.182, 351.183,
15 351.184, 351.185, or 352.180 shall be subject to the following penalties if an appeal
16 to the Mine Safety Review Commission is chosen and the appeal is not successful:

17 (a) A first offense shall result in probation, suspension, or combination of both, as
18 well as other conditions and time constraints as ordered by the Mine Safety
19 Review Commission. During this time, the person shall be ineligible for any
20 license or certification issued by the ***division***[~~Office of Mine Safety and~~
21 ~~Licensing~~]. All licenses and certifications shall be restored upon compliance
22 with the orders of the Mine Safety Review Commission. The failure to pursue
23 an appeal will result in revocation of all licenses or certifications issued by the
24 ***division***[~~Office of Mine Safety and Licensing~~] for three (3) years;

25 (b) A second offense shall result in the revocation of all certifications and licenses
26 issued by the ***division***[~~Office of Mine Safety and Licensing~~] for a period of
27 five (5) years. During this time, the person shall be ineligible for any license

1 or certification issued by the ***division***~~[Office of Mine Safety and Licensing]~~.
2 Certifications and licenses revoked under this provision may be reissued by:
3 1. Compliance with all training and testing requirements;
4 2. Satisfying the requirements of KRS 351.182 and 351.183;
5 3. Compliance with all orders of the Mine Safety Review Commission; and
6 (c) A third offense shall result in the permanent revocation of all licenses and
7 certifications issued by the ***division***~~[Office of Mine Safety and Licensing]~~.
8 The person shall be permanently ineligible for licenses and certifications
9 issued by the ***division***~~[Office of Mine Safety and Licensing]~~.
10 The Mine Safety Review Commission shall not have the authority to reconsider any
11 order permanently revoking a miner's license or certifications issued by the
12 ***division***~~[Office of Mine Safety and Licensing]~~ if the commission's order is final
13 unless, at the time of the entry of the order, the miner was incarcerated or
14 hospitalized, or the miner did not receive actual notice of the motion or other filing
15 seeking permanent revocation, or did not actually receive notification by the
16 commissioner of the Department for Natural Resources pursuant to KRS 351.120.
17 ➔Section 28. KRS 352.010 is amended to read as follows:
18 (1) As used in this chapter, unless the context requires otherwise:
19 (a) "Abandoned workings" means excavations, either caved or sealed, that are
20 deserted and in which further mining is not intended, or open workings which
21 are ventilated and not inspected regularly;
22 (b) "Active workings" means all places in a mine that are ventilated and inspected
23 regularly;
24 (c) "Approved" means that a device, apparatus, equipment, machinery, or practice
25 employed in the mining of coal has been approved by the commissioner of the
26 Department for Natural Resources;
27 (d) "Assistant mine foreman" means a certified person designated to assist the

1 mine foreman in the supervision of a portion or the whole of a mine or of the
2 persons employed therein;
3 (e) "Board" means the Mining Board created in KRS 351.105;
4 (f) "Commercial mine" means any coal mine from which coal is mined for sale,
5 commercial use, or exchange. This term shall in no instance be construed to
6 include a mine where coal is produced for own use;
7 (g) "Commissioner" means commissioner of the Department for Natural
8 Resources;
9 (h) "Department" means the Department for Natural Resources;
10 (i) "Drift" means an opening through strata or coal seams with opening grades
11 sufficient to permit coal to be hauled therefrom, or which is used for the
12 purpose of ventilation, drainage, ingress, egress, and other purposes in
13 connection with the mining of coal;
14 (j) ***"Director" means the director of the Division of Mine Safety;***
15 ***(k)*** "Excavations and workings" means the excavated portions of a mine;
16 ~~[(k) "Executive Director" means the executive director of the Office of Mine~~
17 ~~Safety and Licensing;]~~
18 (l) "Face equipment" means mobile or portable mining machinery having electric
19 motors or accessory equipment normally installed or operated inby the last
20 open crosscut in any entry or room;
21 (m) "Fire boss" (often referred to as mine examiner) means a person certified as a
22 mine foreman or assistant mine foreman who is designated by management to
23 examine a mine or part of a mine for explosive gas or other dangers before a
24 shift crew enters;
25 (n) "Gassy mine." All underground mines shall be classified as gassy or gaseous;
26 (o) "High voltage" means any voltage of one thousand (1,000) volts or more;
27 (p) "Imminent danger" means the existence of any condition or practice which

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

1 qualified to do so;
2 (y) "NAD 83" means the North American Datum, 1983 version, in feet units;
3 (z) "Open-pit mine" shall include open excavations and open-cut workings
4 including auger operations and highwall mining systems for the extraction of
5 coal;
6 (aa) "Operator" means the licensee, owner, lessee, or other person who operates or
7 controls a coal mine;
8 (ab) "Permissible" means that any equipment, device, or explosive that has been
9 approved by the United States Bureau of Mines, the Mining Enforcement and
10 Safety Administration, or the Mine Safety and Health Administration meets
11 all requirements, restrictions, exceptions, limitations, and conditions attached
12 to the classification;
13 (ac) "Preshift examination" refers to the examination of an underground mine or
14 part of a mine where miners are scheduled to work or travel, and shall be
15 conducted not more than three (3) hours before any oncoming shift;
16 (ad) "Return air" means air that has passed through the last active working place on
17 each split, or air that has passed through abandoned, inaccessible, or pillared
18 workings;
19 (ae) "Serious physical injury" means an injury which has a reasonable potential to
20 cause death;
21 (af) "Shaft" means a vertical opening through the strata that is or may be used, in
22 connection with the mining of coal, for the purpose of ventilation or drainage,
23 or for hoisting men, coal, or materials;
24 (ag) "Single Zone Projection" means the Kentucky Single Zone State Plane
25 Coordinate System of 1983, based on the Lambert Conformal Conical map
26 projection with double standard parallels on the North American Datum, 1983
27 version, as established in 10 KAR 5:010;

1 (ah) "Slope" means an inclined opening used for the same purpose as a shaft;
2 (ai) "Superintendent" means the person who, on behalf of the licensee, has
3 immediate supervision of one (1) or more mines;
4 (aj) "Supervisory personnel" shall mean a person or persons certified under the
5 provisions of KRS Chapter 351 to assist in the supervision of a portion or the
6 whole of the mine or of the persons employed therein;
7 (ak) "Tipple or dumping point" means the structure where coal is dumped or
8 unloaded from the mine car into railroad cars, trucks, wagons, or other means
9 of conveyance;
10 (al) "Working face" means any place in a coal mine at which the extraction of coal
11 from its natural deposit in the earth is performed during the mining cycle;
12 (am) "Working place" means the area of a coal mine inby the last open crosscut;
13 (an) "Working section" means all areas of a coal mine from the loading point to
14 and including the working faces; and
15 (ao) "Workmanlike manner" means consistent with established practices and
16 methods utilized in the coal industry.
17 (2) The definitions in KRS 351.010 apply also to this chapter, unless the context
18 requires otherwise.
19 (3) Except as the context otherwise requires, this chapter applies only to commercial
20 mines as defined in KRS 351.010 and shall not apply to electrical facilities owned,
21 operated, or otherwise controlled by a retail electric supplier or generation and
22 transmission cooperative as defined in KRS 278.010 or organized under KRS
23 Chapter 279 for the purpose of communication, metering, or for the generation,
24 control, transformation, transmission, and distribution of electric energy located in
25 buildings used exclusively by utilities for such purposes or located outdoors on
26 property owned or leased by the utility or on public highways, streets, roads, or
27 outdoors by established easement rights on private property and that are covered by

1 the National Electric Safety Code (NESC) or other applicable safety codes, or other
2 authorities having jurisdiction and shall not apply to installations under the
3 exclusive control of utilities for the purpose of communication, metering, or for the
4 generation, control, transformation, transmission, and distribution of electric energy
5 located in buildings used exclusively by utilities for such purposes or located
6 outdoors on property owned or leased by the utility or on public highways, streets,
7 roads, or outdoors by established rights on private property.
8 ➔Section 29. KRS 352.020 is amended to read as follows:
9 (1) A mine ventilation plan and any revision of an existing mine ventilation plan shall
10 be suitable to the ventilation conditions and mining system of each mine. The mine
11 ventilation plan and any revisions to the mine ventilation plan approved by the
12 United States Mine Safety and Health Administration shall be submitted to the
13 ~~[executive]~~director or his or her authorized representative and incorporated into the
14 license. All mine ventilation plans shall be set forth in printed form. The mine
15 ventilation plan shall require the air quality throughout the mine to contain at least
16 nineteen and one-half percent (19.5%) oxygen and not more than one-half of one
17 percent (0.5%) of carbon dioxide, and the volume and velocity of the air current
18 shall be sufficient to dilute, render harmless, and carry away flammable, explosive,
19 noxious, and harmful gases and dust, smoke, and fumes. A copy of the mine
20 ventilation plan and any revisions to that plan shall be available to the miners and
21 their representatives.
22 (2) The ventilation of all underground coal mines shall be produced by means of
23 mechanically operated fans located outside the mine in fireproof housing and offset
24 at least fifteen (15) feet to one (1) side or above the opening, protected by explosion
25 doors or weak walls and arranged so that ventilating current may be reversed if
26 necessary. The fan shall be installed so as to prevent recirculation of mine air. The
27 main fan shall be operated from a power circuit independent from the mine circuit.

1 If inside auxiliary fans are required to ventilate working places the commissioner
2 must first approve the installation.
3 (3) The licensee, superintendent, or foreman of every coal mine worked by shaft, slope,
4 or drift shall provide and maintain for every mine two (2) separate and distinct
5 escapeways, one (1) of which is vented by the intake air. However, if a mine was
6 originally licensed prior to January 1, 1990, the commissioner may approve an
7 alternate ventilation plan. Each active working section shall be ventilated by a
8 separate split of intake air. In all mines the quantity of air passing through the last
9 open crosscut between the intake and return in any pair or sets of entries shall be not
10 less than nine thousand (9,000) cubic feet of air per minute and as much more as is
11 necessary to dilute and render harmless and carry away flammable and harmful
12 gases. All working faces from which coal is being cut, mined, or loaded in a
13 working section between the intake and return airway entries shall be ventilated
14 with a minimum quantity of three thousand (3,000) cubic feet of air per minute and
15 as much more as is necessary to dilute and render harmless and carry away
16 flammable and harmful gases. The quantity of air reaching the last crosscut in pillar
17 sections may be less than nine thousand (9,000) cubic feet of air per minute if at
18 least nine thousand (9,000) cubic feet of air per minute is being delivered to the
19 intake of the pillar line. The air current shall under any conditions have a sufficient
20 volume and velocity to reduce and carry away smoke from blasting and any
21 flammable or harmful gases.
22 (4) All mines shall maintain at least nine thousand (9,000) cubic feet of air per minute
23 at the points mentioned in subsection (3) of this section. The commissioner shall
24 have the authority to require additional air in any mine when he deems it necessary
25 for the safety of the employees.
26 (5) When the air from a split has passed through and has ventilated all the working
27 places in an air split of a mine it shall then be designated as return air. Return-air

1 courses shall not be designated as primary escapeways.

2 (6) As working places advance, breakthroughs for air shall be made not more than
3 ninety (90) feet apart, except that where longwall or modern systems of mining are
4 used the commissioner or his authorized representative may approve a greater
5 distance between breakthroughs or the method of ventilating such longwall or
6 modern systems of mining. If any breakthroughs between intake and return airways
7 are not required for the passage of air or the travel of equipment, they shall be
8 closed with stoppings. All permanent stoppings shall be substantially built with
9 suitable incombustible or fire resistant material subject to the approval of the mine
10 inspector so as to keep the working places well ventilated. All brattice cloth and
11 ventilation tubing shall be flame resistant. Doors on the main haulways shall be
12 avoided where practicable, and overcasts, built of concrete or other suitable material
13 and of ample strength, shall be adopted. Where doors are used they shall be built in
14 a substantial manner, and shall be hung so as to close automatically when
15 unobstructed.

16 (7) In a mine where methane can be found to an extent of one percent (1%) or more on
17 the return of any one (1) split, the ***mine safety specialist***[~~inspector~~], with the
18 approval of the commissioner, may require the mine to be ventilated by the exhaust
19 system, requiring the haulage roads and all feed wires to be located on the intake air
20 and the electrical system to be so arranged that no wires carrying electrical current
21 shall be on return air. A period of not more than ninety (90) days from date of
22 notification shall be allowed to make the changes required.

23 (8) The ventilation plan shall require all fans utilized in the ventilation plan to be in
24 continuous operation unless the fan must be turned off for repairs or maintenance,
25 during which time all persons must be withdrawn from the mine. After the mine fan
26 is restarted following the completion of repairs or maintenance, it must be in
27 operation for a sufficient period to ensure air quality and the equalization of the

1 mine atmosphere. Within fifteen (15) minutes after a fan has been unintentionally
2 stopped, all miners must begin withdrawing from the mine. If the fan is restarted
3 before the miners reach the surface, the miners shall remain at the point of their
4 retreat, and the area inby shall be preshifted prior to the miners returning to the
5 section.
6 ➔Section 30. KRS 352.090 is amended to read as follows:
7 (1) All unused workings and abandoned parts of mines shall be protected by safeguards
8 that will prevent the accumulation or overflow of gas, and all avenues leading
9 thereto shall be so arranged and conducted as to give warning to all persons of the
10 danger of entering, and notice shall be posted warning all unauthorized persons not
11 to enter these parts of the mine. If the area cannot be adequately ventilated, and
12 examined, or evaluated it shall be sealed in a timely manner.
13 (2) No person, except persons authorized to make examination thereof, shall enter any
14 unused or abandoned part of a mine after the warning has been posted.
15 (3) Where the practice is to seal abandoned workings, the sealing shall be done in
16 accordance with a mine seal construction plan approved by MSHA and submitted to
17 the ***Division of Mine Safety***[~~Office of Mine Safety and Licensing~~]. Seal
18 construction shall be done immediately in an effective manner with noncombustible
19 material. In every sealed area, one (1) or more of the seals shall be fitted with a pipe
20 and cap or valve to permit the gases behind the seals to be sampled and also to
21 provide a means of determining any existing hydrostatic pressure. When required by
22 the mine inspector and commissioner, drill holes shall be extended from the surface
23 to the sealed area, or vent pipes shall be extended from the sealed area to a return air
24 course. Sufficient ventilation shall be provided at each seal to prevent dangerous
25 gases from accumulating.
26 ➔Section 31. KRS 352.180 is amended to read as follows:
27 (1) Whenever a serious physical injury or loss of life occurs in a mine or in the

1 machinery connected therewith or whenever a fire, explosion, entrapment of an
2 individual for more than thirty (30) minutes, inundation of a mine by water or gases
3 occurs, the superintendent of the mine, or, if he is absent, the mine manager, or if he
4 is absent, the mine foreman in charge of the mine or his designee, shall within
5 fifteen (15) minutes of having actual knowledge of the occurrence and access to the
6 communication system as required under KRS 352.630(3) give notice to the
7 department and to the representative of the miner, stating the particulars of the
8 accident. No person shall alter the scene of a mining accident in a manner that will
9 interfere with the department's investigation of the accident, except to the extent
10 necessary to rescue an individual or to eliminate an imminent danger.
11 (2) Upon receipt of notification of an occurrence set forth in subsection (1) of this
12 section, the mine ***safety specialist***[~~inspector~~] shall immediately go to the scene of
13 the accident and make an investigation and suggestions and render the assistance as
14 he deems necessary for the future safety of the employees, investigate the cause of
15 the fire, explosion, or accident, make a record thereof, and forward it to the
16 commissioner.
17 (3) The record of the investigations shall be preserved with the other records of the
18 commissioner's office. To aid in making the investigations, the commissioner or the
19 mine ***safety specialist***[~~inspector~~] may compel the attendance of witnesses and
20 administer oaths.
21 (4) Failure to comply with the reporting requirements set forth in this section shall
22 create a rebuttable presumption of an intentional order to violate mine safety laws
23 that places miners in imminent danger of serious physical injury or death and shall
24 be subject to revocation, suspension, or probation of the mine license and a civil
25 monetary penalty of not less than ten thousand dollars ($10,000) nor more than one
26 hundred thousand dollars ($100,000).
27 (5) The ***Division of Mine Safety***[~~Office of Mine Safety and Licensing~~] may require

1 testing of certified persons to determine whether the presence of intoxicants or
2 controlled or illicit substances are a contributing factor in any mine accident in
3 which serious physical injury or loss of life occurs or which was reported under this
4 section. The[~~ executive~~] director or his designee may order the testing of certified
5 persons who:
6 (a) Were working in the immediate area of the accident; or
7 (b) In the judgment of the[~~ executive~~] director or his designee, may reasonably
8 have contributed to or witnessed the accident or fatality.
9 (6) The post-accident testing permitted by subsection (5) of this section shall:
10 (a) Meet all guidelines set forth in KRS 351.182, 351.183, 351.184, and 351.185;
11 (b) Be paid for by the ***Division of Mine Safety***[~~Office of Mine Safety and~~
12 ~~Licensing~~]; and
13 (c) Be performed on samples obtained within eight (8) hours of the accident.
14 (7) Toxicology screens and eleven-panel drug testing shall be performed on victims
15 when death occurs on mine property. The testing pursuant to this subsection may be
16 performed on specimens of either blood, saliva, or other appropriate bodily fluids.
17 (8) The commissioner or his or her authorized representative may compel the
18 attendance of witnesses and administer oaths to investigate allegations of unsafe
19 mining conditions or violations of mining laws even if no accident or injury has
20 occurred.
21 ➔Section 32. KRS 352.201 is amended to read as follows:
22 (1) The roof and ribs of all active underground roadways, travelways, and working
23 places shall be supported or otherwise controlled adequately to protect persons from
24 falls of the roof or ribs. A roof control plan and revision thereof suitable to the roof
25 conditions and mining system of each mine and approved by the commissioner or
26 his authorized representative shall be adopted and set out in printed form within six
27 (6) months after June 16, 1972, and shall be kept on file in the ***regional***[~~district~~]

1 office of the ***region***[~~district~~] where the mine is located. The plan shall show the type
2 of support and spacing approved by the commissioner. No person shall proceed
3 beyond the last permanent support unless adequate temporary support is provided.
4 A copy of the plan shall be furnished the commissioner or his authorized
5 representative and shall be available to the miners and their representatives.
6 (2) The method of mining followed in any mine shall not expose the miner to unusual
7 dangers from roof falls caused by excessive widths of rooms and entries or faulty
8 pillar recovery methods.
9 (3) The licensee, in accordance with the approved plan, shall provide at or near each
10 working face and at other locations in the mine as the commissioner or his
11 authorized representative may prescribe an ample supply of suitable materials of
12 proper size with which to secure the roof of all working places in a safe manner.
13 Safety posts, jacks, or other approved devices shall be used to protect the workmen
14 when roof material is being taken down, crossbars are being installed, roof bolt
15 holes are being drilled, roof bolts are being installed, and in other circumstances
16 that may be appropriate. Loose roof and overhanging or loose faces and ribs shall be
17 taken down or supported. Except in the case of recovery work, supports knocked
18 out shall be replaced promptly.
19 (4) Roof bolt recovery for reuse shall not be permitted.
20 (5) Where workmen are exposed to danger from falls of roof, face, and ribs they shall
21 examine and test the roof, face, and ribs before any other work is performed or
22 machinery is started, and as frequently thereafter as may be necessary to insure
23 safety. When dangerous conditions are found, they shall be corrected immediately.
24 (6) Within forty-eight (48) hours before the commencement of any retreat mining or
25 pillaring operations, the mine operator shall notify the ***Division of Mine***
26 ***Safety***[~~Office of Mine Safety and Licensing~~] of its intention of beginning or
27 resuming retreat mining or pillaring. The ***Division of Mine Safety***[~~Office of Mine~~

1 ~~Safety and Licensing~~] shall document such notification in writing. Upon [~~such~~
2]notification within the forty-eight (48) hour period from a mine operator, and,
3 before retreat mining or pillaring operations can begin, the ***Division of Mine***
4 ***Safety***[~~office~~] shall ensure that every person who will be participating in the retreat
5 mining operations is trained in the operator's pillar removal plan.
6 ➔Section 33. KRS 352.210 is amended to read as follows:
7 (1) No person shall knowingly injure any shaft, lamp, instrument, air course, or brattice;
8 obstruct or throw open airways; disturb any part of the machinery or appliances;
9 open a door used for directing ventilation without closing it afterwards; enter any
10 part of a mine against caution; disobey any order given in carrying out any of the
11 provisions of KRS Chapter 351 or 352; or do any act endangering the life or health
12 of any person employed in the mine or endangering the security of the mine.
13 (2) No person shall enter or be on any licensed facility while intoxicated or under the
14 influence of alcohol or a controlled substance or be in possession of any alcoholic
15 beverage or controlled substance at any licensed facility; provided, however, this
16 shall not apply to private vehicles driven to and from the mine.
17 (3) The licensee shall notify the[~~ executive~~] director, by the close of the next business
18 day, of any certified persons who have been discharged for violation of the
19 company's substance-abuse or alcohol-abuse policies or who tested positive and
20 failed to complete an employee assistance program.
21 ➔Section 34. KRS 352.340 is amended to read as follows:
22 (1) The mine foreman or his assistants shall:[~~ ~~]
23 ***(a)*** Visit and carefully examine each working place in the mine at least every four
24 (4) hours while the mine employees are at work;[~~. He shall~~]
25 ***(b)*** Examine as live workings, on regular inspections, all places in live sections
26 that are temporarily abandoned. If the mine foreman finds any place to be in a
27 dangerous condition, he shall not leave the place until it is made safe, or until

1 the employees working therein are removed until the place is made safe;
2 *(c)* *Ensure*[. He shall see] that every mine liberating explosive gas is kept free of
3 standing gas in all working places and roadways, and that all accumulations of
4 explosive or noxious gases in the worked-out or abandoned portions of any
5 mine are removed as soon as possible after discovery;[. He shall]
6 *(d)* Ensure that all preshift examinations are conducted by a certified person,[
7 and] that examinations of conveyor belts have been conducted, *and that no*[.
8 He shall not allow any] person who may be endangered by the presence of
9 explosive or noxious gases *be allowed* to enter that portion of the mine until
10 the gases have been removed; *and*[. He shall]
11 *(e)* Direct and see that all dangerous places and the entrances to worked-out and
12 abandoned places in all mines are properly barricaded across the openings, so
13 that no person will enter, and that danger signs are posted upon the barricade
14 to warn persons of existing danger. *The mine foreman or his assistants*[He]
15 shall give prompt attention to the removal of all dangers reported to him by
16 his assistants, the fire boss, or any person working in the mine, and if it is
17 impracticable to remove the danger at once *, the mine foreman or his*
18 *assistants*[he] shall notify every person whose safety is menaced thereby to
19 remain away from the portion where the dangerous condition exists.
20 (2) The mine foreman or his assistants, fire bosses, or other certified persons shall, at
21 least once every week, travel and examine all air courses, escapeways, the caches of
22 self-contained self-rescuer devices required by KRS 352.133, the caches' contents,
23 seals on the return, roads, and openings that give access to old workings or pillar
24 falls, and make a record of the condition of all places where danger has been found.
25 The record shall be made with ink pencil in the record book provided for that
26 purpose.
27 (3) Examinations of conveyor belts shall be conducted by a certified foreman or a

1 certified belt examiner. A certified belt examiner shall have a total of three (3) years
2 of practical underground mining experience and successfully complete a
3 certification examination administered by the ***Division of Mine Safety***[~~Office of~~
4 ~~Mine Safety and Licensing~~]. The certification examination shall cover the topics of
5 belt conveyor legal requirements; roof control practices; mine ventilation; mine
6 gases and instruments; fire hazards; and inspection and reporting procedures. The
7 belt examiner also shall demonstrate proficiency in the use of an anemometer,
8 methane detector, and oxygen devices.
9 ➔Section 35. KRS 352.510 is amended to read as follows:
10 (1) In any underground mine before removing any coal or other material or driving any
11 entry or passageway within three hundred (300) feet of any surveyed natural gas or
12 petroleum well, or before extending the workings in any mine beneath any tract of
13 land on which these wells are also drilled, or within three hundred (300) feet of any
14 of these wells or under any tract of land in visible possession of a well operator, the
15 operator shall forward simultaneously to the well operator and to the Department
16 for Natural Resources, by certified mail, return receipt requested, or by registered
17 mail, a copy of the maps and plans required by law to be filed and kept up to date,
18 showing on the copy of the map or plan its mine workings and projected mine
19 workings beneath the tract of land and within three hundred (300) feet of its outer
20 boundaries. The operator may then proceed with his mining operations in the
21 manner indicated on the copy of the map or plan; but if the conduct of his mining
22 operations nearer than three hundred (300) feet to any surveyed natural gas or
23 petroleum well, whether completed or being drilled, or to any proposed well where
24 a derrick is being constructed for drilling, or proposed well will endanger the use of
25 drilling of the well, the well owner or operator affected may, within fifteen (15)
26 days from the receipt of the copy of the map by him and the department, file
27 specific objections in writing to the mining operations within less than three

1 hundred (300) feet of the well; and if the objection is filed, the department shall
2 notify the operator of the character of the objections and fix a time and place for an
3 informal hearing not more than ten (10) days from the end of the fifteen (15) day
4 period. At the hearing, the operator and the well operator, in person or by a
5 representative, shall consider the objections and agree upon the character and extent
6 of operations to be conducted within less than three hundred (300) feet of the well
7 to satisfy the objections raised and meet the approval of the department. And, if no
8 agreement can be reached, the department, after an administrative hearing
9 conducted in accordance with KRS Chapter 13B, shall make a decision defining
10 what coal, if any, is necessary to be left for the safe protection of the use and
11 operation of the well. The decision shall be subject to appeal by either party as
12 provided in KRS 351.040. The department shall keep a complete record of all the
13 hearings.
14 (2) The mine operator shall, every six (6) months, while mining within three hundred
15 (300) feet of the surveyed natural gas and petroleum well, bring up to date the maps
16 and plans required by this section, or file new maps and plans complete to date.
17 (3) Prior to issuance of a waiver to mine within three hundred (300) feet of an oil or gas
18 well, the ***Division of Mine Safety***[~~Office of Mine Safety and Licensing~~] shall
19 determine whether the oil or gas operator has been properly notified as required by
20 subsection (1) of this section.
21 ➔Section 36. KRS 352.630 is amended to read as follows:
22 (1) Effective September 1, 2006, each licensed underground facility shall provide
23 telephone service or equivalent two-way communications facilities, approved by the
24 [~~executive~~]director or his authorized representative, between the surface of each
25 landing of main shafts and slopes, and between the surface and each working
26 section that is more than one hundred (100) feet from a portal. Implementation of
27 telephone or equivalent two-way communications facilities shall be subject to the

1 following provisions:

2 (a) Telephones or equivalent two-way communications facilities provided at each
3 working section shall be located not more than five hundred (500) feet outby
4 the last open crosscut and not more than eight hundred (800) feet from the
5 farthest point of penetration of the working faces on the section;

6 (b) Primary telephone or two-way communications systems and lines shall be
7 located in the intake air course or adjacent entry, but shall not be located in the
8 beltway or return air courses unless approved by the ~~[executive]~~director of the
9 ***Division of Mine Safety***~~[Office of Mine Safety and Licensing]~~ in seams with
10 coal heights twenty-six (26) inches or less; and

11 (c) The incoming communication signal on the telephone or other approved two-
12 way communications system shall activate an audible alarm that is
13 distinguishable from the surrounding noise level and a visual alarm that can be
14 seen by a miner regularly employed on the working section.

15 (2) Effective September 1, 2006, each licensed underground facility shall have a
16 telephone or equivalent two-way communications facility located on the surface
17 within one thousand (1,000) feet of all main portals. The telephone or equivalent
18 two-way communications system shall be installed in either a building or in a box-
19 like structure designed to protect the communications equipment from damage by
20 inclement weather. At least one (1) of these communications systems shall be at a
21 location where a responsible person is available and authorized to respond to an
22 emergency situation at all times when miners are working underground. The
23 incoming communications signal on the telephone or other approved two-way
24 communications system shall activate an audible alarm, distinguishable from the
25 surrounding noise level and a visual alarm that can be seen by the responsible
26 person stationed near the communications system.

27 (3) Effective September 1, 2006, each licensed underground facility shall have a

1 telephone or equivalent two-way communications system located on the surface
2 which can be used to activate the licensed facilities emergency action plan required
3 in KRS 352.640 and to comply with reporting requirements contained in KRS
4 352.180. The telephone or equivalent two-way communications system shall be
5 installed in either a building or in a box-like structure designed to protect the
6 communications equipment from damage by inclement weather. At least one (1) of
7 the communications systems shall be at a location where a responsible person is
8 available and authorized to respond at all times to an emergency situation when
9 miners are working. The incoming communications signal on the telephone or other
10 approved two-way communications system shall activate an audible alarm,
11 distinguishable from the surrounding noise level and a visual alarm that can be seen
12 by the responsible person stationed near the communications facility.
13 ➔Section 37. KRS 352.640 is amended to read as follows:
14 (1) An emergency action plan shall be submitted with each application for a license to
15 operate an underground mine. The emergency action plan shall be for use during
16 emergencies at the licensed facility. The plan shall consist of the following
17 components:
18 (a) A certification, submitted by the applicant, that the telephone or equivalent
19 two-way communications system will be in place and functioning at the
20 facility when operation begins;
21 (b) A listing of the telephone numbers of the facility personnel, state and federal
22 regulatory agencies, and state, federal, and local emergency response agencies
23 to be contacted in the event of a mine emergency;
24 (c) The positions and telephone numbers of the persons designated by the licensee
25 to implement the emergency action plan during mine emergencies;
26 (d) The name of the ambulance service or first responder with which the licensee
27 has made arrangements to provide twenty-four (24) hour emergency medical

1 assistance for any person injured at the licensed facility;
2 (e) A copy of the licensed facility's mine emergency evacuation and firefighting
3 plan, if one is required; and
4 (f) A training schedule for all personnel as to their responsibilities under the
5 emergency action plan. On site, each licensed facility shall maintain a log
6 containing training dates, the personnel trained, and their positions and shifts.
7 (2) The licensee shall provide a revised copy of the plan to the ***regional***[~~district~~] office
8 and the Frankfort office of the ***Division of Mine Safety***[~~Office of Mine Safety and~~
9 ~~Licensing~~] within ten (10) days of a change in any of the information required in
10 subsection (1) of this section becoming effective.
11 (3) The licensee shall be responsible for ensuring that copies of the licensed facility's
12 emergency action plan are submitted to the appropriate ***regional***[~~district~~] office and
13 to the Frankfort office of the ***Division of Mine Safety***[~~Office of Mine Safety and~~
14 ~~Licensing~~]. Copies of the plan also shall be kept on the premises of the licensed
15 facility where it shall be made open to inspection by the licensee's employees and
16 their independent contractors and inspectors.
17 (4) Each licensed facility shall post in a prominent place at the mine office a copy of all
18 emergency contact numbers. The list of emergency contact numbers shall be made
19 available to the licensee's employees and their independent contractors during
20 training on the emergency action plan.
21 (5) Each licensed facility shall train all employees of the licensee, including their
22 independent contractors, at the beginning of their employment with the licensed
23 facility and on an annual basis on the emergency action plan and the persons
24 responsible for the plan's implementation.
25 (6) Each licensed facility on which an underground mine is operated shall develop and
26 implement a mine emergency evacuation and firefighting program that instructs all
27 miners and other personnel of the licensed facility in the proper evacuation

1 procedures they must follow if a mine emergency occurs. The program, and any
2 revisions thereto, must be submitted to the [~~executive~~]director or his designee. All
3 personnel of the licensed facility, including independent contractors, shall be trained
4 in the performance of the plan's revisions prior to any of the revisions being
5 implemented. The program shall include a plan to train all miners on all shifts with
6 procedures for:
7 (a) Mine emergency evacuation for mine emergencies that present an imminent
8 danger to miners due to fire, explosion, or gas, or water inundation;
9 (b) Evacuation of all miners not required for a mine emergency response;
10 (c) Rapid assembly and transportation of necessary miners, fire suppression
11 equipment, and rescue apparatus to the scene of the mine emergency; and
12 (d) Operation of fire suppression equipment available in the mine.
13 ➔Section 38. KRS 353.745 is amended to read as follows:
14 (1) For gathering lines installed across terrain with a slope of greater than twenty
15 degrees (20°), the well operator shall mark the location of the gathering lines with
16 line markers at interval distances not to exceed two hundred fifty (250) feet.
17 (2) The Division of Oil and Gas shall make available on its Web site maps or other
18 relevant information showing the location of gathering lines, as filed by the well
19 operator, within thirty (30) days of the information being filed.
20 (3) Prior to the issuance of a permit to drill, the division shall determine whether the
21 proposed well will intersect an active mining area by reviewing the pertinent mine
22 maps filed with the ***Division of Mine Safety***[~~Office of Mine Safety and Licensing~~].
23 If the proposed well will intersect with an active mining area, the Division ***of Oil***
24 ***and Gas*** shall:
25 (a) Determine whether the coal mine permittee has been properly notified
26 pursuant to KRS 353.050; and
27 (b) Issue the permit to drill on the condition that a directional survey be

1 performed pursuant to KRS 353.739(1).
2 (4) In order to perform the duties under this section, the Division of Oil and Gas shall
3 create and adequately staff the positions required to perform the duties. The division
4 may charge an administrative fee not to exceed fifty dollars ($50) per permit
5 application to perform its duties under this section.
6 ➔Section 39. The General Assembly hereby confirms Executive Order 2014-390,
7 dated May 30, 2014, relating to the reorganization of the Energy and Environment
8 Cabinet, Office of Mine Safety and Licensing, to the extent that it is not otherwise
9 confirmed or supersceded by this Act.
10 ➔Section 40. The Office of Mine Safety and Licensing, the Division of Safety
11 Analysis, Training, and Certification, and the Division of Safety Inspection and Licensing
12 are abolished. All personnel, files, funds, records, and equipment of the Office of Mine
13 Safety and Licensing shall be transferred to the Division of Mine Safety. The Kentucky
14 Mining Board shall be attached to the Department for Natural Resources, and all
15 personnel, files, funds, records and equipment of Mining Board shall be transferred and
16 attached to the Department for Natural Resources.

Speaker-House of Representatives

President of Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date 3/30/15