

Section 3.1. Before the exchange of the tracts of land or conveyance of the easements hereinbefore described is consummated, an appraisal of all tracts, including easements to be conveyed, shall be made by three (3) appraisers. One shall be selected by the Department of Property and Supplies, the second shall be selected by the Pennsylvania Turnpike Commission, and these two shall select the third appraiser. The three appraisers so selected shall be licensed real estate brokers, and shall receive three hundred fifty dollars (\$350), each, as compensation for their services, including expenses, said services to be equally borne by the Department of Property and Supplies and the Pennsylvania Turnpike Commission.

The appraisers shall, within two weeks of their appointment, meet and shall, collectively, determine the market value of each tract of land, easement or other interest therein involved, or parts thereof, as determined by the Commonwealth and the Pennsylvania Turnpike Commission as of the first day of June, 1952. The decision of two of the three appraisers shall bind the third appraiser, and shall be made in detailed form with a signed copy delivered to the Secretary of Property and Supplies, the Chairman of the Pennsylvania Turnpike Commission and the Attorney General. If, as a result of the exchange contemplated by this act, either party would obtain land, easements or interest therein of greater value than the other party as determined by the appraisers, the former party shall compensate the latter party in money for any such difference in value.

APPROVED—The 2nd day of September A. D. 1961.

DAVID L. LAWRENCE

No. 528

AN ACT

Amending the act of June 27, 1947 (P. L. 1095), entitled, as amended, "An act providing for the regulation of mining of anthracite coal by the open pit or strip mining method and for the conservation and improvement of lands affected directly or indirectly by such mining; requiring operators to register, pay a license fee and secure a permit to engage in strip mining and file a bond conditioned for compliance with this act; requiring backfilling of stripping pits and leveling and planting lands affected to prevent erosion and the pollution of waters and to protect public health, safety and welfare; conferring powers and imposing duties upon the Department of Mines; providing for appeals, and imposing penalties, and making appropriations," further regulating anthracite strip mining operations, changing provisions with respect to bonds,

backfilling restoration permits, and registration, including certain persons within the provisions of the act, and imposing penalties.

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

Anthracite Strip Mining Law.

Section 1. The title, act of June 27, 1947 (P. L. 1095), known as the "Anthracite Strip Mining Law," amended August 19, 1953 (P. L. 1112), is amended to read:

Title, act of June 27, 1947, P. L. 1095, amended August 19, 1953, P. L. 1112, further amended.

AN ACT

Providing for the regulation of mining of anthracite coal by the open pit or strip mining method and for the conservation and improvement of lands affected directly or indirectly by such mining; requiring operators to register, pay a license fee and secure a permit to engage in strip mining and file a bond conditioned for compliance with this act; requiring backfilling of stripping pits and leveling and planting lands affected to prevent erosion and the pollution of waters and to protect public health, safety and welfare; conferring powers and imposing duties upon the Department of Mines and Mineral Industries; providing for appeals, and imposing penalties, and making appropriations.

New title.

Section 2. Sections 3 and 5 of the act, amended April 4, 1956 (P. L. 1398), are amended to read:

Sections 3 and 5 of the act, amended April 4, 1956, P. L. 1398, further amended. Definitions.

Section 3. Definitions.—The following words and phrases, unless a different meaning is plainly required by the context, shall have the following meanings:

"Anthracite."—The hard coal mined in the northeasterly part of the Commonwealth of Pennsylvania commonly known as the Anthracite Region.

"Strip Mining."—The mining or recovery of coal by removing the material which overlies the coal bed in its natural or previously mined condition.

"Stripping pit."—Any trench, cut, hole or pit formed by the removal of the surface or coal as a result of strip mining.

"Operation."—One or more stripping pits located on the property embraced within the boundaries of a mine inspection district as outlined by the Pennsylvania Department of Mines and Mineral Industries: Provided, That in all cases where a single stripping pit extends across a mine inspection district line such pit will not be considered as two operations because of being located in two mine inspection districts.

"Operator."—A person, partnership, association or corporation engaged in strip mining of anthracite coal

as a principal, or who is or becomes the owner of the coal recovered as the result of such strip mining.

“Spoil banks.”—The material of whatever nature removed and deposited on the surface that the underlying coal may be recovered.

“Department.”—The Department of Mines and Mineral Industries of the Commonwealth of Pennsylvania.

“Abandoned.”—An operation where no coal has been produced or overburden removed for a period of one (1) year, verified by monthly reports submitted to the department by the operator and by inspections made by mine inspectors, unless an operator within thirty (30) days after receipt of notification by the secretary terminating an operation abandoned submits sufficient evidence to the secretary that the operation is in fact not abandoned.

“Degree.”—When used in this act, shall mean from the horizontal and in each case shall be subject to a tolerance of five (5) degrees.

“Landowner.”—The person, partnership, association or corporation, private, municipal or otherwise, in which the legal title to the land is vested.

“Overburden.”—The material or strata overlying a seam or seams of anthracite coal in its natural state.

“Area of land affected.”—The area of land from which the overburden is removed.

“Deep mining.”—Such mining as is presently carried on by means of slope, tunnel, drift or shaft without the removal of the overburden.

Section 5. Any permit issued by the department as required by this act shall remain in force and effect for a period of one (1) year from its date, and shall permit the operator to engage in as many operations in each mine inspection district as he may wish during such period of one (1) year and shall remain in force during such period of one (1) year: Provided, That the operator shall faithfully perform all of the requirements of this act. In the event of a violation of the requirements of this act by the operator it shall be the duty of the Secretary of Mines and Mineral Industries to cancel and withdraw such permit.

Section 6 of the act, amended May 18, 1949, P. L. 1471, further amended. Bond.

Section 3. Section 6 of the act, amended May 18, 1949 (P. L. 1471), is amended to read:

Section 6. The operator shall file with the Department of Mines and Mineral Industries a bond on a form to be prescribed and furnished by the department payable to the Commonwealth and conditioned that the operator shall faithfully perform all the requirements of this act.

The bond shall be in the amount of [three hundred dollars (\$300)] *five hundred dollars (\$500)* per acre based upon the number of acres of land which the operator estimates will be the area of land affected by strip mining during one (1) year immediately following the date of the permit issued by the department: Provided, That no bond shall be for an amount less than [three thousand dollars (\$3000)] *five thousand dollars (\$5000)*. Liability under the bond shall be for the duration of strip mining at each operation and for a period of five years thereafter, unless released prior thereto, in the manner hereinafter provided by this act.

Such bond shall be signed by the operator and a corporate surety licensed to do business in the Commonwealth: Provided, however, That in lieu of a surety bond the operator may file a collateral bond secured by cash in the form of a certified or cashier's check or United States Government securities. The cash deposited *or the par value of such United States Government securities shall be equal to the amount of the required bond and shall be held upon the same terms and conditions.

Cash bond.

The Secretary of Mines *and Mineral Industries* shall, upon receipt of any such deposit of cash or securities, immediately deposit the same with the State Treasurer, whose duty it shall be to receive and hold the same in the name of the Commonwealth for the purpose for which such deposit is made. The State Treasurer shall at all times be responsible for the safe-keeping of such deposits.

Cash bonds deposited with State Treasurer.

Any operator making such deposit shall be entitled to receive from the State Treasurer, on written order of the Secretary of Mines *and Mineral Industries*, the whole or any portion of any securities so deposited, upon depositing with the department, in lieu thereof, a surety bond or other United States Government securities of a par value at least equal to the sum required for a bond as aforesaid.

Transfer of securities.

The operator shall also be entitled, upon request, to receive from the State Treasurer the interest or income from said securities deposited as aforesaid as the same become due and payable: Provided, however, That where securities deposited, as aforesaid, mature or are called, the State Treasurer, at the request of the operator, shall convert such securities into other acceptable securities designated by the operator.

Collection of interest and conversion.

Section 4. Section 7 of the act is amended to read:

Section 7 of the act amended.

Section 7. Upon application by the operator, the permit may be renewed from year to year so as to cover the number of acres embraced in the original permit which have not been stripped, and an additional permit may

Renewal of permits.

* "on" in original.

be issued at any time to the operator to cover acres which are not included in a previous permit and which the operator estimates will be the area of land affected during the following year. No license fee shall be charged for a renewal permit and the fee for an additional permit shall be calculated at the rate of twenty-five dollars (\$25) per acre for the number of acres which the operator estimates will be the area of land affected during the following year. All such moneys received by the department shall be deposited in a special fund with the State Treasurer and shall be expended by the Department of Mines and Mineral Industries in payment of the cost of administering the provisions of this act. Each application for a permit shall be accompanied by a bond as herein provided.

Sections 8 and 9 of the act, amended May 18, 1949, P. L. 1471, further amended.

Annual report and new bond.

Section 5. Sections 8 and 9 of the act, amended May 18, 1949 (P. L. 1471), are amended to read:

Section 8. Within thirty (30) days after the close of the year for which the permit was issued, and likewise after the close of each subsequent year, the operator, if he continues to engage in strip mining, shall file with the Department of Mines and Mineral Industries a new bond covering such new acres as he may estimate will be affected during the following year. The bond shall be at the rate of [three hundred dollars (\$300)] *five hundred dollars (\$500)* per acre. The bond shall not be less than [three thousand dollars (\$3000)] *five thousand dollars (\$5000)* and shall be accompanied by an annual report, upon a form furnished by the [Department] *department*, setting forth the number of acres of land affected during the preceding year and the number of acres of land that will be affected during the ensuing year at each operation: Provided, however, That any portion of a bond covering an operation which may remain unencumbered at the end of an operational year may be applied to acres of land which the operator anticipates will be affected during the following year.

Additional bond or release on investigation of report.

Section 9. Upon receipt of such annual report, the Secretary of Mines and Mineral Industries shall make an investigation of the operation and shall charge the area of land actually affected by strip mining during the year for which said report is filed against the bond or deposit filed by the operator at the rate of [three hundred dollars (\$300)] *five hundred dollars (\$500)* per acre of the area of land affected, but in no case shall the bond or deposit retained by the Secretary of Mines and Mineral Industries be less than [three thousand dollars (\$3000)] *five thousand dollars (\$5000)*. Should the area of land actually affected exceed the estimate made by the operator at the time of the application for the

permit, the operator shall file an additional bond at the rate of [three hundred dollars (\$300)] *five hundred dollars (\$500)* per acre of the area of land affected over and above his estimate: Provided, That an additional bond need not be filed where the number of acres of land actually affected multiplied by [three hundred dollars (\$300)] *five hundred dollars (\$500)* does not exceed the sum of [three thousand dollars (\$3000)] *five thousand dollars (\$5000)*. If the work contemplated by the permit and bond be not completed, but the area of land actually affected by strip mining during the year is less than the estimate, the [Secretary] *secretary* shall issue a release of the excess of the bond or deposit upon which liability has not been charged, as aforesaid: Provided, That in no case shall any bond or deposit be released or reduced to an amount less than [three thousand dollars (\$3000)] *five thousand dollars (\$5000)*.

Section 6. Section 10 of the act is repealed.

Section 10 of act repealed.

Section 7. Section 11 of the act, amended April 4, 1956 (P. L. 1398), is amended to read:

Section 11 of act, amended April 4, 1956, P. L. 1398, further amended. Backfill required.

Section 11. The application for a permit shall be accompanied by a map showing the location of any public highway, dwelling house or stream of water on or adjacent to the area of land affected. The operator shall backfill the operation made by the strip mining operation to a distance of [fifteen (15)] *seventy-five (75)* feet beyond the boundary line of the right of way of any public highway and to a distance of [two hundred (200)] *two hundred twenty-five (225)* feet from any occupied dwelling house, public building, school, church, commercial or institutional building. The backfilling shall be done in such a manner as to insure lateral support of a public highway and to provide a slope having an angle not exceeding forty (40) degrees. The Department of Mines and Mineral Industries may specify the time within which it shall be completed in order to protect the public safety.

The permit shall also specify the distance to which the bottom of the spoil banks made by the strip mining operation may approach any stream of water having a well defined channel. Such distances shall be fixed by the department at such number of feet as in the judgment of the department, after consultation with the Water and Power Resources Board, taking into consideration the character of the overburden, is necessary to protect the channel of the stream.

Distance of spoil banks from streams of water.

Nothing contained in this section shall be construed to prohibit the relocation of any public road, in the manner provided by law, or * the change of the course

Change of location of public road or channel of stream.

* "in" in original.

or channel of any stream, in the manner provided by law, upon permit issued by the Water and Power Resources Board.

Distances and depths from roads, buildings, etc., to be backfilled.

The operator shall be required within one (1) year after a strip mine operation is abandoned to backfill all stripping pits which are not more than seventy-five (75) feet in depth and within seven hundred (700) feet of the right-of-way of any public highway or within seven hundred (700) feet of any dwelling unit, public building, school, church, commercial or institutional building on an angle of forty-five (45) degrees from the top of the highwall to the bottom of the stripping pit. In all stripping pits which are more than seven hundred (700) feet from the right-of-way of any public highway or more than seven hundred (700) feet beyond any dwelling unit, school, church, commercial or institutional building, the operator shall be required to cover the exposed surface of the coal seams to a depth of five (5) feet.

Section 14 of the act, amended July 2, 1953, P. L. 338 and August 19, 1953, P. L. 1112, further amended.

Leveling and planting lands.

Section 8. Section 14 of the act, amended July 2, 1953 (P. L. 338) and August 19, 1953 (P. L. 1112), is amended to read:

Section 14. In all cases in which the Secretary of Mines and Mineral Industries shall find as a fact that the planting of such areas is reasonable, practicable and likely to succeed, the peaks and ridges of such spoil banks shall be leveled and rounded off to such an extent as will permit the planting of trees, grasses, or shrubs. Within one (1) year after the strip mining operation on the premises is terminated, the operator shall plant trees, shrubs or grasses upon the surface of the spoil banks and the surface of backfills. Any operator, however, may at his option pay to the Department of Mines and Mineral Industries the sum of sixty dollars (\$60.00) per acre for each acre of such surface of spoil banks and backfillings, and thereby shall be released from any duty to plant as herein provided. The moneys so paid from time to time shall be placed in a special fund in the hands of the Treasury Department of the Commonwealth and shall be used by the Department of Mines and Mineral Industries to pay the cost of planting such trees, grasses or shrubs, and the supervision of such work and all other expenses necessary for or connected with such planting, and are hereby appropriated to the Department of Mines and Mineral Industries for such purposes. Any moneys remaining unused after such planting may be used for planting any other lands affected by strip mining of anthracite coal. All planting, required by this act to be done by the operator, shall be done *subject to the supervision and approval of the Secretary of Mines

* "subject" in original.

and *Mineral Industries*. If, upon inspection, the Secretary of Mines and *Mineral Industries* does not approve the planting, he shall notify the operator in writing setting forth the objections and after a hearing shall order the planting to be completed in accordance with his final decision [by either the operator or by the Department of Forests and Waters].

Section 9. Section 15 of the act, amended April 4, 1956 (P. L. 1398), is amended to read:

Section 15 of the act, amended April 4, 1956, P. L. 1398, further amended.

Section 15. Within six (6) months after the backfilling and other acts required by this act have been completed, the operator shall file with the Department of Mines and *Mineral Industries* a completion report on a form to be prescribed and furnished by the secretary, identifying the operation and stating the area of land affected by open pit mining and such other information as may be required by the secretary before releasing the bond of the operator.

Reports filed 6 months after backfilling.

The operator shall attach to the completion report a map of the operation, certified by a registered professional engineer, showing the boundary lines of the tract or tracts, tidal elevations of the surface top of the coal seam and the bottom of the strip mine pit, the access to the operation from the nearest public highway, the area of land affected by open pit mining, the locations preserved for deep mining and the proposed plans in connection therewith.

Certified map of operation to be attached.

Section 10. Section 16 of the act, amended July 2, 1953 (P. L. 338) and August 19, 1953 (P. L. 1112), is amended to read:

Section 16 of the act, amended July 2, 1953, P. L. 338 and August 19, 1953, P. L. 1112, further amended.

Section 16. If and when the Secretary of Mines and *Mineral Industries* shall find that the operator has completed the backfilling and other acts as required by this act, [he shall issue a release of the bond or of the cash and securities deposited] and a report is filed by the inspector *certifying that it has been done in the manner prescribed by this act, the Secretary of Mines and *Mineral Industries* shall issue a release of the bond or of the cash and securities deposited at the rate of four hundred forty dollars (\$440) per acre in proportion to the area backfilled and leveled. The remaining sixty dollars (\$60) per acre shall be retained until such time as the planting is completed and certified to by the forester as being done in a workmanlike manner at which time the remaining sixty dollars (\$60) per acre shall be released. Upon the presentation of such release, the State Treasurer shall immediately return to the operator the amount of cash or securities specified in its release.

Release of bond or cash.

* "certified" in original.

Sections 17 and 18 of the act amended.

Forfeiture of bond for non-compliance.

Section 11. Sections 17 and 18 of the act are amended to read:

Section 17. If the operator fails or refuses to comply with the requirements of the act as to any area for which liability has been provided in the bond, the Secretary of Mines and Mineral Industries* shall declare such portion of the bond forfeited, and shall certify the same to the Department of Justice, which department shall proceed to sue out and collect the amount of liability forfeited thereon; and where the operator has deposited cash or securities in lieu of bond, the Secretary of Mines and Mineral Industries shall declare such portion of the deposit forfeited and shall direct the State Treasurer to pay said moneys into a special fund for the use of the department, or to proceed to sell said securities to the extent forfeited and pay the proceeds thereof into the said special fund. Such moneys or securities so forfeited and collected shall be used by the Secretary of Mines and Mineral Industries to pay the cost of backfilling and other acts required by this act, and the cost of planting as required by section 14 of this act [and any balance not used for these purposes shall be returned to the operator].

Backfilling and planting deferred for deep mining.

Section 18. In the event that an operator or owner desires to conduct deep mining upon the premises affected by strip mining, the said operator or owner may make this fact known to the secretary with the request that the backfilling of pits and the planting, as may be necessary to permit deep mining, be deferred during the period of such deep mining. In such case the secretary may defer the backfilling and planting. *The deep mining shall be started within six (6) months after the recovery of coal by strip mining is completed.* If such request is made by the owner, he shall secure by bond the backfilling of such pit and the planting after the deep mining operation has been completed; if the request is made by the operator, the bond filed under section 6 of this act shall stand as security for such backfilling and planting.

Section 19 of the act, amended July 2, 1953, P. L. 338 and August 19, 1953, P. L. 1112, further amended.

Hearing and appeals.

Section 12. Section 19 of the act, amended July 2, 1953 (P. L. 338) and August 19, 1953 (P. L. 1112), is amended to read:

Section 19. The right of the operator, or of any other person whose property may be adversely affected, to a hearing before the making of any final order or adjudication by the Secretary of Mines and Mineral Industries and to appeal therefrom shall exist in accordance with the procedure prescribed in the Administrative Agency Law of June 4, 1945 (Pamphlet Laws 1388), and the Rules of Civil Procedure promulgated by the Supreme

* "tries" in original.

Court of this Commonwealth. Such rights to a hearing and to appeal shall also be enjoyed by the duly authorized officials of the political subdivision or subdivisions in which the authorized operation is located.

Section 13. Sections 20 and 21 of the act are amended to read:

Sections 20 and 21 of the act, amended.

Section 20. The use of explosives for the purpose of blasting in connection with strip mining in the neighborhood of any public highway, stream of water, dwelling house, public building, school, church, commercial or institutional building or pipe line shall be done in accordance with regulations [prescribed] *promulgated* by and under the supervision of the Department of Mines and *Mineral Industries*.

Use of explosives.

Section 21. Any operator who proceeds to mine coal, commonly known as "anthracite," by the strip mining method without having registered and having received a permit, as herein provided, shall be guilty of a misdemeanor, and upon conviction, shall be sentenced to pay a fine of *not less than five hundred dollars (\$500.00) and not exceeding five thousand dollars (\$5,000.00) or undergo imprisonment not exceeding three (3) months, or both*. The fine shall be payable to the Commonwealth.

Violation and penalty.

Section 14. This act shall take effect January 1, 1962, or ninety days after final enactment, whichever is later.

Effective date.

APPROVED—The 2nd day of September, A. D. 1961.

DAVID L. LAWRENCE

No. 529

AN ACT

Amending the act of March 10, 1949 (P. L. 30), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," further providing for the expenses of members of boards of school directors attending certain meetings and for the expenses of certain employes incurred in the furthering of the educational program of the school district.

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

Public School Code of 1949.

Section 1. Section 516.1, act of March 10, 1949 (P. L. 30), known as the "Public School Code of 1949," amended June 28, 1957 (P. L. 408), is amended to read:

Section 516.1, act of March 10, 1949, P. L. 30, amended June 28, 1957, P. L. 408, further amended.

Section 516.1. Expenses for Attendance at Meetings of Educational or Financial Advantage to District.—