

No. 355

AN ACT

SB 1229

Amending the act of May 31, 1945 (P.L.1198), entitled, as amended, "An act providing for the conservation and improvement of land affected in connection with surface mining; regulating such mining; and providing penalties," further defining certain terms and further providing for license fees and exceptions.

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

Section 1. The definitions of "minerals," "surface mining," and "operator" in section 3, section 3.1 and subsection (c) of section 4.2, act of May 31, 1945 (P.L.1198), known as the "Surface Mining Conservation and Reclamation Act," amended November 30, 1971 (P.L.554), are amended to read:

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

"Minerals" shall mean any aggregate or mass of mineral matter, whether or not coherent, which is extracted by surface mining, and shall include but not be limited to limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite, clay, and anthracite and bituminous coal.

"Surface mining" shall mean the extraction of minerals from the earth or from waste or stock piles or from pits or banks by removing the strata or material which overlies or is above or between them or otherwise exposing and retrieving them from the surface, including but not limited to strip, drift, and auger mining, dredging, quarrying, and leaching, and activities related thereto, but not including those mining operations carried out beneath the surface by means of shafts, tunnels, or other underground mine openings. "Surface mining" shall not include (i) the extraction of minerals (other than anthracite and bituminous coal) by a landowner for his own non-commercial use from land owned or leased by him; nor (ii) **the extraction of such non-coal minerals for commercial purposes in an amount less than five hundred (500) tons per acre of aggregate or mass of mineral matter in any given year; nor (iii)** the extraction of sand, gravel, rock, stone, earth or fill from borrow pits for highway construction purposes, so long as such work is performed under a bond, contract and specifications which substantially provide for and require reclamation of the area affected in the manner provided by this act; nor **[(iv)] (iii)** to the handling, processing or storage of slag on the premises of a manufacturer as a part of the manufacturing process.

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"Operator" shall mean a person, firm, corporation or partnership

engaged in surface mining, as a principal as distinguished from an agent or independent contractor, and, who is or becomes the owner of the minerals as a result of such mining. *Where more than one person, firm, corporation or partnership is engaged in surface mining activities in a single operation, they shall be deemed jointly and severally responsible for compliance with the provisions of this act.*

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Section 3.1. (a) After January 1, 1972, it shall be unlawful for any person to proceed to mine coal or to conduct an active operation to mine other minerals, by the surface mining method as an operator within this Commonwealth without first obtaining a license as a surface mining operator from the department. Applications for licensure as surface mining operators shall be made in writing to the department, upon forms prepared and furnished by the department, and shall contain such information as to the applicant, or when the application is made by a corporation, partnership or association as to its officers, directors and principal owners, as the department shall require. The *initial* application for licensure shall be accompanied by a fee of [five hundred dollars (\$500).] *fifty dollars (\$50) in the case of persons mining two thousand tons or less of marketable minerals, other than coal, per year and a fee of five hundred dollars (\$500) in the case of persons mining coal or more than two thousand tons of other marketable minerals per year.* It shall be the duty of all persons licensed as surface mining operators to renew such license annually, and pay for each such license renewal *the sum of fifty dollars (\$50) in the case of persons mining two thousand tons or less of marketable minerals other than coal and the sum of three hundred dollars (\$300) in the case of all other operators.* The application for renewal of a license as a surface mining operator shall be made annually on or before January 1 of the next succeeding year.

Penalty.—Any person who proceeds to mine minerals by the surface mining method as an operator without having applied for and received a license as herein provided or in violation of the terms thereof shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine of not less than five thousand dollars (\$5,000) or in an amount not less than the total profits derived by him as a result of his unlawful activities, as determined by the court, together with the estimated cost to the Commonwealth of any reclamation work which may reasonably be required in order to restore the land to its condition prior to the commencement of said unlawful activities, or undergo imprisonment not exceeding one year, or both. The fine shall be payable to the Surface Mining Conservation and Reclamation Fund.

(b) The department shall not issue any new surface mining operator's license or renew any existing surface mining operator's license to any person or operator if it finds, after investigation, that the applicant for licensure or renewal has failed and continues to fail to comply with any

of the provisions of this act, or of any of the acts repealed or amended hereby. Where the applicant is a corporation, partnership or association, the department shall not issue such license or renewal if, after investigation, it finds that any officer or director or principal owner of such corporation, partnership or association has failed and continues to fail to comply with any of the provisions of this act, or of any of the acts repealed or amended hereby, or if any such officer or director or principal owner is or has been an officer or director or principal owner of any other corporation, partnership or association, which has failed and continues to fail to comply with any of the provisions of this act, or of any of the acts repealed or amended hereby.

Section 4.2. Health and Safety.—\* \* \*

(c) From the effective date of this act, as amended hereby, no operator shall open any pit for surface mining operations (other than borrow pits for highway construction purposes) within one hundred feet of the outside line of the right-of-way of any public highway or within three hundred feet of any occupied dwelling house, unless released by the owner thereof, or any public building, school, park or community or institutional building or within one hundred feet of any cemetery, or of the bank of any stream. The secretary may[, **after notice and public hearing,**] grant operators [**exceptions**] *variances* to the distance requirements herein established where he is satisfied that special circumstances warrant such exceptions and that the interest of the public and landowners affected thereby will be adequately protected. *Prior to granting any such variances, the operator shall be required to give public notice of his application therefor in two newspapers of general circulation in the area once a week for two successive weeks. Should any person file an exception to the proposed variance within twenty days of the last publication thereof, the department shall conduct a public hearing with respect thereto.*

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Section 2. Anyone who has paid a license fee of five hundred dollars (\$500) prior to the effective date of this act and who, during 1972, mines two thousand tons or less of marketable minerals other than coal shall, upon application to the department, be paid a refund of four hundred fifty dollars (\$450).

APPROVED—The 28th day of December, A. D. 1972.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly  
No. 355.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive style with a large initial "C" and a prominent "T" at the end.

*Secretary of the Commonwealth.*