

CHAPTER 89

NATURAL RESOURCES

HOUSE BILL 06-1204

BY REPRESENTATIVE(S) McKinley, Gallegos, Hodge, Berens, Borodkin, Carroll M., Curry, Frangas, Hoppe, McFadyen, Merrifield, Paccione, Ragsdale, and Stafford;
also SENATOR(S) Taylor, Entz, and Evans.

AN ACT

CONCERNING THE REGULATION OF PERSONS WORKING IN COAL MINES, AND, IN CONNECTION THEREWITH, CONTINUING THE COAL MINE BOARD OF EXAMINERS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 34-22-102 (1) (c), Colorado Revised Statutes, is amended, and the said 34-22-102 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

34-22-102. Board of examiners - created - duties - members. (1) There is hereby created a coal mine board of examiners, which shall have the following duties:

(c) ~~To revoke those certificates~~ TAKE DISCIPLINARY ACTION AGAINST THE HOLDER OF A CERTIFICATE OF COMPETENCY FOR VIOLATION OF ANY PROVISION OF THIS ARTICLE, ~~where revocation~~ SUCH DISCIPLINE is deemed proper based upon sufficient investigation and in accordance with ~~the provisions of~~ this article. DISCIPLINARY ACTION MAY INCLUDE, WITHOUT LIMITATION:

(I) DENYING THE ISSUANCE OR RENEWAL OF, SUSPENDING FOR A SPECIFIED PERIOD, OR REVOKING A CERTIFICATE;

(II) ISSUING A LETTER OF ADMONITION TO, OR PLACING ON PROBATION, THE HOLDER OF A CERTIFICATE; OR

(III) IMPOSING OTHER CONDITIONS OR LIMITATIONS UPON A CERTIFICATE OR THE HOLDER THEREOF.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(f) TO ISSUE CEASE-AND-DESIST ORDERS.

SECTION 2. 34-22-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

34-22-102. Board of examiners - created - duties - members. (1.5) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN INSTANCE OF CONDUCT THAT DOES NOT WARRANT FORMAL ACTION BY THE BOARD AND, IN THE OPINION OF THE BOARD, THE COMPLAINT SHOULD BE DISMISSED, BUT THE BOARD HAS NOTICED INDICATIONS OF POSSIBLE ERRANT CONDUCT BY THE HOLDER OF A CERTIFICATE OF COMPETENCY THAT COULD LEAD TO SERIOUS CONSEQUENCES IF NOT CORRECTED, A CONFIDENTIAL LETTER OF CONCERN MAY BE ISSUED AND SENT TO THE HOLDER OF A CERTIFICATE OF COMPETENCY.

SECTION 3. 34-22-113, Colorado Revised Statutes, is amended to read:

34-22-113. Board of examiners - repeal - review of functions. Unless continued by the general assembly, this article is repealed, effective ~~July 1, 2006~~ JULY 1, 2020, and the coal mine board of examiners is abolished. The provisions of section 24-34-104 (5) to (12), C.R.S., concerning a wind-up period, an analysis and evaluation, public hearings, and claims by or against an agency shall apply to the powers, duties, and functions of the board specified in this article.

SECTION 4. Repeal. 24-34-104 (37) (a), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (37) The following agencies, functions, or both, shall terminate on July 1, 2006:

(a) ~~The regulation of persons working in coal mines by the department of natural resources through the coal mine board of examiners in accordance with article 22 of title 34, C.R.S.;~~

SECTION 5. 24-34-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (51) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL TERMINATE ON JULY 1, 2020: THE REGULATION OF PERSONS WORKING IN COAL MINES BY THE DEPARTMENT OF NATURAL RESOURCES THROUGH THE COAL MINE BOARD OF EXAMINERS IN ACCORDANCE WITH ARTICLE 22 OF TITLE 34, C.R.S.

SECTION 6. 34-22-107 (1), (2), (3), (4), and (7), Colorado Revised Statutes, are amended to read:

34-22-107. Disciplinary action - procedures - grounds. (1) In any case in which consideration is given to ~~revocation~~ TAKING DISCIPLINARY ACTION AGAINST THE HOLDER of a certificate of competency issued pursuant to this article, such proceedings shall be conducted in accordance with the provisions of sections

24-4-104 and 24-4-105, C.R.S., and no certificate shall be revoked except according to the criteria stated in this article.

(2) A proceeding for the ~~revocation~~ TAKING OF DISCIPLINARY ACTION AGAINST THE HOLDER of a certificate of competency may be commenced by the office of active and inactive mines upon its own motion for good cause shown or by the filing with the office of active and inactive mines of a written complaint, signed and ~~sworn~~ ATTESTED to by the complainant, stating the name of the certificate holder against whom the complaint is made, the grounds on which the complaint is made, and a description of the facts and circumstances ~~which~~ THAT gave rise to the complaint. The office of active and inactive mines shall have the authority to investigate any complaint to establish good cause prior to the initiation of ~~revocation procedures~~ DISCIPLINARY PROCEEDINGS.

(3) No ~~revocation or suspension of a certificate~~ DISCIPLINARY ACTION shall be lawful unless the office of active and inactive mines has first given the certificate holder notice, in writing, of the facts or conduct that may warrant such action, afforded the certificate holder an opportunity to submit written data, views, and arguments with respect to such facts or conduct and, except in cases of reckless actions or conduct that demonstrates a serious disregard for health and safety, given the certificate holder a reasonable opportunity to comply with all lawful requirements.

(4) ~~Where the office of active and inactive mines has reasonable grounds to believe and finds that the certificate holder has been guilty of deliberate and willful violation of applicable mining law or where it is imperatively necessary for safety in the mines, the director may temporarily suspend a certificate pursuant to subsection (1) of this section. Written notice of such action, together with the reasons therefor, shall be promptly given to the certificate holder and to the operator of any coal mine at which the certificate holder is employed.~~

(7) A written decision by the board made pursuant to ~~the provisions of~~ section 24-4-105, C.R.S., which includes findings of fact and conclusions of law, shall be delivered to the certificate holder within ten days after the conclusion of the hearing. The written decision will accompany a written notice of ~~revocation~~ DISCIPLINARY ACTION. Such notice shall be delivered TO THE CERTIFICATE HOLDER by certified mail, and the ~~certificate of competency shall be null and void from the time of its~~ DISCIPLINARY ACTION SHALL BE EFFECTIVE UPON receipt OF THE NOTICE. A copy of ~~the~~ A notice of SUSPENSION OR revocation shall be mailed to any coal mine operator who employs the person whose certification has been SUSPENDED OR revoked.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 31, 2006