



Senate Environmental Resources and Energy Committee

Senator Mary Jo White
Chairman

Patrick Henderson, Executive Director

Room 168 • State Capitol Building
Mailing address: Senate Box 203021 • Harrisburg, PA 17120-3021
Phone: 717-787-9684 • FAX: 717-787-6088

Summary Senate Bill 949, P.N. 1251

Prime Sponsor: Senator Kasunic

BITUMINOUS COAL MINE SAFETY

Introduction

Amends Act 339 of 1961, known as the Pennsylvania Bituminous Coal Mine Act.

Repeals entirely current Articles I, II-A, IV, V, VI & VII

Adds and amends Articles as follows:

Article I

Application and Administration

Section 101 – Short Title

Act shall be known and may be cited as the “Pennsylvania Bituminous Coal Mine Safety Act”.

Section 102 – Application

Applies to all bituminous coal mines in the Commonwealth and all operators and persons at such mines.

Section 103 – Findings and Purposes

Findings

- Bituminous mining is inherently dangerous
- The health and safety of those working in the mines must be the first priority and concern of all

- Operators at bituminous coal mines, with the assistance of certified mine official and miners, have primary responsibility to prevent the existence of unsafe and unhealthful conditions
- Coal mining is highly specialized, technical and complex, and it requires frequent review, refinement and improvement of standards to protect the health and safety of miners
- Mine safety is enhanced through rigorous training and certification

Purposes

- To use the full extent of the Commonwealth’s police power to protect the lives, health and safety of those working at mines
- To establish and promulgate improved mandatory health and safety standards
- To require that mine operators and all people at every mine comply with these standards
- To improve and expand research, development and training programs aimed at preventing coal mine accidents and occupationally caused diseases in
- To enable the Commonwealth to respond to accidents and emergencies at coal mines

Section 104 – Definitions

Key definitions (see bill) include:

Accident	Miner
Active Workings	Mine Safety and Health Administration
Certified Person	Operator
Imminent Danger	Person
Mine	Superintendent
Mine Examiner	Underground Mine
Mine Foreman	Work Area
Mine Official	Working Place

Section 105 – Powers and Duties of Department of Environmental Protection

- Make inspections of public or private property as are necessary and useful in determining compliance with the act. Inspections may include examining or copying any document, book, plan, map or other record
- Conduct investigations and interviews
- Issue orders as necessary to implement and effectuate the act
- Institute proceedings and actions to implement and effectuate the act, including suits seeking equitable relief or declaratory judgments and suits to recover costs incurred by DEP
- Institute prosecution of any person for violating the act
- Determine whether a person is qualified to carry out a particular function or duty at a mine and to issue appropriate certifications

- Disqualify any person whose conduct poses a threat to the health and safety of those working at a mine
- Review and take appropriate action concerning public and employe safety on all permit applications
- Receive and act upon complaints
- Conduct, review and commission (pending available funds) scientific and other research directed to the purposes of the act
- Approve electrical equipment, machinery, materials, methods and plans to be used at mines
- Approve, on a mine-specific basis, the use of new technology, methods, materials, machinery, equipment, systems, tools, devices, processes and plans different from those authorized by the act or regulations. DEP may only issue such approvals if doing so would meet or exceed the protections afforded by the act or regulations.
- Respond to and supervise responses to mine accidents and emergencies
- Establish an abandoned mine map repository
- Serve as Commonwealth agency for the receipt of monies from the federal government or other public agencies, and expend such funds for studies and research with respect to and for the enforcement and administration of the act or regulations
- Assess civil penalties
- Encourage and promote industry-based mine rescue capabilities
- Provide training for DEP personnel and individuals who work or wish to work in the mining industry
- Administer, deposit and expend funds from the Mine Safety Fund
- Prepare and distribute to operators and Deep Mine Operator's Questionnaire
- Take actions which DEP deems necessary and consistent with the act to ensure effective administration and enforcement of the act and regulations

Section 106 – Mine Safety Board

- Establishes Mine Safety Board
- Comprised of three members, including:
 - One member, appointed by the Governor, from a list submitted by the major trade association representing bituminous coal mine operators
 - One member, appointed by the Governor, from a list submitted by the highest official of the major employe organization representing bituminous coal miners
 - The Secretary of Environmental Protection, who shall be the chairperson
- Three members shall constitute a quorum, which shall be required to take official action
- Board shall meet within 180 days of effective date of act for organizational purposes and at least once annually thereafter

- Board shall have authority to promulgate regulations to implement the act and protect the health, safety and welfare of the public and those working in and about mines
- Regulations may deal with subject areas not covered by this act for the purpose of affording additional protection to mine workers
- A majority of the Board members shall be necessary to approve regulations
- Authority to promulgate regulations shall not be subject to the following:
 - Section 1920-A (b) of the Administrative Code of 1929 (Authority of EQB to promulgate regulations)
 - Regulatory Review Act
 - Open meetings law (65 Pa.C.S. Ch. 7)
- Members of the Board, except the Secretary, shall be compensated \$150 per day plus all expenses reasonably incurred while performing official duties. Compensation shall be adjusted annually based on CPI Index
- Board may identify positions not listed in act requiring a certificate of qualification
- Board may, by regulation, establish fees for services in amounts sufficient to cover DEP's cost of administering act. Such fees shall be increased annually based on CPI Index

Section 107 – Standards

Adopts by reference federal safety standards for auger mines, the surface work areas of underground mines and related facilities. The Mine Safety Board may also promulgate additional or different regulations.

Section 108 – Safety Issues in Permitting

Requires DEP to consider the safety of miners in reviewing and acting on permit applications, and to include conditions addressing safety in issuing the permits. DEP shall require applicant to eliminate any identified safety threats.

Section 109 – Inspections

DEP shall make frequent inspections of mines. Each mine shall be inspected at least semiannually for electrical purposes and at least quarterly for general purposes.

Section 110 – Accidents

Responsibilities of Mine Operators

- Notify DEP no later than one hour of discovering the accident
- Obtain DEP approval of plans to recover any person or coal from the mine or to return the affected areas of the mine to normal operations

- Take appropriate measures to prevent the destruction of evidence which would assist in investigating the cause of the accident; exceptions include:
 - actions necessary to rescue or recover an individual
 - prevent or eliminate an imminent danger
 - prevent destruction of mining equipment
- conduct its own investigation and develop a written report of the investigation, as specified in the act

Responsibilities of DEP

- Take whatever action deemed appropriate to protect the life, health or safety of any person
- Promptly decide whether to conduct an investigation of the accident

Each operator shall report to DEP each accident, occupational injury or occupational illness at the mine within ten working days. An operator may meet this requirement by submitting a copy of the MSHA report required by federal regulations.

Section 111 – Mine Officials Certification

- DEP shall prepare, administer and evaluate examinations for the certification of:
 - Mine Foreman
 - Assistant Mine Foreman
 - Mine Examiner
 - Mine Electrician
- Certification examination records shall not constitute a public record under the Right-to-Know Law

Section 112 – Classification of Mines as Gassy

Eliminates any and all distinctions between gassy and non-gassy mines. All underground mines shall comply with the requirements for gassy mines.

Section 113 – Reports

- Requires operators to complete and submit a Deep Mine Operator's Questionnaire to DEP in the following instances:
 - Prior to the commencement of any work for purposes of opening a new underground mine or reopening a closed underground mine

- Immediately upon change of information reflected on the most recently submitted Deep Mine Operator’s Questionnaire
- Operator shall immediately notify DEP upon discontinuance of underground mine operations
- Requires quarterly reports within 15 days after the end of each quarter, detailing activities of previous month, to include:
 - Name and address of mine
 - Identification of mine superintendent and foreman
 - Employment, employe hours and coal production statistics
 - Detailed description of the reportable injuries or accidents at the mine
- An operator may meet this requirement by submitting a copy of the MSHA report required by federal regulations.
- Operator must submit corrections and certify accuracy of quarterly reports by February 15 of each year
- Operator shall also establish and maintain other records as required by DEP
- DEP is authorized to compile, analyze and publish the reports or information obtained. Such records shall constitute a public record under the Right-to-Know Law
- Operators shall maintain a copy of required reports at nearest mine office for a period of not less than five years after submission

Section 114 – Mine Rescue Program

- DEP shall establish a mine rescue program for mines not able to provide a mine rescue crew for themselves. DEP shall:
 - Instruct employes how to care for injured persons
 - Train employes in use of self-contained breathing apparatus, gas masks, first aid and other practices
- DEP shall purchase and maintain emergency response vehicles, specialized equipment, supplies and services necessary for rapid and effective emergency response
- DEP may use emergency contracting provisions authorized by 62 Pa.C.S. §516

Section 115 – Direction of Mine Rescue Work

DEP shall direct all mine rescue work conducted in the Commonwealth.

Section 116 – Recovery of Moneys

DEP may seek reimbursement from operator of moneys expended in response to a mine emergency.

Section 117 – Mine Safety Fund

Creates special fund to receive all fees, fines, and other moneys received by DEP.

Section 118 – Qualifications for Employment as a Bituminous Mine Inspector

To be a mine inspector, an individual must:

- Be a resident of the Commonwealth
- Be of good moral character
- Be physically capable of entering and inspecting a coal mine
- Have at least a high school diploma
- Be at least 30 years of age
- Have at least 10 years experience in an underground bituminous mine
- Hold a valid certificate as a mine foreman, assistant mine foreman or mine examiner
- Pass, with at least a 90% score, the Mine Inspector's Examination

Section 119 – Qualifications for Employment as a Bituminous Mine Electrical Inspector

- Identical requirements as for Mine Inspector, substituting Electrical Inspector experience and test results

Section 120 – Mine Maps to be Made Available to the Department

DEP is authorized and directed to obtain and copy all maps of mining conducted in Pennsylvania. Persons in possession of maps shall make maps available to DEP for inspection and copying.

Section 121 – Mine Map Repository

DEP shall develop and maintain a repository to organize and catalog all mine maps. Such maps shall be open for public inspection.

Article II

General Requirements For Underground Bituminous Mines

Section 201 – General Safety Requirements

- All work must be done in a safe manner, and equipment maintained in safe operating condition
- Requires valid certifications to be employed in select capacities
- Uncertified individuals underground must be supervised by a miner, who may supervise no more than two uncertified individuals at a time

- Operator and mine officials are responsible for ensuring that all people comply with the act and regulations
- Operator is jointly and severally liable for assuring that all mining activities, including those conducted by contractors, are done in compliance with the act and regulations
- Superintendents, mine foreman, assistant mine foreman, mine electricians and mine examiners shall be considered as agents representing the Commonwealth, and perform duties as such

Section 202 through and including Section 205 – Repealed

Section 206 – Qualifications for Certification

- To sit for a certification exam, must have the following experience:
 - Mine Foreman or Mine Electrician – 5 years
 - Assistant Mine Foreman – 4 years
 - Mine Examiner – 3 years
- The experience requirement may be reduced by 1 year if the individual possesses the relevant bachelors or associate degree
- All applicants must be able to read and write in English
- Eliminates requirement to also pass an oral examination

Section 207 through and including Section 209 – Repealed

Section 210 – Emergency Use of a Mine Examiner as Assistant Mine Foreman

A mine foreman may appoint a mine examiner to act as an assistant mine foreman during an emergency

Section 211 – Certification of Miners

Requires a certificate to be employed as a miner; provided that a certified miner may have no more than two people working for and under his direction for the purpose of learning the business of mining. Repeals obsolete definition of “miner”.

Section 212 – Qualifications for Certification as Miners

- Must take examination administered by DEP
- Must have not less than one year of experience working as a noncertified miner; repeals requirement that such experience must be in a Pennsylvania mine

Section 213 – Repealed

Section 214 – Issuance of Miners’ Certificates

Form and manner of issuing certificates shall be designated by DEP

Section 215 and Section 216 – Repealed

Section 217 – Certification of Mining Machine Operators and Shot-Firers

Mining machine operators and shot-firers must possess valid certification; provided that certified mine officials is eligible to engage as a mining machine operator

Section 218 – Employment of Mine Foremen

All mines must employ a certified mine foreman; repeals current exception for mines with less than five persons. In addition to operator, superintendent shall be held as fully responsible as the mine foreman.

Section 219 – Employment of Mine Electricians

Each mine shall employ a certified mine electrician.

Section 220 – Employment of Assistant Mine Foremen

Maintains current authorization to employ assistant mine foremen as needed. Repeals obsolete references to non-gassy mines.

Section 221 – Mine Foreman; Ventilation

Requires an air reading in the last cut-through at least once each shift as opposed to once every 24 hours. Clarifies response to fan stoppages.

Section 222 – Mine Foreman; Safety of Working Places

Updates references. Deletes obsolete provision.

Section 223 – Mine Foreman; Shooting

Requires employment of certified shot-firers. Deletes obsolete provision.

Section 224 – Mine Foreman; Drainage

Maintains responsibility of mine foreman to ensure all water is drained from work areas. Requires test drilling plans to be submitted and approved by DEP when a working place in a mine approaches 500 feet of any other abandoned mine workings which cannot be inspected, or 500 feet of any workings of an adjacent mine. Current limitation is 200 feet. DEP may increase the setback distances.

Section 225 – Mine Foreman, Employment of Competent Persons

Individual may not operate equipment in a mine unless having first completed a training program approved by DEP

Section 226 – Mine Foreman, Inspections and Reports

- Requires two visits to each work area per shift by mine foreman or assistant
- Mine foreman shall enter in a daily report any dangers reported
- Requires mine foreman to read and countersign all reports in the record book of the mine examiners (currently an assistant may countersign)
- Repeals requirement for mine foreman to report daily to superintendent all injuries that have occurred, and duty to report immediately all violations of act to the mine inspector

Section 227 – Employment of Mine Examiners

Repeals option for mine examiner to leave his “mark”; must leave initials, date and time in places examined

Section 228 – Duties of Mine Examiners

Mostly unchanged. Repeals obsolete references.

Section 229 – Repealed

Section 230 – Mine Supplies; Countersign Reports

Requires superintendent to countersign all reports entered in mine record book, not just those entered by mine foreman

Section 231 – Qualifications and General Responsibility of Superintendent

Beginning 365 days from effective date of act, a superintendent must hold a current, valid mine foreman certificate. No person may serve as a superintendent for more than one mine

Section 232 – Signals

Unchanged. Update references

Section 233 – Supply of Record Books

Mostly unchanged. Repeals requirement that rules and notices be posted in a conspicuous place

Section 234 – Withdrawal of Certification

Repeals obsolete language regarding legal process for withdrawing certification from a mine official

Section 235 – Mapping Requirements and Surveying Standards

- Deletes current language
- Operator or superintendent shall cause to be made by a registered mining engineer or registered professional surveyor an accurate map of the mine on a scale not less than 400 feet/inch
- *Refer to bill for map specifications*

Section 236 – Repealed

Section 237 and Section 238 – No Changes to Current Law

Section 239 – Furnishing Copies of Maps

Removes privileged status of maps and requirement that operator consent to sharing of map

Section 240 – Duties upon Abandonment of Mine

- Deletes current language
- If mine is inactive for 30 days, or operator intends to cease ventilation, he shall immediately notify DEP
- Within 30 days, operator or superintendent shall update official map
- Within 45 days of change of status of mine, updated map shall be forwarded to DEP
- Failure to provide map, or recklessly or intentionally submitting an inaccurate map shall constitute a felony offense

Section 241 – Survey by Department

If the mine inspector believes map is inaccurate, he may direct mine operator to make a survey and new map of mine

Section 242 – Ventilation Requirements

- Increases quantity of air reaching last open crosscut from 6,000 to 9,000 cubic feet per minute
- Requires immediate changes or adjustments if gas detection devices detect 1% or more methane in the air
- Deletes limitation of no more than 70 persons working in same continuous air current

Section 243 through and including Section 245 – Updates References and Deletes Obsolete Language

Section 246 – Auxiliary Blowers and Fans

Mostly unchanged. Repeals time requirement that Secretary must approve or disapprove a ventilation plan within 60 days of submission

Section 247 – Unused and Abandoned Parts of the Mine

Requires all workings which are abandoned or sealed to be ventilated

Section 248 – Sewage Dumping Prohibited

Changes penalty for offense from a fine of up to \$1,000 and/or 1 year imprisonment to a misdemeanor of the third degree

Section 249 – Fans

Mostly unchanged. Repeals prohibition of ventilation by means of a furnace

Section 250 – Measurement of Methane

Unchanged. Updates references

Section 251 – No Changes to Current Law

Section 252 – Employees; Instruction of; Examination of Working Areas; Duties

Extends responsibility to examine and test working areas to all employees, not just face workers

Section 253 – Roof Support

Requires a roof control plan be submitted and approved by DEP

Section 254 – Authorized Explosives

Deletes obsolete language

Section 255 – No Changes to Current Law

Section 256 – Underground Storage of Explosives

Repeals restriction that no more than a 48-hour supply of explosives may be stored underground

Section 257 – Preparation of Shots; Blasting Practices; Multiple Shooting

- Requires use of certified shot-firers, who must also inspect the work area prior to and after firing shots
- Deletes reference to air blasting

Section 258 – Repealed

Section 259 – Transportation of Explosives

Updates references. Prohibits transporting explosives on belts

Section 260 – Repealed

Section 261 – No Changes to Current Law

Section 262 – General Shot-Firing Rules

Updates references

Section 263 – Hoisting Equipment; Duties of Operator or Superintendent; Hoisting Operations

Updates references

Section 264 – Duties of Bottom Person

Updates references. Repeals prohibition of person ascending shaft with horse or mule

Section 265 – Number of Persons to be Hoisted

Updates references. Repeals requirement that mine inspector must sign notice of permitted number of persons to be hoisted at one time

Section 266 – Duties of Top Person

Updates references. Repeals prohibition of person descending shaft with horse or mule

Section 267 – Use of Competent Engineers

Updates references

Section 268 – Clearances and Shelter Holes

Updates references

Section 269 – Underground Haulage Equipment; Use and Maintenance

Repeals references to steam locomotives and internal combustion engines

Section 270 – Operation of Haulage Equipment

- Updates references
- Prohibits any person from getting on or off a locomotive while it is in motion
- Locomotives may not be operated until any mechanical defects are corrected

Section 271 – Duties of Trip Rider and Hooker-On on Rope Haulage

Deletes obsolete language

Section 272 – Transportation of Individuals

- Deletes references to using cars for man trips
- Prohibits workers from being transported on belts

Section 273 – Conveyor Belts; Construction and Operation of Conveyor Equipment Underground

- Establishes test to determine and ensure conveyor belts are fire resistant
- An operator currently using belts which do not meet fire resistant criteria may continue to use such belts until replaced in the ordinary course of business
- All conveyor belts must be provided with an early warning fire detection system. Point type heat sensors will not be acceptable

Section 274 – Blowtorches and Fuel

Deletes obsolete language. States that blowtorches may not be used in any mine

Section 275 through and including Section 279 – No Substantive Changes to Current Law

Section 280 – Repealed

Section 281 – No Changes to Current Law

Section 282 – Checking Systems

Provides DEP flexibility in approving additional methods to record which individuals are in the mine in case of an emergency

Section 283 – No Act Permitted Endangering Security of Mine

Mostly unchanged. Added prohibition against intentionally damaging equipment

Section 284 through and including Section 287 – No Substantive Changes to Current Law

Section 288 – Minimum Fire Protection

Deletes current language. Adopts by reference federal regulations concerning fire protection

Section 289 – Stables in Mines

Repeals current prohibition against stables in mines

Section 290 – Mine Openings or Outlets; Roadways, Hoisting Equipment at Shaft Outlets; Sinking of Shafts; Limitation of Section

- Deletes obsolete language
- Requires 5 main entries at every mine (currently 4 entries, except those with entries of 5,000 feet or more, which must have 5 entries)

Section 291 – Mining Close to Abandoned Workings

Changes current references of property boundary lines to permit boundary lines

Section 292 – No Changes to Current Law

Section 293 – Approved Lighting Devices in Mines

- Updates references of safety lamps to gas detection devices
- Deletes obsolete references

Section 294 – Unauthorized Entering of Mine a Misdemeanor

Current penalty of a fine up to \$500 and/or 1 year imprisonment changed to second degree misdemeanor

Section 295 – No Changes to Current Law

Section 296 – Miners to Remain in Work Areas

Updates references

Section 297 – Openings Abandoned After the Effective Date of this Act

Extends requirements to fill, seal and plug certain mine workings to all mine workings, not just those “after effective date of this act”

Section 298 – Repealed

Section 299 – Ladders in Mines

Deletes applicability to areas outside of mine.

Section 299.3 – Tipple and Cleaning Plant

Deletes obsolete references

Section 299.7 – Washhouses

- Current requirement for a wash house updated to require adequate sanitary facilities
- Deletes penalties

Article III

Rules for the Installation and Maintenance of Electrical Equipment

Section 301 – Duties of Mine Foreman and Superintendent

Duties extended to in and around coal mines, rather than just in coal mines

Section 302 – Definitions

- Voltage, low voltage, medium voltage and high voltage all defined
- Machine operator defined as certified rather than simply “qualified”

Section 303 – No Changes to Current Law

Section 304 – Protection against Shock

Requires all electrical equipment to be de-energized, locked out and suitably tagged before work is done on it

Section 305 – No Changes to Current Law

Section 306 – Report of Defective Equipment

- Requires electrical work to be performed by or under direct supervision of MSHA-qualified person
- Addresses who may install and remove a lock and tag

Section 307 – No Changes to Current Law

Section 308 – Capacity

Requires electric conductor to meet specifications of National Electric Code

Section 309 through and including Section 312 – No Changes to Current Law

Section 313 – Underground Power Supply

- Updates references
- Requires ground detectors to trip nearest feeding circuit breaker when ground fault is detected
- Inserts language concerning underground cables in haulage road (language currently in §273(e))

Section 314 – Storage Battery Equipment

Deletes duplicative language

Section 315 – Repealed

Section 316 – Electrical Equipment

- Must use a safety ground conductor to be effectively grounded; “approved grounding devices” disallowed
- Requires trailing cables to be examined at beginning of each shift, rather than daily
- Requires immediate action if methane gas detected at 1% or greater
- Electrically powered equipment may not be operated more than 20 minutes (current limit is half hour) without being checked for unsafe levels of gas. Consistent with MSHA requirements

Section 317 – Inspection of Equipment

Electrical equipment shall be inspected weekly rather than every 10 days. Similar to MSHA requirements

Section 318 and Section 319 – No Changes to Current Law

Section 320 – Underground Illumination

Updates references

Section 321 – Telephones and Signaling

Deletes obsolete references

Section 322 – No Changes to Current Law

Section 323 – Voltage Limitation

Limits voltage used in trolley systems to 600 volts

Section 324 – No Changes to Current Law

Section 325 – Bonding

Deletes obsolete references

Section 326 – No Changes to Current Law

Section 327 – Connections to Trolley

Requires safety ground and negative connections for temporary or permanent installations be made at two separate points, at least six inches apart

Section 328 – Guarding

Updates reference

Section 329 – Locomotives

Updates references

Section 330 – Outdoor Substation

- Must be in accordance with DEP equipment performance specification
- Ground fault current reduced to 25 amperes or less, consistent with MSHA
- Ground bed resistance must be maintained at 4 ohms or less

Section 331 – High Voltage Underground Transmission System

Updates references

Section 332 and Section 333 – No Changes to Current Law

Section 334 – Mandatory Safety Components of Electrical Equipment

- *See bill for safety components*
- Within 365 days, requires DC machines with cables to have ground wire monitors
- Within 365 days, requires trailing cables and conductors be provided with a grounded metallic shield
- Cables shall also be equipped with a ground check conductor

Section 335 – High-Voltage Longwalls; Scope

Implements current practices into statute

Section 336 – Longwall Electrical Protection

Incorporates MSHA Standard

Section 337 – Longwall Disconnect Switches

Incorporates MSHA Standard

Section 338 – Guarding of Longwall Cables

Incorporates MSHA Standard

Section 339 – Longwall Cable Handling and Support Systems

Incorporates MSHA Standard

Section 340 – Use of Longwall Insulated Cable Handling

Incorporates MSHA Standard

Section 341 – Longwall Motor-Starter Enclosures; Barriers, and Interlocks

Incorporates MSHA Standard

Section 342 – High-Voltage Longwall Mining Systems

Incorporates MSHA Standard

Section 343 – Longwall Electrical Work; Troubleshooting and Testing

Incorporates MSHA Standard

Section 344 – Testing, Examination and Maintenance of Longwall Equipment

Incorporates MSHA Standard

Section 350 – Equipment Approvals

- All equipment must be approved by DEP before being placed into use
- DEP shall publish performance specification and a list of approved equipment
- Approved equipment may not be modified until DEP approval is obtained
- Elevators must meet current American Society of Mechanical Engineers standard for mine elevators

Article IV

Diesel-Powered Equipment

Incorporates Existing Article II-A with Following Revisions

Section 401 – Underground Use

Authorizes use of diesel-powered equipment which uses an engine approved or certified by MSHA

Section 402 – Diesel-Powered Equipment Package

No Change to Current Law

Section 403 – Exhaust Emissions Control

- Ventilation rate changed from 50% to 100% of MSHA approval plate ventilation rate
- Reduces from 95% to MSHA approval plate ventilation rate
- Reduces from 95% to 75% the required reduction in diesel particulate matter by filter
- Requires a system (rather than heat exchanger) capable of reducing exhaust gas temperature below 302 degrees Fahrenheit
- Repeals required quality control plan for diesel fuel

Section 404 – Ventilation

Minimum air quantities for each unit operating on one air split raised to 100% of MSHA Part 7 approval plate

Section 405 – Fuel Storage Facilities

Updates and redefines diesel fuel and fuel storage facilities and requirements (*see bill for specific requirements*)

Section 406 – No Changes to Current Law

Section 407 – Containers

Gives Mine Safety Board, via Technical Advisory Committee, ability to develop criteria on mine-by-mine basis that allows for approved diesel fuel transportation units to be transported on or by a secondary transportation unit

Section 408 through and including Section 415 – No Changes to Current Law

Section 416 – Scheduled Maintenance

Mine Safety Board, via Technical Advisory Committee, may authorize replacement of engine oil and filters at intervals greater than 100 hours

Section 417 – Emissions Monitoring and Control

Provides greater flexibility for monitoring and controlling diesel-powered equipment emissions

Section 418 – Diagnostic Testing

Provides greater flexibility for diagnostic testing

Section 419 through and including Section 423 – No Changes to Current Law

Section 424 – Technical Advisory Committee

- Members may serve an unlimited number of three-year terms (currently limited to three successive three –year terms)
- \$150 per diem payment to be adjusted annually for inflation since February 17, 1997
- Repeals authority for a party to file a petition for review with Commonwealth Court regarding any action taken by the Secretary to either approve or reject use of an alternative technology deemed to be an abuse of discretion or contrary to law
- Clarifies powers and duties of committee from matters related to use of diesel-powered equipment to matters regarding the use of alternatives in underground mines
- Exempts committee from open meetings law (65 Pa.C.S. Ch. 7)

Article V

Enforcement and Remedies

Section 501 – Public Nuisances

- Any violation of the act, regulations or order shall constitute a public nuisance
- Any person responsible for causing a public nuisance shall abate such nuisance and/or be liable for costs incurred by DEP in abating such nuisance

Section 502 – Enforcement Orders and Duty to Comply

- DEP may issue orders deemed necessary to comply with act
- Person who fails to proceed diligently or comply with DEP order shall be guilty of contempt and punished appropriately
- Commonwealth Court granted jurisdiction for purposes of this section

Section 503 – Restraining Violations

- Court may issue injunction when requested by DEP to restrain violations of the act, regulations, orders or permit
- Court may levy civil penalties against defendant or respondent
- Courts of Common Pleas and Commonwealth Court granted jurisdiction for purposes of this section

Section 504 – Mandatory Civil Penalties; Individuals

- Intentional or reckless behaviors declared to pose an imminent and substantial threat to health and safety of individuals
- DEP shall assess a civil penalty of \$500 against an individual

Section 505 – Mandatory Civil Penalties; Mine Officials

- Certain behaviors pose an imminent and substantial threat to health and safety of miners
- DEP shall assess a civil penalty of \$2,500 against mine official
- Penalty shall be assessed whether or not violation was willful or negligent

Section 506 – Mandatory Civil Penalties; Operators

- In every instance when a mandatory civil penalty is assessed against an individual miner or mine official, DEP shall assess a civil penalty in the same amount against the operator
- If the operator directed or condoned the unsafe act or violation, DEP shall assess the following penalties:
 - \$100,000 for first infraction and removal of person responsible for act
 - \$500,000 for second and subsequent infractions and removal of person responsible for act

Section 507 – Process for Assessing Civil Penalties

- DEP shall inform person of penalty
- May appeal to Environmental Hearing Board within 30 days
- Failure to appeal within 30 days results in a waiver of all legal rights to contest penalty
- Refusal to pay penalty shall constitute a judgment in favor of Commonwealth

Section 508 – Criminal Penalties

- Any person who recklessly or willingly violates the act, regulations or DEP order commits a second degree felony, subject to either/both:
 - Fine of not less than \$2,500 and not more than \$100,000
 - 10 years imprisonment
- Any person who recklessly or willingly violates the act, regulations or DEP order which results in the death or substantial bodily injury of any person, commits a first degree felony, subject to either/both:
 - Fine of not less than \$10,000 and not more than \$500,000

- 10 years imprisonment
- Each violation for each separate day shall constitute a separate and distinct offense

Section 509 – Search Warrants

- Any agent or employee of DEP may apply for a search warrant from any Commonwealth official authorized to issue search warrants, for the purpose of:
 - Inspecting any mine, property, building, premises, place, book, record or other physical evidence
 - Conducting tests
 - Taking photographs, videography or samples

Section 510 – Unlawful Conduct

Explicitly states that violating the act, rules, regulations or DEP order is unlawful

Section 511 – Collection of Fines and Penalties

- Fines and penalties may be collected in any manner provided by law
- Failure or refusal to pay subject amount due to costs and interests
- Amount past due shall constitute a judgment in favor of Commonwealth

Section 512 – Forfeiture

- Any vehicle, equipment or conveyance used for or in association with the commission of any offense shall be deemed contraband and shall be seized and forfeited to DEP

Section 513 – Right to Intervene in Proceedings

Any person having an interest which is or may be adversely affected shall have the right to intervene, without posting bond, in any action brought by the Commonwealth or appeal before the Environmental Hearing Board

Section 514 – Limitation on Action

Actions for administrative, civil or criminal penalties may be commenced any time within 20 years of discovering the offense

Section 515 – Permit Bar

DEP shall not issue any permit if, after investigation and informal hearing, DEP finds that the applicant fails and continues to fail to comply with applicable requirements, or lacks the ability or intent to do so

Section 516 – Certification Actions

- DEP may, with good cause, modify, suspend or revoke any certification issued under the act
- DEP shall not issue any certification if, after investigation and informal hearing, DEP finds that the applicant fails and continues to fail to comply with applicable requirements, or lacks the ability or intent to do so

Article VI

Emergency Medical Personnel

Incorporates Coal Mine Emergency Medical Personnel Law (Act 178 of 1976)

Section 601 – Definitions

Defines “emergency medical technician” and “emergency medical technician paramedic

Section 602 – Emergency Medical Personnel in and at Mines

- Requires at least one emergency medical technician (EMT) to be on duty when miners are engaged in extraction, production or preparation of coal
- EMTs shall be in sufficient numbers to guarantee that all miners can be reached in a reasonable time
- EMTs shall have available to them all necessary equipment required under federal regulations
- Telephone or equivalent two-way voice communication facilities shall be installed to facilitate communication between EMT at or near mine and medical personnel outside or away from mine
- At least one EMT paramedic, registered nurse, physician or physician assistant shall be available to provide care at any mine and on call to reach mine within 30 minutes
- If 20 or fewer employees are working on a shift, an ambulance service with 3 members certified as EMTs, located within a 10 mile radius shall be deemed in compliance with the act
- If ambulance service is not available, 3 persons certified as EMTs residing within a 10 mile radius, for which on-call service has been arranged, shall be deemed in compliance with the act

Section 603 – Regulations for Training and Certification

Department of Health shall promulgate rules and regulations as necessary to train and certify EMTs and EMT paramedics

Section 604 – First Aid Training of Mine Employes

- Each employe shall receive first aid training if they have not received it within 6 months of employment
- DEP shall consult with Department of Health, MSHA, and representatives of miners and operators in determining required training
- Each employe shall receive 5 hours of refresher training every 24 months, and be paid for all periods of training

Section 605 – Continuing Training

DEP shall provide for training on a continuous basis of EMTs and EMT paramedics in sufficient numbers to satisfy requirements of act

Section 606 – Certification

Department of Health shall prescribe procedures as necessary to certify EMTs and EMT paramedics

Section 607 – Liabilities

No physician, EMT, EMT paramedic, registered nurse or physician assistance acting in good faith shall be liable for civil damages, unless guilty of gross or willful negligence

Section 608 – Equivalent Training

DEP may make a determination that an operation is presently providing equivalent or superior emergency medical care for its employes than required in this article, and shall determine the operation to be in compliance with the act

Article VII

Safety Zones

Section 701 – Establishment of Safety Zones

- Establishes safety zones beneath and adjacent to every stream, river and natural or artificial body of water that is sufficiently large to constitute a hazard to mining
- For streams and rivers, safety zones shall extend horizontally 200 feet from the high-water mark of each bank downward to the limit of the workable beds
- For other bodies of water, safety zones shall extend horizontally 200 feet from the known perimeter downward to the limit of the workable beds

Section 702 – Written Authorization Needed to Mine Within Safety Zone

- Written authorization required from DEP to mine in a safety zone upon submission of plan by operator
- DEP shall make periodic examinations to determine accuracy of all plans, maps and drawings submitted

Section 703 – Requirements of Plan Approval

No plans may be approved if there is less than 35 feet of rock cover

Section 704 – Pillar Recovery

No pillar recovery shall be undertaken until DEP has approved a pillar recovery plan

Section 705 – Proof of Rock Cover

Proof of existence of 35 feet of rock cover shall accompany any plans submitted

Section 706 – Copies of Plans and Proof of Rock Cover to be Signed

All plans must be signed by a registered professional mining engineer

Section 707 – Approval or Disapproval of Plans

DEP shall approve or disapprove of plans and send copies to the registered professional mining engineer(s), and include its reasons if disapproving the plan

Section 708 – Notice to Miners Working Within the Safety Zone

If approved by DEP, no mining may begin within a safety zone until mine foreman has conspicuously posted a notice outside the mine and orally notified each miner that the miner will be working within the safety zone

Section 709 – Repeals

- Repeals absolutely the following:
 - Act 171 of 1887 – (recovery of bodies from coal mines)
 - Act 490 of 1947 – (The Coal Mine Sealing Act of 1947)
 - Act 178 of 1976 – (Coal Mine Emergency Medical Personnel Law)
- Repeals to the extent it applies to bituminous coal mines:
 - Act 357 of 1943 – (Mine Foremen, Commissioning as State Officers)
 - Act 729 of 1959 – (Prohibiting Mining in Certain Areas)

- All other acts and parts of acts to the extent they are inconsistent with this act

Effective Date

This act shall take effect in 60 days