

1 **MINE SAFETY AND CERTIFICATE**

2 **AMENDMENTS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Mike Dmitrich**

6 House Sponsor: Brad King

7

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions relating to the Labor Commission's authority to issue
11 certificates for coal and other hydrocarbon mining.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ adds provisions regarding mine electrician certificates;
- 15 ▶ allows the commission to issue certificates for all hydrocarbon mining, in addition
16 to coal mining; and
- 17 ▶ makes technical changes.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill provides an immediate effective date.

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **40-2-14**, as last amended by Chapter 233, Laws of Utah 2004

25 **40-2-15**, as last amended by Chapter 233, Laws of Utah 2004

26 **40-2-16**, as last amended by Chapter 59, Laws of Utah 2003



28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **40-2-14** is amended to read:

30 **40-2-14. Panel -- Composition -- Duties -- Compensation -- Commission to grant**
31 **certificates.**

32 (1) The commissioner of the Labor Commission shall appoint a panel composed of the
33 commissioner or the commissioner's designee and at least eight other members with equal
34 representation and participation from:

35 (a) coal mining management representatives; and

36 (b) hourly coal mining employee representatives.

37 (2) The panel members shall:

38 (a) have at least five years' experience in coal mining in this state;

39 (b) ~~[examine]~~ administer the certification test to those applicants referred to in Section
40 40-2-15 ~~[as to their competency and qualifications];~~

41 (c) consult with the commission about applicant qualifications specified in Section
42 40-2-15;

43 ~~[(c)]~~ (d) meet when directed by the commissioner or the commissioner's designee; and

44 ~~[(d)]~~ (e) hold office at the pleasure of the commissioner.

45 (3) Panel members who are not government employees shall receive no compensation
46 or benefits for their services, but may receive per diem and expenses incurred in the
47 performance of the member's official duties at the rates established by the Division of Finance
48 under Sections 63A-3-106 and 63A-3-107.

49 (4) (a) The ~~[commission]~~ Labor Commission shall grant ~~[certificates]~~ a certificate to
50 ~~[those persons]~~ each applicant referred to in Section 40-2-15 who ~~[pass their examinations]~~
51 passes the certification test administered by the panel and meets the qualifications specified in
52 Section 40-2-15.

53 (b) The Labor Commission may grant a certificate to an applicant involved in gilsonite
54 or other hydrocarbon mining as provided by rule.

55 (c) The Labor Commission shall enact rules governing the certification procedure, test,
56 and qualifications for applicants involved in gilsonite or other hydrocarbon mining.

57 Section 2. Section **40-2-15** is amended to read:

58 **40-2-15. Certification requirements -- Fees -- Recertification.**

59 (1) The Labor Commission shall collect a fee for ~~[the following]:~~

60 (a) certification tests; or

61 (b) sections of the ~~[examination]~~ test that must be retaken~~[; or].~~

62 ~~[(c) recertification certificates.]~~

63 (2) The Labor Commission shall ~~[determine]~~ establish fees ~~[in this section under]~~ by
64 following the procedures and requirements of Section 63-38-3.2.

65 (3) ~~[Any]~~ An applicant who fails any section of the certification test may ~~[be retaken if~~
66 not successfully completed] retake that section of the test.

67 ~~[(4) Experience and education required to obtain a certificate for the corresponding~~
68 occupations are as follows:]

69 ~~[(a) A]~~ (4) (a) An applicant who wishes to obtain a mine foreman certificate ~~[requires]~~
70 shall have at least four years varied underground coal mining experience, of which:

71 (i) two years' experience may be credited to a mining engineering graduate of an
72 approved four-year college; or

73 (ii) one year's experience may be credited to a graduate of a two-year course in mining
74 technology.

75 (b) (i) ~~[A]~~ An applicant who wishes to obtain a surface foreman certificate ~~[requires]~~
76 shall have at least three years of varied surface experience.

77 (ii) ~~[An applicant may receive-]~~ The Labor Commission may grant a surface foreman
78 certificate applicant credit for surface experience in any other industry that has substantially
79 equivalent surface facilities.

80 (c) ~~[A]~~ An applicant who wishes to obtain a fire boss certificate ~~[requires]~~ shall have at
81 least two years of underground coal mining experience, of which:

82 (i) one year's experience may be credited to a mining engineering graduate of an
83 approved four-year college; or

84 (ii) six months' experience may be credited to a graduate of a two-year course in
85 mining technology.

86 ~~[(5) A certified person who leaves the mining industry for a period of five years must~~
87 be recertified.]

88 (d) An applicant who wishes to obtain an underground mine electrician certificate shall
89 have at least one year of varied electrical experience as specified in 30 C.F.R. Sec. 75.153.

90 (e) An applicant who wishes to obtain a surface mine electrician certificate shall have
 91 at least one year of varied surface electrical experience as specified in 30 C.F.R. Sec. 77.103.

92 (5) A certificate issued under Sections 40-2-14 and 40-2-15 shall expire if the
 93 certificate holder ceases to work in the mining industry or a mine related industry for more than
 94 five consecutive years.

95 Section 3. Section **40-2-16** is amended to read:

96 **40-2-16. Necessity of certificate -- Temporary certificates -- Surface foreman**
 97 **certificate -- Fee -- Employment of uncertified persons prohibited.**

98 (1) A person may not work in any occupation referred to in Section 40-2-15 unless
 99 granted a certificate [~~of competency~~] by the Labor Commission.

100 (2) (a) (i) The Labor Commission may issue [~~upon a showing of competency,~~] a
 101 temporary mine foreman certificate or a temporary surface foreman certificate to an applicant
 102 who is:

103 (A) recommended by a mine; and

104 (B) interviewed and found competent by two panel members.

105 (ii) A certificate issued under Subsection (2)(a)(i) shall remain in effect until [the
 106 earlier of]:

107 (A) the next scheduled certification [~~examination or~~] test;

108 (B) retest [~~examination~~]; or [until]

109 (C) terminated by the Labor Commission.

110 (b) (i) The Labor Commission may issue a surface foreman certificate to a current
 111 holder of an underground mine foreman certificate, if the applicant has three years of varied
 112 surface mining experience.

113 (ii) [~~At~~] A surface foreman certificate applicant may receive credit for surface
 114 experience in any other industry that has substantially equivalent surface facilities, if [~~he~~] the
 115 applicant has performed or is presently performing the duties normally required of a surface
 116 foreman.

117 (3) (a) The Labor Commission shall collect a fee [~~determined under Section 63-38-3.2~~]
 118 for each temporary certificate.

119 (b) The Labor Commission shall establish the fee by following the procedures and
 120 requirements of Section 63-38-3.2.

121 (4) (a) An owner, operator, contractor, lessee, or agent may not employ a worker in any
122 occupation referred to in Section 40-2-15 who is uncertified.

123 (b) The certificate shall be on file and available for inspection to interested persons in
124 the office of the mine.

125 Section 4. **Effective date.**

126 If approved by two-thirds of all the members elected to each house, this bill takes effect
127 upon approval by the governor, or the day following the constitutional time limit of Utah
128 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
129 the date of veto override.

Legislative Review Note
as of 11-9-05 9:31 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0040

Mine Safety and Certificate Amendments

17-Jan-06

2:49 PM

State Impact

This bill can be implemented within existing budgets.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst