

352.180 Accidents, fire, explosion, entrapment in mine -- Notice, investigation, assistance, and records -- Failure to comply -- Testing post-accident -- Investigative powers of commissioner.

- (1) Whenever a serious physical injury or loss of life occurs in a mine or in the machinery connected therewith or whenever a fire, explosion, entrapment of an individual for more than thirty (30) minutes, inundation of a mine by water or gases occurs, the superintendent of the mine, or, if he is absent, the mine manager, or if he is absent, the mine foreman in charge of the mine or his designee, shall within fifteen (15) minutes of having actual knowledge of the occurrence and access to the communication system as required under KRS 352.630(3) give notice to the department and to the representative of the miner, stating the particulars of the accident. No person shall alter the scene of a mining accident in a manner that will interfere with the department's investigation of the accident, except to the extent necessary to rescue an individual or to eliminate an imminent danger.
- (2) Upon receipt of notification of an occurrence set forth in subsection (1) of this section, the mine inspector shall immediately go to the scene of the accident and make an investigation and suggestions and render the assistance as he deems necessary for the future safety of the employees, investigate the cause of the fire, explosion, or accident, make a record thereof, and forward it to the commissioner.
- (3) The record of the investigations shall be preserved with the other records of the commissioner's office. To aid in making the investigations, the commissioner or the mine inspector may compel the attendance of witnesses and administer oaths.
- (4) Failure to comply with the reporting requirements set forth in this section shall create a rebuttable presumption of an intentional order to violate mine safety laws that places miners in imminent danger of serious physical injury or death and shall be subject to revocation, suspension, or probation of the mine license and a civil monetary penalty of not less than ten thousand dollars (\$10,000) nor more than one hundred thousand dollars (\$100,000).
- (5) The Office of Mine Safety and Licensing may require testing of certified persons to determine whether the presence of intoxicants or controlled or illicit substances are a contributing factor in any mine accident in which serious physical injury or loss of life occurs or which was reported under this section. The executive director or his designee may order the testing of certified persons who:
 - (a) Were working in the immediate area of the accident; or
 - (b) In the judgment of the executive director or his designee, may reasonably have contributed to or witnessed the accident or fatality.
- (6) The post-accident testing permitted by subsection (5) of this section shall:
 - (a) Meet all guidelines set forth in KRS 351.182, 351.183, 351.184, and 351.185;
 - (b) Be paid for by the Office of Mine Safety and Licensing; and
 - (c) Be performed on samples obtained within eight (8) hours of the accident.
- (7) Toxicology screens and eleven-panel drug testing shall be performed on

victims when death occurs on mine property. The testing pursuant to this subsection may be performed on specimens of either blood, saliva, or other appropriate bodily fluids.

- (8) The commissioner or his or her authorized representative may compel the attendance of witnesses and administer oaths to investigate allegations of unsafe mining conditions or violations of mining laws even if no accident or injury has occurred.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 94, secs. 19 and 20, effective June 26, 2007. -- Amended 2006 Ky. Acts ch. 185, sec. 19, effective July 12, 2006; and ch. 241, sec. 20, effective July 12, 2006. -- Amended 1996 Ky. Acts ch. 308, sec. 33, effective April 9, 1996. -- Amended 1972 Ky. Acts ch. 303, sec. 17. -- Amended 1952 Ky. Acts ch. 162, sec. 25, effective March 5, 1952. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2739-27.

Legislative Research Commission Note (6/26/2007). This section was amended by 2007 Ky. Acts ch. 94, secs. 19 and 20, which do not appear to be in conflict and have been codified together.

Legislative Research Commission Note (7/12/2006). This section was amended by 2006 Ky. Acts chs. 185 and 241. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 185, which was last enacted by the General Assembly, prevails under KRS 446.250.

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.