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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

No. **470** Session of  
1961

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INTRODUCED BY MESSRS. KALMAN AND SEYLER,  
(BY REQUEST), APRIL 4, 1961.

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REFERRED TO COMMITTEE ON MINES AND MINERAL  
INDUSTRIES, APRIL 4, 1961.

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**AN ACT**

Amending the act of May 31 1945 (P L 1198) entitled "An act provid-  
ing for the conservation and improvement of land affected in  
connection with the mining of bituminous coal by the open pit  
mining method regulating such mining and providing penalties"  
further regulating bituminous strip mining operations changing  
provisions with respect to bonds filing dates reports registration  
backfilling and overburden including certain persons within the

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EXPLANATION—CAPITAL LETTERS indicate new matter added to bill. Matter stricken through  
is to be omitted from bill.  
Underscoring indicates new matter added to existing law. [Brackets] indicate matter  
stricken from existing law.

provisions of the act and providing for the use of funds in certain cases

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows

1 Section 1 Section 3 act of May 31 1945 (P L 1198) known as the  
2 "Bituminous Coal Open Pit Mining Conservation Act" amended May  
3 23 1949 (P L 1730) is amended by adding at the end thereof a new  
4 definition to read

5 Section 3 Definitions The following words and phrases unless a  
6 different meaning is plainly required by the context shall have the  
7 following meanings

8 \* \* \*

9 "Abandoned" shall mean an operation where no coal has been  
10 produced or overburden removed for a period of one year verified by  
11 monthly reports submitted to the department by the operator and by  
12 inspections made by mine inspectors unless an operator (upon receipt  
13 of notification by the secretary terming an operation abandoned) sub-  
14 mits sufficient evidence to the secretary that the operation is in fact not  
15 abandoned

1 Section 2 Section 4 of the act amended May 10 1956 (P L 1562)

2 is amended to read

3 Section 4 Before any operator shall hereafter engage in open pit  
4 mining of bituminous coal within the Commonwealth he shall first  
5 apply for registration with the Department of Mines and Mineral  
6 Industries of this Commonwealth by filing by registered mail or by  
7 delivery in person on a form to be provided by the department and  
8 giving information sufficient to identify the operator and an estimate  
9 of the number of acres of land in each mine inspection district that  
10 the operator will affect by open pit mining during the registration year  
11 As a part of the application for registration the operator shall furnish  
12 in duplicate a map or plan on a scale of not less than four hundred  
13 feet to the inch in a manner satisfactory to the Secretary of Mines  
14 and Mineral Industries showing the location of the tract or tracts of  
15 land to be affected by the operation or operations contemplated [If  
16 after a registration certificate issues to an operator the operator desires  
17 to affect a tract or tracts of land not included in the certificate the  
18 operator shall by registered mail or in person so notify the Secretary  
19 of Mines at least two weeks prior to the commencement of operations  
20 The Secretery of Mines shall promptly acknowledge by registered mail]

1 [receipt of the application for registration] When the requirements of  
2 this act are met and no claims are outstanding under this act against  
3 the operator or in the case of any corporation against any officer or  
4 director a registration certificate shall issue forthwith Contemporaneously  
5 with and as a part of said registration application the operator shall file  
6 with the Department of Mines and Mineral Industries a bond on a  
7 form to be prescribed and furnished by the department payable to the  
8 Commonwealth and conditioned that the operator shall faithfully per-  
9 form all of the requirements of this act The bond shall be in the  
10 amount of [three hundred dollars (\$300.00)] five hundred dollars  
11 (\$500.00) per acre based upon the number of acres of land in each  
12 mine inspection district which the operator estimates will be affected  
13 by open pit mining during the registration year Provided That no  
14 bond shall be filed for less than [three thousand dollars (\$3000.00)]  
15 five thousand dollars (\$5000.00) Liability under such bond shall be for  
16 the duration of open pit mining at each operation and for a period of  
17 five years thereafter unless released prior thereto as hereinafter provided  
18 Such bond shall be executed by the operator and a corporate surety  
19 licensed to do business in the Commonwealth Provided however That

1 the operator may elect to deposit cash or negotiable bonds of the United  
2 States Government or the Commonwealth of Pennsylvania the Penn-  
3 sylvania Turnpike Commission the General State Authority the State  
4 Public School Building Authority or any municipality within the Com-  
5 monwealth with the department in lieu of a corporate surety The  
6 cash deposite or market value of such securities shall be equal to the  
7 sum of the bond The Secretary of Mines and Mineral Industries shall  
8 upon receipt of any such deposit of cash or securities immediately place  
9 the same with the State Treasurer whose duty it shall be to receive and  
10 hold the same in the name of the Commonwealth in trust for the  
11 purposes for which such deposit is made The State Treasurer shall at  
12 all times be responsible for the custody and safekeeping of such deposits  
13 The operator making the deposit shall be entitled from time to time  
14 to demand and receive from the State Treasurer on the written order  
15 of the Secretary of Mines and Mineral Industries the whole or any  
16 portion of any securities so deposited upon depositing with him in lieu  
17 thereof other negotiable securities of the classes herein specified having  
18 a market value at least equal to the sum of the bond and also to demand  
19 receive and recover the interest and income from said securities as the  
20 same becomes due and payable Provided however That where securities

1 deposited as aforesaid mature or are called the State Treasurer at the  
2 request of the operator shall convert such securities into such other  
3 negotiable securities of the classes herein specified as may be designated  
4 by the operator Contemporaneous with the filing of said registration  
5 certificate application and bond for each mine inspection district and  
6 any renewal thereof the operator shall pay to the department a filing  
7 fee of one hundred dollars (\$100.00) for each mine inspection district  
8 Should the area of land affected in any mine inspection district by  
9 open pit mining any time within the registration year exceed the  
10 estimate made in the registration certificate application the operator  
11 shall within thirty (30) days thereafter file an additional bond Upon  
12 receipt of such bond the Secretary of Mines and Mineral Industries  
13 shall promptly issue an amended certificate covering the additional  
14 acreage covered by such bond but no filing fee shall be required in  
15 connection with the filing of such additional bond If the Secretary of  
16 Mines and Mineral Industries does not approve the application for  
17 registration he shall promptly notify the operator by registered mail  
18 setting forth his reasons therefor The operator may then take such  
19 steps as are required to remove the objections Any operator who shall  
20 be aggrieved by any action of the Secretary of Mines and Mineral In-

1 dustries under this section may proceed under the provisions of section  
2 fourteen of this act If any operator who has filed an application for  
3 registration has not received a registration certificate or a notice from  
4 the Secretary of Mines and Mineral Industries as to why such applica-  
5 tion has not been approved within thirty days after the receipt of such  
6 application he may engage in open-pit mining of bituminous coal and  
7 be deemed in compliance with all provisions of this act The registration  
8 provisions of this section shall not apply to an operator registered under  
9 the provisions of the act of May thirty-one one thousand nine hundred  
10 forty-five (Pamphlet Laws 1198) as amended until the anniversary date  
11 of the operator's registration

12 Section 3 Sections 4.1 4.2 and 4.3 of the act added May 10 1956  
13 (P L 1562) are amended to read

14 Section 4.1 On or before the third day of each month every  
15 operator of a coal stripping operation shall furnish the mine inspector  
16 in whose district the operation is located on a form provided by the  
17 Department of Mines and Mineral Industries an accurate monthly report  
18 of coal produced number of employes and days worked and also a  
19 report of all fatal and nonfatal accidents for the previous month An

1 annual report shall be furnished to the mine inspector in whose district  
2 the operation is located on a form provided for that purpose not later  
3 than the twenty-fifth day of January each year for the preceding year.

4 Section 4.2 All coal stripping operations coming within the provi-  
5 sions of this act shall be under the exclusive jurisdiction of the De-  
6 partment of Mines and Mineral Industries and shall be conducted in  
7 compliance with such reasonable rules and regulations as may be  
8 deemed necessary by the Secretary of Mines and Mineral Industries  
9 for the health and safety of those persons engaged in the work. The  
10 Secretary of Mines and Mineral Industries through the mine inspectors  
11 shall have the authority and power to enforce the provisions of this  
12 act and the rules and regulations promulgated thereunder by him.

13 Section 4.3 Any mine inspector directed by the Department of  
14 Mines and Mineral Industries shall have the right to enter upon and  
15 inspect all stripping operations for the purpose of determining condi-  
16 tions of safety and for compliance with the terms of the registration  
17 certificate. A mine inspector shall have the authority to order the halting  
18 of mine operations in any case where safety regulations are being  
19 violated. Should an operator fail to comply with the requirements of  
20 the act the mine inspector shall report the matter to the secretary who

1 shall immediately notify the operator by registered mail of such failure  
2 Unless the operator complies with the act within thirty (30) days  
3 from the receipt of such notice the secretary may after hearing and  
4 final determination issue a cease and desist order requiring the operator  
5 to immediately cease mining at [the operation in the mine inspection  
6 district where the violation was reported] all operations provided that  
7 no operator begin operating an open pit mining operation until he has  
8 first registered as required under section 4 of this act A mine inspector  
9 shall have the authority to order the stopping of any operation that is  
10 started without first having been registered as required by this act

11 Section 4 Section 5 of the act amended May 10 1956 (P L 1562)  
12 is amended to read

13 Section 5 Operation Report and Backfilling Within thirty (30)  
14 days after starting the removal of overburden at each operation for  
15 the removal of coal by open pit mining the operator shall file an opera-  
16 tion report with the Department of Mines and Mineral Industries  
17 on a form to be prescribed and furnished by the secretary giving the  
18 following information (a) Name or number of the operation (b) Loca-  
19 tion of the operation as to county and township and with reference to

1 the nearest public road (c) A description of the tract or tracts and  
2 (d) The name and address of the landowner or his duly authorized  
3 representative As part of the operations report the operator shall file  
4 a map or plan on a scale of not less than four hundred (400) feet to  
5 the inch in a manner satisfactory to the Secretary of Mines and Mineral  
6 Industries showing the location of the new tract or tracts of land to  
7 be affected by the operation or operations and not covered by the  
8 original registration application or reregistration application

9 The operator shall backfill the operation made by the open pit  
10 mining operation to a distance of seventy-five feet beyond the boundary  
11 line of the right of way of any public highway and to a distance of  
12 two hundred feet from any occupied dwelling house unless released by  
13 owner thereof public building school church and community or institu-  
14 tional building The backfilling under this section shall be done in such  
15 a manner as to insure lateral support and to provide a slope having  
16 an angle not exceeding forty (40) degrees The Department of Mines  
17 and Mineral Industries may specify the time within which it shall be  
18 completed in order to protect the public safety

19 Nothing contained in this section shall be construed to prohibit  
20 the relocation of any public road in the manner provided by law

1 Section 5 Sections 6 and 7 of the act amended May 23 1949 (P L.  
2 1730) are amended to read

3 Section 6 Within six (6) months after the operation is [finished or]  
4 abandoned the operator shall file with the Department of Mines and  
5 Mineral Industries a completion report on a form to be prescribed and  
6 furnished by the secretary identifying the operation stating the area of  
7 land affected by open pit mining stating whether the operator or other  
8 person intends to carry on drift mining upon the premises and the pro-  
9 visions made therefor The operator shall attach to the completion report  
10 a map of the operation prepared in a manner satisfactory to the secre-  
11 tary showing the boundary lines of the tract or tracts the access to the  
12 operation from the nearest public highway the area of land affected by  
13 open pit mining the locations preserved for drift mining and the pro-  
14 posed plans in connection therewith the area of land affected by open pit  
15 mining and the work done or proposed to be done in accordance with  
16 section ten (10) of this act

17 Section 7 If an operation is not [completed or] abandoned within  
18 one year following the date of filing the registration certificate the  
19 operator shall within [sixty (60)] thirty (30) days after the end of said  
20 year file with the Department of Mines and Mineral Industries an annual

1 report on a form to be prescribed and furnished by the secretary iden-  
2 tifying each [uncompleted] operation which has not been abandoned  
3 and stating the area of land affected by open pit mining at the respective  
4 operation during the said year.

5 Section 6 Sections 8 9 and 10 of the act amended May 10 1956  
6 (P L 1562) are amended to read

7 Section 8 Upon receipt of said completion report or annual report  
8 the Secretary of Mines and Mineral Industries shall charge the land  
9 affected in each mine inspection district by open pit mining against the  
10 bond filed by the operator at the time of registration at the rate of  
11 [three hundred dollars (\$300.00)] five hundred dollars (\$500.00) per  
12 acre Should the land actually affected in any mine inspection district  
13 by open pit mining within the year exceed the estimate made at the  
14 time of registration the operator shall [within thirty (30) days] there-  
15 after file an additional bond with the annual report or completion report  
16 Upon receipt of such bond the Secretary of Mines and Mineral Industries  
17 shall promptly issue an amended certificate covering the additional acre-  
18 age covered by such bond If the land actually affected in any mine in-  
19 spection district by open pit mining during the registration year is less

1 than the estimate made by the operator in the registration certificate  
2 application the secretary shall at the end of the registration year release  
3 the surplus of the bond and collateral upon which liability has not  
4 been charged as aforesaid Provided That no bond or collateral shall be  
5 released below [three thousand dollars (\$3000.00)] five thousand dollars  
6 (\$5000.00) in the absence of complete compliance with the requirements  
7 of this act and should there be a failure of complete compliance with  
8 the requirements of this act not less than the minimum bond in the  
9 amount of [three thousand dollars (\$3000.00)] five thousand dollars  
10 (\$5000.00) shall be forfeited

11 Section 9 If the operator continues to engage in open pit mining  
12 of bituminous coal beyond the period for which a certificate has been  
13 issued the operator shall reregister with the Department of Mines  
14 and Mineral Industries as hereinbefore provided in the case of the  
15 original registration Provided however That the operator may apply  
16 any amount of surplus bond filed for the preceding year in a particular  
17 mine inspection district upon bond requirement for that mine inspec-  
18 tion district to the year for which he is reregistering in lieu of a release  
19 of the surplus

1 Section 10 Within one year after the operation is [completed]  
2 abandoned the operator shall place sufficient overburden or earth not  
3 containing reject coal or combustible material in the open cut to cover  
4 the exposed face of the unmined coal [which shall begin at least three  
5 feet above the top of the coal and shall extend] from the top of the  
6 highway and shall extend to the bottom of the pit at an angle not to  
7 exceed forty-five (45) degrees [except where open pit mining cuts into  
8 active worked out or abandoned deep mine workings the angle shall  
9 not exceed forty-five (45) degrees from the top of the high wall to  
10 the bottom thereof] and the peaks and ridges of spoilbanks shall be  
11 leveled and rounded off to such an extent as is satisfactory to the  
12 secretary and will permit the planting of trees grasses or shrubs for  
13 the purpose of this section only and for no other provisions of this act  
14 highwall mechanical mining shall be considered as open-pit mining Pro-  
15 vided however That if the operator or other person desires to conduct  
16 drift mining upon the premises or use the openings for haulageways  
17 or other lawful purposes the operator may designate locations to be  
18 used for such purposes at which places it will not be necessary to so  
19 place overburden [over the face of the coal] as herein provided for  
20 until such drift mining or other use is completed during which time

1 that portion of the bond on file at the rate of [three hundred dollars  
2 (\$300.00)] five hundred dollars (\$500.00) per acre or fraction thereof  
3 applicable to the area designated shall not be released Such locations  
4 shall be described in the completion report and designated on the map  
5 attached thereto When the backfilling and leveling have been completed  
6 and reports filed by the inspector certifying that it has been done in  
7 the manner prescribed by law the secretary shall release the bond at  
8 the rate of four hundred forty dollars (\$440.00) per acre in proportion  
9 to the area backfilled and leveled The remaining sixty dollars (\$60.00)  
10 per acre shall be retained by the secretary until such time as the plant-  
11 ing is completed and certified by the forester as being done in a work-  
12 manlike manner at which time the secretary shall release the bond in  
13 the remaining amount of sixty dollars (\$60.00) per acre

14 Section 7 Sections 11 12 13 and 14 of the act amended August 19  
15 1953 (P L 1115) are amended to read

16 Section 11 Within three years after the operation is [completed  
17 or] abandoned the operator shall plant trees shrubs or grasses upon  
18 the land affected by open pit mining Provided however That the  
19 operator shall be relieved from the obligation to plant trees shrubs or  
20 grasses required by this section if the Secretary of Mines and Mineral

1 Industries shall find as a fact that such planting is not reasonable  
2 practicable or likely to succeed or if the Secretary of Mines and  
3 Mineral Industries upon application by the land owner approves the  
4 use of the land for a purpose other than the growing of trees shrubs  
5 or grasses or if the operator in lieu of planting trees shrubs or grasses  
6 shall pay to the Secretary of Mines and Mineral Industries sixty dollars  
7 (\$60.00) per acre of land affected by open pit mining Funds received  
8 by the secretary in lieu of such planting shall be paid by him into the  
9 Bituminous Coal Open Pit Mining Reclamation Fund and used by him  
10 as hereinafter prescribed for the use of funds derived from the for-  
11 feiture of bonds When deemed necessary the Secretary of Mines and  
12 Mineral Industries may extend the period for planting trees shrubs or  
13 grasses beyond the limitations of the period of time provided in this  
14 act Such planting shall be done in accordance with a plan or procedure  
15 prescribed by the Secretary of Mines and Mineral Industries The trees  
16 shrubs or grasses shall become the property of the landowner unless  
17 the operator and the landowner agree otherwise The operator shall  
18 plant only seeds plants or seedlings secured from a source approved by  
19 the Secretary of Mines and Mineral Industries

1 Section 12 When the planting is completed the operator shall file  
2 a planting report with the Secretary of Mines and Mineral Industries  
3 on a form to be prescribed and furnished by the secretary giving the  
4 following information (a) Identification of the operation (b) The type  
5 of planting (c) The date of planting and (d) The area of land planted  
6 and (e) Such other relevant information as the secretary may require  
7 The Secretary of Mines and Mineral Industries shall inspect the premises  
8 either in person or by his duly authorized representative within one (1)  
9 year after the planting report is filed If the secretary finds that the  
10 planting has been done in a workmanlike manner and that the area  
11 reported has been planted in accordance with the prescribed plan or  
12 procedure or if the operator has been relieved from the obligation to  
13 plant trees shrubs or grasses as hereinabove provided the Secretary of  
14 Mines and Mineral Industries shall release the bond and collateral in  
15 proportion to the area planted or relieved from planting Upon such  
16 release the State Treasurer shall immediately return to the operator  
17 the amount of cash or securities specified therein

1 Section 13 The operator may for reasonable cause and with the  
2 consent and approval of the Secretary of Mines and Mineral Industries  
3 backfill level or plant a similar area of land previously affected by open  
4 pit mining by himself or any other operator in lieu of backfilling level-  
5 ing or planting the particular land covered by the bond and thereby  
6 be released from liability under the bond accordingly

7 Section 14 If upon inspection the Secretary of Mines and Mineral  
8 Industries does not approve the planting he shall notify the operator  
9 in writing setting forth his reasons therefor The operator may then  
10 take such steps as are required to remove the objections Any operator  
11 or landowner who shall be aggrieved by any administrative regulation  
12 directive or order of the Secretary of Mines and Mineral Industries or  
13 any other administrative agency making application of the provisions  
14 of this act may file a petition in the court of common pleas of the  
15 county where the land is located alleging therein the action complained  
16 of and praying for remedy thereof and the said court shall proceed  
17 therein by rule or rules upon the proper administrative officer body or  
18 authority to show cause why the petitioner should not have the remedy  
19 prayed for by his her or its petition The court in such proceedings  
20 shall make such procedural orders as may be necessary for facilitating

1 and expediting hearings and disposition of the matters complained of  
2 From the decision of the said court of common pleas an appeal may  
3 be taken by either party to the Superior or Supreme Court of Penn-  
4 sylvania as in other causes Every such petition shall specify the peti-  
5 tioner's objection to the action of the administrative officer body or  
6 authority and such officer body or authority on or before the return  
7 day of the rule shall make answer thereto and certify to the said court  
8 of common pleas the record of the proceedings to which the petition  
9 refers Such record shall include the testimony taken therein the findings  
10 of fact if any of the officer body or authority based upon such testimony  
11 and a copy of all decisions and orders made by the said officer in the  
12 proceedings The case shall be heard upon the record certified to the  
13 court as aforesaid No additional testimony shall be taken before the  
14 court but the court may in proper cases remit the record to the respond-  
15 ent for the taking of further testimony and from the record the court  
16 may review modify or affirm or make new findings of fact as well as  
17 decide the law applicable

18 Section 8 Section 15 of the act amended May 23 1949 (P L 1730)  
19 is amended to read

1 Section 15 If the operator fails or refuses to comply with the  
2 requirements of the act in any respect for which liability has been  
3 charged on the bond the Secretary of Mines and Mineral Industries  
4 shall declare such portion of the bond forfeited and shall certify the  
5 same to the Department of Justice which shall proceed to enforce  
6 and collect the amount of liability forfeited thereon and where the  
7 operator has deposited cash or securities as collateral in lieu of a cor-  
8 porate surety the Secretary of Mines and Mineral Industries shall  
9 declare such portion of said collateral forfeited and shall direct the  
10 State Treasurer to pay said funds into the Bituminous Coal Open Pit  
11 Mining Reclamation Fund or to proceed to sell said securities to the  
12 extent forfeited and pay the proceeds thereof into the Bituminous  
13 Coal Open Pit Mining Reclamation Fund Any operator aggrieved  
14 by reason of forfeiting the bond or converting collateral as herein pro-  
15 vided shall have a right to contest such action and appeal as provided in  
16 section fourteen of this act

17 Section 9 Section 17 of the act is repealed

18 Section 10 Section 18 of the act amended August 19 1953 (P L  
19 1115) is amended to read

1 Section 18 All funds received by the Secretary of Mines and  
2 Mineral Industries from registration fees and from forfeiture of bonds  
3 and of cash deposits and securities shall be held by the State Treasurer  
4 in a special fund separate and apart from all other moneys in the State  
5 Treasury to be known as the "Bituminous Coal Open Pit Mining Rec-  
6 lamation Fund" and shall be used by the Secretary of Mines and  
7 Mineral Industries for the sole purpose of foresting or reclaiming land  
8 affected by open pit mining of bituminous coal and for such purposes  
9 are hereby specifically appropriated to the Department of Mines and  
10 Mineral Industries Funds received from the forfeiture of bonds and  
11 collateral shall be expended by the Secretary of Mines and Mineral  
12 Industries upon lands situated in [the county in which the operation  
13 upon which liability was charged on the bond is located for backfilling  
14 or planting] the bituminous coal region particularly when an operator  
15 has caused stream pollution or is creating hazardous conditions to the  
16 public or property

17 Section 11 Section 18.1 of the act added May 23 1949 (P L 1730)  
18 is amended to read

1 Section 18.1 Where one operator succeeds another at any uncom-  
 2 pleted operation either by sale assignment lease or otherwise the Sec-  
 3 retary of Mines and Mineral Industries may release the first operator  
 4 from all liability under this act as to that particular operation Pro-  
 5 vided however That both operators have registered and have otherwise  
 6 complied with the requirements of this act and the successor operator  
 7 assumes as part of his obligation under this act all liability for grading  
 8 planting and covering the face of unmined coal on the land affected  
 9 by the former operator

10 Section 12 This act shall take effect immediately

We certify that this bill has passed the Senate and the House of  
 Representatives.

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 Chief Clerk, Senate

.....  
 President pro tempore, Senate

.....  
 Speaker, House of Representatives

Approved The ..... day of ..... A. D. 1961.

.....  
 Governor