

**351.102 Certificate of competency and qualification or permit as trainee required -- Proof of drug- and alcohol-free status to be submitted -- Examinations -- Hearing -- Appeals.**

- (1) No person shall be assigned mining duties by a licensee as a laborer or supervisor unless the person holds a valid certificate of competency and qualification or a valid permit as trainee issued in accordance with this section.
- (2) The Office of Mine Safety and Licensing shall require that all applicants for certified miner and initial applicants for other mining certifications pursuant to this chapter shall submit proof that he or she is drug and alcohol free. The proof shall be submitted in accordance with KRS 351.182 and 351.183.
- (3) A permit as trainee miner shall be issued by the commissioner to any person who has submitted proof that he or she is drug and alcohol free in accordance with KRS 351.182 and 351.183, and has completed a program of education of a minimum of forty (40) hours for underground mining or twenty-four (24) hours for surface mining comprised of sixteen (16) hours of classroom training and eight (8) hours of mine specifics or who has completed a certified mine technology program and has passed an examination approved by the commissioner. An additional eight (8) hours of mine-specific training shall be administered to the trainee miner by the licensee, which training shall be documented on a form approved by the commissioner. This education and training program shall be determined and established by the board, as provided in KRS 351.106. A requirement for a permit as a trainee miner shall be one (1) hour of classroom training dedicated to alcohol and substance abuse education.
- (4) Trainee miners shall work within the sight and sound of a certified miner.
- (5) Any miner holding a certificate of competency and qualification may have one (1) person working with him and under his direction as a trainee miner. Any person certified as a mine foreman or assistant mine foreman shall have no more than five (5) persons working under his supervision or direction as trainee miners for the purpose of learning and being instructed in the duties of underground coal mining.
- (6) A certificate of competency and qualification as a miner shall be issued by the commissioner to any person who has a minimum of forty-five (45) working days' experience within a thirty-six (36) month period as a trainee miner and demonstrated competence as a miner. Any trainee miner who exceeds six (6) months in obtaining the forty-five (45) working days of experience required in this section, shall submit proof of alcohol- and drug-free status in accordance with the provisions of KRS 351.182 and 351.183.
- (7) All examinations for the certification of a miner shall be of a practical nature and shall determine the competency and qualification of the applicant to engage in the mining of coal with reasonable safety to himself and his fellow employees. The examination may be given orally, upon approval by the commissioner, if the miner is unable to read or comprehend a written examination.
- (8) Examinations shall be held in any district office during regular business hours.
- (9) If the commissioner or his authorized representative finds that an applicant is

not qualified and competent, he shall notify the applicant as soon as possible, but in no case more than thirty (30) days after the date of examination.

- (10) Any applicant aggrieved by an action of the commissioner or his authorized representative in failing or refusing to issue a certificate of qualification and competency shall, within ten (10) days of notice of the action complained of, appeal to the commissioner who shall either affirm the action or issue the certificate to the applicant.
- (11) If the applicant is aggrieved by the action of the commissioner, he may appeal to the commission which shall hold a hearing on the matter in accordance with KRS Chapter 13B.
- (12) The applicant may appeal from the final order of the commission by filing in the Franklin Circuit Court a petition for appeal in accordance with KRS Chapter 13B.

**Effective:** July 12, 2006

**History:** Amended 2006 Ky. Acts ch. 241, sec. 10, effective July 12, 2006. -- Amended 2002 Ky. Acts ch. 355, sec. 3, effective July 15, 2002. -- Amended 2001 Ky. Acts ch. 149, sec. 8, effective March 20, 2001. -- Amended 2000 Ky. Acts ch. 68, sec. 1, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 308, sec. 6, effective April 9, 1996; and ch. 318, sec. 331, effective July 15, 1996. -- Amended 1980 Ky. Acts ch. 114, sec. 100, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 301, sec. 3, effective June 17, 1978. -- Created 1976 (1st Extra. Sess.) Ky. Acts ch. 8, sec. 2.

**Legislative Research Commission Note (4/9/96).** The action taken with respect to this statute by 1996 Ky. Acts ch. 308 was to have become effective April 8, 1996, under Section 51 of that Act. The Act, however, did not become effective until April 9, 1996, when the Governor's signed copy of the Act was filed with the Secretary of State.

**Legislative Research Commission Note (7/15/96).** This section was amended by 1996 Ky. Acts chs. 308 and 318. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 308, which was last enacted by the General Assembly, prevails under KRS 446.250.

**Legislative Research Commission Note (7/14/2000).** The reference to KRS 351.105 in subsection (2) of this section has been changed to KRS 351.106 under KRS 7.136(1)(e). Treatment of the "education and training program" formerly contained in KRS 351.105 was transferred to KRS 351.106 by 1996 Ky. Acts ch. 308, secs. 7 and 8.