

Unlawful
employment of
fire boss.

manager, superintendent, or mine foreman to employ as fire boss in a bituminous mine any person who has not obtained the proper certificate of qualification under this act: [unless such person is, in the judgment of the operator, equally competent with the persons who are holders of such certificates] Provided, That certificates of qualification as fire boss granted under the acts of June nine, one thousand nine hundred and eleven (Pamphlet Laws, seven hundred and fifty-six), and May fifteen, one thousand eight hundred and ninety-three (Pamphlet Laws, fifty-two), shall have equal value with certificates of qualification granted under this act: *Provided, however, That in an emergency, the mine foreman may deputize temporarily a competent person or persons to act as assistant mine foremen or fire bosses, but this authority shall not be exercised by the mine foreman so long as certified assistant foremen or certified fire bosses are available in the mine.*

Proviso.

Proviso.

APPROVED—The 1st day of July, A. D. 1937.

GEORGE H. EARLE

No. 463

AN ACT

To re-enact and amend the act, approved the tenth day of March, one thousand nine hundred and thirty-seven (Act Number, 21), entitled "An act to protect miners in the bituminous coal regions of this Commonwealth from fraudulent deprivation of wages; providing standard weights and measurements for coal mined, and prohibiting the use of other standards; providing methods for the ascertainment of proper weights and measurements through checkweighmen and checkmeasurers elected by the miners; imposing duties and liabilities upon operators; and imposing penalties," clarifying the provisions of said act; providing for the filing of complaints with the court of common pleas and for the procedure thereon; and providing additional penalties.

Act of March
10, 1937 (Act
No. 21),
amended.

Section 1. Be it enacted, &c., That the act, approved the tenth day of March, one thousand nine hundred and thirty-seven (Act Number, 21), entitled "An act to protect miners in the bituminous coal regions of this Commonwealth from fraudulent deprivation of wages; providing standard weights and measurements for coal mined, and prohibiting the use of other standards; providing methods for the ascertainment of proper weights and measurements through checkweighmen and checkmeasurers elected by the miners; imposing duties and liabilities upon operators; and imposing penalties," is hereby re-enacted and amended to read as follows:

AN ACT

To protect miners in the bituminous coal regions of this Commonwealth from fraudulent deprivation of wages; providing standard weights and measurements for coal mined, and prohibiting the use of other standards; providing methods for the ascertainment of proper weights and measurements through checkweighmen and checkmeasurers elected by the miners; imposing duties and liabilities upon operators; and imposing penalties.

Section 1. Be it enacted, &c., That any miner employed by an individual, firm or corporation for the purpose of mining bituminous coal, shall be entitled to receive from his employer, and failing to receive, then to collect by due process of law, at such rates as may have been agreed upon between the employer and the employe, full and exact wages accruing to him for the mining of all [sizes of merchantable] coal so mined by him. [whether the same shall exist in the form of nut or lump coal] In the adjudication of such wages eighty pounds shall be deemed one bushel, and two thousand pounds net shall be deemed one ton of coal.

Miner entitled to receive from employer full and exact wages.

Section 2. At every bituminous coal mine, where coal is mined by measurement, all cars filled by miners and their laborers shall be uniform in capacity at each mine. No unbranded car shall enter the mine for a longer period than [three months] *one month* without being branded by the [mine inspector of the district] *sealer of weights and measures of the county* wherein the mine is located or by the *Department of Internal Affairs*. Any owner or his agent violating the provisions of this section shall be subject to a fine of not less than one dollar (\$1.00) per car for each and every day such car, not in conformity with this act, is used. The [mine inspector of the district, where the mine is located] *sealer of weights and measures or the Department of Internal Affairs, as the case may be*, on receiving notice from the checkmeasurer or any five miners working in the mine, that a car or cars are not properly branded or not uniform in capacity according to law are used in a mine, then inside of three days from the date of receiving said notice, it shall [be his duty to] enforce the provisions of this section. [under penalty of ten dollars (\$10.00) for each and every day he permits such car or cars to enter the mine]

Coal cars to be uniform in capacity.

Cars to be branded.

Violation.

Section 3. At every bituminous coal mine in this Commonwealth where coal is mined by weight or measure, the miners whose wages are paid on the basis of tonnage mined, whether weighed or measured, or a majority of such miners present at a meeting called *by them* for that purpose, shall have the right to employ a com-

Employes have the right to hire a checkweighman or checkmeasurer.

Rights and duties of checkweighman or checkmeasurer.

Wages to be paid by employes.

Penalty for refusal to permit checkweighman or checkmeasurer to perform duties.

Checkweighman or checkmeasurer not to be considered a trespasser.

Checkweighman and checkmeasurer to keep daily and semi-monthly sheets.

petent person as checkweighman or checkmeasurer, as the case may require, who shall be permitted at all times to be present at the weighing or measurement of coal, also have power to weigh or measure the same, and during the regular working hours to have the privilege to balance and examine the scales or measure the cars. All such balancing and examination of scales shall be done in such a way and at such time as in no way to interfere with the regular workings of the mine. Such checkweighman shall be paid such compensation as may be fixed by the miners attending such meeting, [and] *which* shall be paid by the operator *to such checkweighman or checkmeasurer* from deductions made from the wages of all miners employed at such mine whose wages are paid on the basis of tonnage, whether weighed or measured, an equal deduction being made from the compensation of such wages per ton or per measure, *as directed by the checkweighman or checkmeasurer*. Any person, association, copartnership or corporation who, as operator, shall refuse to permit any checkweighman or checkmeasurer, so selected, to weigh and measure coal as provided by this act, or shall fail or refuse to pay the wages of such checkweighman or checkmeasurer as required by this act, or shall interfere with, restrain or coerce employes in the exercise of the right to elect such checkweighman or checkmeasurer, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of five hundred dollars (\$500) per day for each day of such *refusal or violation*.

Section 4. The checkweighman or checkmeasurer shall not be considered a trespasser during working hours while attending to the interests of his employers, or while posting daily and semi-monthly sheets as hereinafter provided. In no manner shall he be interfered with or intimidated by any person, agent, owner or miner. Any person violating these provisions shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty dollars (\$20.00) and not exceeding one hundred dollars (\$100), or imprisonment at the discretion of the court for failure to pay such fine and costs.

Section 5. It shall be a further duty of checkweighmen or checkmeasurers to credit each miner with all [merchantable] coal mined by him on a daily sheet, to be kept by him for that purpose, and on a semi-monthly sheet, he shall credit each miner with all [merchantable] coal mined for each period for which payment of wages is made, which daily and semi-monthly credit sheets shall be kept posted at or near the pit mouth of the mine by the checkweighman or checkmeasurer. Whenever the checkweighman or checkmeasurer is unable to credit any coal mined to the proper miner because the car on which

the same is loaded is not properly marked or cannot be identified, it shall be his duty to keep account of such coal, and credit the same to the miner entitled thereto when claim therefor is lodged with him by such miner. If claim for any such unidentified coal is not made within thirty days after the same was mined, the checkweighman or checkmeasurer shall credit the same to his account for the payment of his wages. Payment for such coal shall be made by the operator as directed by the checkweighman or checkmeasurer, and where such wages are paid to the checkweighman or checkmeasurer, a corresponding reduction shall be made in the deductions from wages of the miners charged by this act with the payment of such wages. *Any operator, or his servant, agent or employe, who shall refuse to credit such unclaimed coal as required by this section, shall, upon conviction in a summary proceeding, be sentenced to pay a fine of twenty-five dollars (\$25.00), and, in default of the payment of such fine and costs, shall be sentenced to imprisonment for thirty days.*

Violation.

Section 6. When differences arise between the checkweighman or checkmeasurer and the agent or owners of the mine as to the uniformity, capacity or correctness of scales or cars used, the same shall be referred to either the sealer of weights and measures of the county where the mine is located, or to the Department of Internal Affairs whose duty it shall be to regulate the same at once.

Where differences exist, county sealer of weights and measures or Department of Internal Affairs to regulate scales, etc.

Section 7. Should any weighman or weighmen agent, checkweighman or checkmeasurer, whether employed by operators or miners, knowingly or wilfully adopt or take more or less pounds for a bushel or ton than as provided for in the first section of this act, or wilfully neglect the balance or examining of the scales or cars, or knowingly and wilfully weigh coal with an incorrect scale, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned in the county jail for three months.

Penalty for false weight.

Section 8. *Any person aggrieved by the exercise of any power, duty or authority under the provisions of this act, or who believes such power, duty or authority was exercised contrary to the terms or conditions of this act, may complain by petition to the court of common pleas of the county in which the mine is located, setting forth the facts. Thereupon the court shall fix a day for hearing, of which due notice shall be given to all parties interested in such manner, as the court shall direct. After hearing, the court shall make such order dismissing the petition or directing the manner in which such power, duty or authority shall be exercised under this act, as to it appears just and proper. No such proceeding shall act as a persedeas or be construed to estop the exer-*

Action by persons injured by the exercise of any power or duty under this act.

cise of any such power, duty or authority until the order of the court is entered.

Section [8] 9. Nothing contained in this act shall be construed to prohibit or prevent the operator and the miners collectively at any time from contracting for any method of measuring or weighing coal.

Act of June 1,
1883 (P. L. 52),
repealed.

Section [9] 10. The act approved the first day of June, one thousand eight hundred and eighty-three (Pamphlet Laws, fifty-two), entitled "An act to protect miners in the bituminous coal regions of this Commonwealth," and the amendments thereto, is hereby repealed.

When effective.

Section [10] 11. This act *as amended* shall become effective immediately upon final enactment.

APPROVED—The 1st day of July, A. D. 1937.

GEORGE H. EARLE

No. 464

AN ACT

To further amend the act, approved the ninth day of June, one thousand nine hundred and eleven (Pamphlet Laws, seven hundred fifty-six), entitled "An act to provide for the health and safety of persons employed in and about the bituminous coal-mines of Pennsylvania, and for the protection and preservation of property connected therewith," and repealing inconsistent acts.

Section 1 of
article 1, act of
June 9, 1911
(P. L. 756),
amended.

Section 1. Be it enacted, &c., That section one of article one of the act, approved the ninth day of June, one thousand nine hundred and eleven (Pamphlet Laws, seven hundred fifty-six), entitled "An act to provide for the health and safety of persons employed in and about the bituminous coal-mines of Pennsylvania, and for the protection and preservation of property connected therewith," is hereby amended to read as follows:

Definitions.

Section 1. Be it enacted, &c., That for the purposes of this act the terms and definitions contained therein shall be as follows:

Mine.—In this act the term "mine" includes the shafts, slopes, drifts, or incline planes connected with excavations penetrating coal stratum or strata, which excavations are ventilated by one general air current, or divisions thereof, and connected by one general system of mine railroads over which coal may be delivered to one or more points outside the mine, when such is operated by one operator.

Excavations and Workings. — The term "excavations and workings" includes all the excavated portions of a mine, those abandoned as well as the places actually being worked; also all underground workings and shafts, tunnels, and other ways and openings, and all such shafts, slopes, tunnels, and other openings in the course