

**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**  
**COMMITTEE SUBSTITUTE**  
**FOR**  
**Senate Bill No. 68**

(Senators Tomblin, Mr. President, and Caruth,  
By Request of the Executive)

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[Passed March 10, 2007;  
in effect ninety days from passage.]

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AN ACT to amend and reenact §22A-1-15 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §22A-2-4a; to amend and reenact §22A-2-5 of said code; to amend and reenact §22A-7-5 of said code; to amend said code by adding thereto a new section, designated §22A-7-7; and to amend said code by adding thereto a new article, designated §22A-11-1, §22A-11-2, §22A-11-3 and §22A-11-4, all relating generally to coal mine health and safety; authorizing Director of the Office of Miners' Health, Safety and Training, upon a finding of imminent danger, to issue closure orders for mines under certain circumstances; prohibiting the use of a belt conveyor entry as an intake air course and providing exceptions thereto; providing requirements for the design, construction and inspection of seals and the atmospheric monitoring of sealed areas; prohibiting use of certain seals and providing for requirements for remediation of existing seals under certain circumstances; prohibiting the use of bottom mining and providing exceptions thereto; requiring continuing education for underground mine foremen-fire bosses and setting course requirements; continuing the Mine Safety Technology Task Force; legislative findings; establishing powers and duties of task force; reimbursement; and task force consultation in approval of safety devices.

*Be it enacted by the Legislature of West Virginia:*

That §22A-1-15 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a new section, designated §22A-2-4a; that §22A-2-5 of said code be amended and reenacted; that §22A-7-5 of said code be amended and reenacted; that said

code be amended by adding thereto a new section, designated §22A-7-7; and that said code be amended by adding thereto a new article, designated §22A-11-1, §22A-11-2, §22A-11-3 and §22A-11-4, all to read as follows:

**ARTICLE 1. OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING;  
ADMINISTRATION; ENFORCEMENT.**

**§22A-1-15. Findings, orders and notices.**

(a) If upon any inspection of a coal mine an authorized representative of the director finds that an imminent danger exists, the representative shall determine the area throughout which the danger exists and shall immediately issue an order requiring the operator of the mine or the operator's agent to cause immediately all persons, except those referred to in subdivisions (1), (2), (3) and (4), subsection (e) of this section, to be withdrawn from and to be prohibited from entering the area until an authorized representative of the director determines that the imminent danger no longer exists.

(b) If upon any inspection of a coal mine an authorized representative of the director finds that there has been a violation of the law, but the violation has not created an imminent danger, he or she shall issue a notice to the operator or the operator's agent fixing a reasonable time for the abatement of the violation. If upon the expiration of the period of time, as originally fixed or subsequently extended, an authorized representative of the director finds that the violation has not been totally abated, and if the director also finds that the period of time should not be further extended, the director shall find the extent of the area affected by the violation and shall promptly issue an order requiring the operator of the mine or the operator's agent to cause immediately all persons, except those referred to in subdivisions (1), (2), (3) and (4), subsection (e) of this section, to be withdrawn from and to be prohibited from entering the area until an authorized representative of the director determines that the violation has been abated.

(c) If upon any inspection of a coal mine an authorized representative of the director finds that an imminent danger exists in an area of the mine, in addition to issuing an order pursuant to subsection (a) of this section, the director shall review the compliance record of the mine.

(1) A review of the compliance record conducted in accordance with this subsection shall, at a minimum, include a review of the following:

(A) Any closure order issued pursuant to subsection (a) of this section;

(B) Any closure order issued pursuant to subsection (b) of this section;

(C) Any enforcement measures taken pursuant to this chapter, other than those authorized under subsections (a) and (b) of this section;

(D) Any evidence of the operator's lack of good faith in abating violations at the mine;

(E) Any accident, injury or illness record that demonstrates a serious safety or health management problem at the mine;

(F) The number of employees at the mine, the size, layout and physical features of the mine and the length of time the mine has been in operation; and

(G) Any mitigating circumstances.

(2) If, after review of the mine's compliance record, the director determines that the mine has a history of repeated significant and substantial violations of a particular standard caused by unwarrantable failure to comply or a history of repeated significant and substantial violations of standards related to the same hazard caused by unwarrantable failure to comply and the history or histories demonstrate the operator's disregard for the health and safety of miners, the director shall issue a closure order for the entire mine and shall immediately issue an order requiring the operator of the mine or the operator's agent to cause immediately all persons, except those referred to in subdivisions (1), (2), (3) and (4), subsection (e) of this section, to be withdrawn from and to be prohibited from entering the mine until a thorough inspection of the mine has been conducted by the office and the director determines that the operator has abated all violations related to the imminent danger and any violations unearthed in the course of the inspection.

(d) All employees on the inside and outside of a mine who are idled as a result of the posting of a withdrawal order by a mine inspector shall be compensated by the operator at their regular rates of pay for the period they are idled, but not more than the balance of the shift. If the order is not terminated prior to the next working shift, all the employees on that shift who are idled by the order are entitled to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than four hours of the shift.

(e) The following persons are not required to be withdrawn from or prohibited from entering any area of the coal mine subject to an order issued under this section:

(1) Any person whose presence in the area is necessary, in the judgment of the operator or an authorized representative of the director, to eliminate the condition described in the order;

(2) Any public official whose official duties require him or her to enter the area;

(3) Any representative of the miners in the mine who is, in the judgment of the operator or an authorized representative of the director, qualified to make coal mine examinations or who is accompanied by such a person and whose presence in the area is necessary for the investigation of the conditions described in the order; and

(4) Any consultant to any of the persons set forth in this subsection.

(f) Notices and orders issued pursuant to this section shall contain a detailed description of the conditions or practices which cause and constitute an imminent danger or a violation of any mandatory health or safety standard and, where appropriate, a description of the area of the coal mine from which persons must be withdrawn and prohibited from entering.

(g) Each notice or order issued under this section shall be given promptly to the operator of the coal mine or the operator's agent by an authorized representative of the director issuing the notice or order and all the notices and orders shall be in writing and shall be signed by the representative and posted on the bulletin board at the mine.

(h) A notice or order issued pursuant to this section may be modified or terminated by an authorized representative of the director.

(i) Each finding, order and notice made under this section shall promptly be given to the operator of the mine to which it pertains by the person making the finding, order or notice.

(j) *Definitions.* – For the purposes of this section only, the following terms have the following meanings:

(1) "Unwarrantable failure" means aggravated conduct, constituting more than ordinary negligence, by a mine operator in relation to a violation of this chapter of the code; and

(2) "Significant and substantial violation" shall have the same meaning as that established in 6 FMSHRC 1 (1984).

## **ARTICLE 2. UNDERGROUND MINES.**

### **§22A -2-4a. Use of belt air.**

(a) *Definitions.* – For purposes of this section, "belt air" means the use of a belt conveyor entry as an intake air course to ventilate the working sections of a mine or areas where mechanized mining equipment is being installed or removed.

(b) Upon the effective date of the enactment of this section, belt air may not be used to ventilate the working sections of a mine or areas where mechanized mining equipment is being installed or removed: *Provided*, That if an alternative method of ventilation will at all times guarantee no less than the same measure of protection afforded the miners of an underground mine by the foregoing or if the application of the foregoing to an underground mine will result in a diminution of safety to the miners in the mine, the director may approve the interim use of belt air pursuant to the following:

(1) For those operators using belt air pursuant to a ventilation plan approved by the director in accordance with the provisions of section two of this article prior to the effective date of the enactment of this section, the director shall cause an inspection to be made of the mine ventilation system and ventilation equipment. The director may allow the continued use of belt air in that mine if he or she determines that: (i) The use meets the minimum requirements of 30 CFR 75.350(b); and

(ii) the use, as set forth in the ventilation plan and as inspected, will at all times guarantee no less than the same measure of protection afforded the miners of the mine if belt air were not used, or that the prohibition of the use of belt air in the mine will result in a diminution of safety to the miners in the mine.

(2) For those operators submitting on or after the effective date of the enactment of this section, a ventilation plan proposing the use of belt air to the director pursuant to section two of this article, the director shall immediately upon receipt of the plan give notice of the plan to the representative of the miners in that mine and cause any investigation to be made that the director considers appropriate: *Provided*, That the investigation shall include a review of any comments on the plan submitted by the representative of miners in the mine. Upon receiving the report of the investigation, the director shall make findings of fact and issue a written decision, incorporating in the decision his or her findings and an order approving or denying the use of belt air pursuant to the terms of the ventilation plan. To approve the use of belt air pursuant to a ventilation plan, the director shall, at a minimum, determine that: (i) The operator's proposed use of belt air meets the minimum requirements of 30 CFR 75.350(b); and (ii) approval of the proposed use of belt air will at all times guarantee no less than the same measure of protection afforded the miners of the mine if belt air were not used, or that the prohibition of the use of belt air in the mine will result in a diminution of safety to the miners in the mine.

(3) The interim use of belt air shall be accurately reflected in operator's plan of ventilation, as approved by the director in accordance with the provisions of section two of this article.

(c) Upon completion of the independent scientific and engineering review concerning the use of belt air and the composition and fire retardant properties of belt materials in underground coal mining by the technical study panel created pursuant to the provisions of 30 U. S. C. §963 and the Secretary of the United States Department of Labor's corresponding report to Congress pursuant to the review, the Board of Coal Mine Health and Safety shall, within thirty days of the Secretary of Labor's report to Congress, provide the Governor with its recommendations, if any, for the enactment, repeal or amendment of any statute or rule which would enhance the safe ventilation of underground mines and the health and safety of miners: *Provided*, That at least sixty days after the Secretary of Labor's report to Congress, the Board of Coal Mine Health, Safety and Training shall promulgate emergency rules regulating the use of belt air in light of that report: *Provided, however*, That the provisions of subsections (a) and (b) of this section shall expire and no longer have any force and effect upon the filing of such emergency rules.

#### **§22A-2-5. Unused and abandoned parts of mine.**

(a) In any mine, all workings which are abandoned after the first day of July, one thousand nine hundred seventy-one, shall be sealed or ventilated. If the workings are sealed, the sealing shall be done with incombustible material in a manner prescribed by the director and one or more of the seals of every sealed area shall be fitted with a pipe and cap or valve to permit the sampling of gases and measuring of hydrostatic pressure behind the seals. For the purpose of this section, working within a panel shall not be considered to be abandoned until the panel is abandoned.

(b) Air that has passed through an abandoned area or an area which is inaccessible or unsafe for inspection shall not be used to ventilate any working place in any working mine, unless permission is granted by the director with unanimous agreement of the technical and mine safety review committee. Air that has been used to ventilate seals shall not be used to ventilate any working place in any working mine. Air which has been used to ventilate an area from which the pillars have been removed shall not be used to ventilate any working place in a mine, except that the air, if it does not contain 0.25 volume percent or more of methane, may be used to ventilate enough advancing working places immediately adjacent to the line of retreat to maintain an orderly sequence of pillar recovery on a set of entries. Before sealed areas, temporary or permanent, are reopened, the director shall be notified.

(c) On or after the effective date of the amendment and reenactment of this section during the regular

session of the Legislature in two thousand seven, a professional engineer registered with the Board of Registration for Professional Engineers pursuant to article thirteen, chapter thirty of this code shall certify the design of all new seals as meeting the criteria established by the director. Every seal design shall have the professional engineer's certificate and signature, in addition to his or her seal, in the following form:

"I the undersigned, do hereby certify that this seal design is, to the best of my knowledge, in accordance with all applicable requirements under state and federal law, rules and regulations.  
\_\_\_\_\_  
P.E."

(d) On or after the effective date of the amendment and reenactment of this section during the regular session of the Legislature in two thousand seven, the director shall approve the construction of all new seals in accordance with rules authorized in this section. The construction shall also be:

(1) Certified by the mine foreman-fire boss of the mine as being in accordance with the design certified by a professional engineer pursuant to subsection (c) of this section; and

(2)(A) Constructed of solid concrete blocks and in accordance with the other provisions of 30 CFR 75.335(a)(1); or

(B) Constructed in a manner that the director has approved as having the capability to withstand pressure equal to or greater than a seal constructed in accordance with the provisions of 30 CFR 75.335(a)(1).

(e) On or after the effective date of the amendment and reenactment of this section during the regular session of the Legislature in two thousand seven, the operator shall inspect the physical condition of all seals and measure the atmosphere behind all seals in accordance with protocols developed by the Board of Coal Mine Health and Safety, pursuant to rules authorized in this section and consistent with a mine-specific atmospheric measurement plan submitted to and approved by the director. The atmospheric measurements shall include, but not be limited to, the methane and oxygen concentrations and the barometric pressure. The atmospheric measurements also shall be recorded with ink or indelible pencil in a book kept for that purpose on the surface at a location designated by the operator. The protocols shall specify appropriate methods for inspecting the physical condition of seals, measuring the mine atmosphere in sealed workings, and inerting the mine atmosphere behind the seals, where appropriate.

(f)(1) In all mines containing workings sealed using seals constructed in accordance with the provisions of 30 CFR 75.335(a)(2) which are constructed: (A) Of cementitious foam blocks; or (B) with methods or materials that the Board of Coal Mine Health and Safety determines do not provide an adequate level of protection to miners, the operator shall, pursuant to a plan submitted to and approved by the director, remediate the seals by either enhancing the seals or constructing new seals in place of or immediately outby the seals. After being remediated, all seals must have the capability to withstand pressure equal to or greater than a seal constructed in accordance with the provisions of 30 CFR 75.335(a)(1). The design, development, submission and implementation of the remediation plan is the responsibility of the operator of each mine. Pursuant to rules authorized in this section, the Board of Coal Mine Health and Safety shall specify appropriate methods of enhancing the seals.

(2) Notwithstanding any provision of this code to the contrary, if the director determines that any seal described in subdivision (1) of this subsection is incapable of being remediated in a safe and effective manner, the mine foreman-fire boss shall, at least once every twenty-four hours, inspect the physical condition of the seal and measure the atmosphere behind the seal. The daily inspections and measurements shall otherwise be performed in accordance with the protocols and atmospheric measurement plan established pursuant to subsection (e) of this section.

(g) Upon the effective date of the amendment and reenactment of this section during the regular session of the Legislature in two thousand seven, second mining of lower coal on retreat, also known as bottom mining, shall not be permitted in workings that will be sealed unless an operator has first submitted and received approval by the director of a remediation plan that sets forth measures that will be taken to mitigate the effects of remnant ramps and other conditions created by bottom mining

on retreat which can increase the force of explosions originating in and emanating out of workings that have been bottom mined. The director shall require that certification in a manner similar to that set forth in subsection (c) of this section shall be obtained by the operator from a professional engineer and the mine foreman-fire boss for the plan design and plan implementation, respectively.

(h) No later than sixty days after the effective date of the amendment and reenactment of this section during the regular session of the Legislature in two thousand seven, the Board of Coal Mine Health and Safety shall develop and promulgate rules pursuant to the provisions of section four, article six of this chapter to implement and enforce the provisions of this section.

(i) Upon the issuance of mandatory health and safety standards relating to the sealing of abandoned areas in underground coal mines by the Secretary of the United States Department of Labor pursuant to 30 U. S. C. § 811, as amended by section ten of the federal Mine Improvement and New Emergency Response Act of 2006, the director, working in consultation with the Board of Coal Mine Health and Safety, shall, within thirty days, provide the Governor with his or her recommendations, if any, for the enactment, repeal or amendment of any statute or rules which would enhance the safe sealing of abandoned mine workings and the health and safety of miners.

## **ARTICLE 7. BOARD OF MINER TRAINING, EDUCATION AND CERTIFICATION.**

### **§22A-7-5. Board powers and duties.**

- (a) The board shall establish criteria and standards for a program of education, training and examination to be required of all prospective miners and miners prior to their certification in any of the various miner specialties requiring certification under this article or any other provision of this code. The specialties include, but are not limited to, underground miner, surface miner, apprentice, underground mine foreman-fire boss, assistant underground mine foreman-fire boss, shotfirer, mine electrician and belt examiner. Notwithstanding the provisions of this section, the director may by rule further subdivide the classifications for certification.
- (b) The board may require certification in other miner occupational specialties: *Provided*, That no new specialty may be created by the board unless certification in a new specialty is made desirable by action of the federal government requiring certification in a specialty not enumerated in this code.
- (c) The board may establish criteria and standards for a program of preemployment education and training to be required of miners working on the surface at underground mines who are not certified under the provisions of this article or any other provision of this code.
- (d) The board shall set minimum standards for a program of continuing education and training of certified persons and other miners on an annual basis: *Provided*, That the standards shall be consistent with the provisions of section seven of this article. Prior to issuing the standards, the board shall conduct public hearings at which the parties who may be affected by its actions may be heard. The education and training shall be provided in a manner determined by the director to be sufficient to meet the standards established by the board.
- (e) The board may, in conjunction with any state, local or federal agency or any other person or institution, provide for the payment of a stipend to prospective miners enrolled in one or more of the programs of miner education, training and certification provided in this article or any other provision of this code.
- (f) The board may also, from time to time, conduct any hearings and other oversight activities required to ensure full implementation of programs established by it.
- (g) Nothing in this article empowers the board to revoke or suspend any certificate issued by the director of the Office of Miners' Health, Safety and Training.
- (h) The board may, upon its own motion or whenever requested to do so by the director, consider two certificates issued by this state to be of equal value or consider training provided or required by federal agencies to be sufficient to meet training and education requirements set by it, the director, or by the provisions of this code.

### **§22A-7-7. Continuing education requirements for underground mine foreman-fire**

**boss.**

(a) An existing underground mine foreman-fire boss certified pursuant to this article shall complete the continuing education requirements in this section within two years from the effective date of this section and every two years thereafter. An underground mine foreman-fire boss certified pursuant to this article on or after the effective date of this section shall complete the continuing education requirements in this section within two years of their certification and every two years thereafter. The continuing education requirements of this section may not be satisfied by the completion of other training requirements mandated by the provisions of this chapter.

(b) In order to receive continuing education credit pursuant to this section, a mine foreman-fire boss shall satisfactorily complete a mine foreman-fire boss continuing education course approved by the board and taught by a qualified instructor approved by the director. The mine foreman-fire boss shall not suffer a loss in pay while attending a continuing education course. The mine foreman-fire boss shall submit documentation to the office certified by the instructor that indicates the required continuing education has been completed prior to the deadlines set forth in this subsection: *Provided*, That a mine foreman-fire boss may submit documentation of continuing education completed in another state for approval and acceptance by the board.

(c) The mine foreman-fire boss shall complete at least eight hours of continuing education every two years.

(d) The content of the continuing education course shall include, but not be limited to:

(1) Selected provisions of this chapter and 30 U. S. C. §801, *et seq.*;

(2) Selected provisions of the West Virginia and federal underground coal mine health and safety rules and regulations;

(3) The responsibilities of a mine foreman-fire boss;

(4) Selected policies and memoranda of the Office of Miners' Health, Safety and Training, the Board of Coal Mine Health and Safety and the Board of Miner Training, Education and Certification;

(5) A review of fatality and accident trends in underground coal mines; and

(6) Other subjects as determined by the Board of Miner Training, Education and Certification.

(e) The board may approve alternative training programs tailored to specific mines.

(f) Failure to complete the requirements of this section shall result in suspension of a mine foreman-fire boss certification pending completion of the continuing education requirements. During the pendency of the suspension, the individual may not perform statutory duties assigned to a mine foreman-fire boss under West Virginia law. The office shall send notice of any suspension to the last address the certified mine foreman-fire boss reported to the director. If the requirements are not met within two years of the suspension date, the director may file a petition with the board of appeals pursuant to the procedures set forth in section thirty-one, article one of this chapter and, upon determining that the requirements have not been met, the board of appeals may revoke the mine foreman-fire boss' certification, which shall not be renewed except upon successful completion of the examination prescribed by law for mine foremen-fire bosses or upon completion of other training requirements established by the board: *Provided*, That an individual having his or her mine foreman-fire boss certification suspended pursuant to this section who also holds a valid mine foreman-fire boss certification from another state may have the suspension lifted by completing training requirements established by the board.

(g) The office shall make a program of instruction that meets the requirements for continuing education set forth in this section regularly available in regions of the state, based on demand, for individuals possessing mine foreman-fire boss certifications who are not serving in a mine foreman-fire boss capacity: *Provided*, That the office may collect a fee from program participants to offset the cost of the program.

(h) The office shall make available to operators and other interested parties a list of individuals

whose mine foreman-fire boss certification is in suspension or has been revoked pursuant to this section.

#### **ARTICLE 11. MINE SAFETY TECHNOLOGY.**

##### **§22A -11-1. Legislative findings, purposes and intent.**

The Legislature hereby finds and declares:

- (1) That the first priority and concern of all persons in the coal mining industry must be the health and safety of its most precious resource – the miner;
- (2) That in furtherance of this priority, the provisions of article two of this chapter are designed to protect the health and safety of this state's coal miners by requiring certain minimum standards for, among other things, certain health and safety technology used by each underground miner;
- (3) That the proper implementation of this technology in West Virginia's underground mines would benefit from the specialized oversight of persons with experience and competence in coal mining, coal mine health and safety and the expanding role of technology; and
- (4) That, in furtherance of provisions of this section, it is the intent of the Legislature to create a permanent task force which, on a continuous basis, shall evaluate and study issues relating to the commercial availability and functional and operational capability of existing and emerging technologies in coal mine health and safety, as well as issues relating to the implementation, compliance and enforcement of regulatory requirements governing the technologies.

##### **§22A -11-2. Mine Safety Technology Task Force continued; membership; method of nomination and appointment.**

- (a) The Mine Safety Technology Task Force, created and existing under the authority of the director pursuant to the provisions of section six, article one of this chapter, is continued as provided by this article.
- (b) The task force shall consist of nine members who are appointed as specified in this section:
  - (1) The Governor shall appoint, by and with the advice and consent of the Senate, three members to represent the viewpoint of operators in this state. When these members are to be appointed, the Governor shall request from the major trade association representing operators in this state a list of three nominees for each position on the task force. All nominees shall be persons with special experience and competence in coal mine health and safety. There shall be submitted with the list, a summary of the qualifications of each nominee. For purposes of this subdivision, the major trade association representing operators in this state is that association which represents operators accounting for over one half of the coal produced in mines in this state in the year prior to the year in which the appointment is to be made.
  - (2) The Governor shall appoint, by and with the advice and consent of the Senate, three members who can reasonably be expected to represent the viewpoint of the working miners of this state. When members are to be appointed, the Governor shall request from the major employee organization representing coal miners within this state a list of three nominees for each position on the task force. The highest ranking official within the major employee organization representing coal miners within this state shall submit a list of three nominees for each position on the board. The nominees shall have a background in coal mine health and safety.
  - (3) The Governor shall appoint, by and with the advice and consent of the Senate, one certified mine safety professional from the College of Engineering and Mineral Resources at West Virginia University;
  - (4) The Governor shall appoint, by and with the advice and consent of the Senate, one attorney with experience in issues relating to coal mine health and safety; and
  - (5) The ninth member of the task force is the director, or his or her designee, who shall serve as chair



of the task force. The director shall furnish to the task force any secretarial, clerical, technical, research and other services that are necessary to the conduct of the business of the task force.

(c) Each appointed member of the task force shall serve at the will and pleasure of the Governor.

(d) Whenever a vacancy on the task force occurs, nominations and appointments shall be made in the manner prescribed in this section: *Provided*, That in the case of an appointment to fill a vacancy, nominations of three persons for each vacancy shall be requested by and submitted to the Governor within thirty days after the vacancy occurs by the major trade association or major employee organization, if any, which nominated the person whose seat on the task force is vacant.

(e) Each member of the task force shall be paid the expense reimbursement, as is paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law for each day or portion thereof engaged in the discharge of official duties. In the event the expenses are paid by a third party, the member shall not be reimbursed by the state. The reimbursement shall be paid out of the State Treasury upon a requisition upon the State Auditor, properly certified by the Office of Miners' Health, Safety and Training. An employer shall not prohibit a member of the task force from exercising leave of absence from his or her place of employment in order to attend a meeting of the task force or a meeting of a subcommittee of the task force, or to prepare for a meeting of the task force, any contract of employment to the contrary notwithstanding.

**§22A-11-3. Task force powers and duties.**

(a) The task force shall provide technical and other assistance to the office related to the implementation of the new technological requirements set forth in the provisions of section fifty-five, article two, of this chapter, as amended and reenacted during the regular session of the Legislature in the year two thousand six, and requirements for other mine safety technologies.

(b) The task force, working in conjunction with the director, shall continue to study issues regarding the commercial availability, the functional and operational capability and the implementation, compliance and enforcement of the following protective equipment:

(1) Self-contained self-rescue devices, as provided in subsection (f), section fifty-five, article two of this chapter;

(2) Wireless emergency communication devices, as provided in subsection (g), section fifty-five, article two of this chapter;

(3) Wireless emergency tracking devices, as provided in subsection (h), section fifty-five, article two of this chapter; and

(4) Any other protective equipment required by this chapter or rules promulgated in accordance with the law that the director determines would benefit from the expertise of the task force.

(c) The task force shall on a continuous basis study, monitor and evaluate:

(1) The potential for enhancing coal mine health and safety through the application of existing technologies and techniques;

(2) Opportunities for improving the integration of technologies and procedures to increase the performance and survivability of coal mine health and safety systems;

(3) Emerging technological advances in coal mine health and safety; and

(4) Market forces impacting the development of new technologies, including issues regarding the costs of research and development, regulatory certification and incentives designed to stimulate the marketplace.

(d) On or before the first day of July of each year, the task force shall submit a report to the Governor and the Board of Coal Mine Health and Safety that shall include, but not be limited to:

(1) A comprehensive overview of issues regarding the implementation of the new technological requirements set forth in the provisions of section fifty-five, article two, of this chapter, or rules promulgated in accordance with the law;

(2) A summary of any emerging technological advances that would improve coal mine health and safety;

- (3) Recommendations, if any, for the enactment, repeal or amendment of any statute which would enhance technological advancement in coal mine health and safety; and
- (4) Any other information the task force considers appropriate.
- (e) In performing its duties, the task force shall, where possible, consult with, among others, mine engineering and mine safety experts, radiocommunication and telemetry experts and relevant state and federal regulatory personnel.

**§22A -11-4. Approval of devices.**

Prior to approving any protective equipment or device that has been evaluated by the task force pursuant to the provisions of subsection (b), section three of this article, the director shall consult with the task force and review any applicable written reports issued by the task force and the findings set forth in the reports and shall consider the findings in making any approval determination.