

352.180 Notice of accident -- Altering accident scene -- Report of occupational injury -- Investigation, assistance, and records -- Failure to comply -- Testing post-accident -- Investigative powers of commissioner.

- (1) (a) The superintendent of a mine or, if he or she is absent, the mine manager, or, if he or she is absent, the mine foreman in charge of the mine or his or her designee, shall, within fifteen (15) minutes of having actual knowledge of the occurrence of an accident as defined in 30 C.F.R. sec. 50.2(h)(1) to (9), and having 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.
- (b) 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) An occupational injury, as defined in 30 C.F.R. sec. 50.2(e), shall be reported in writing to the department within ten (10) business days on the cabinet-approved occupational injury form.
- (3) Upon receipt of notification of an occurrence set forth in subsection (1) of this section, the mine safety specialist 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.
- (4) 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 safety specialist may compel the attendance of witnesses and administer oaths.
- (5) Failure to comply with the reporting requirements set forth in subsection (1) of 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).
- (6) The Division of Mine Safety 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 director or his or her 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 director or his designee, may reasonably have contributed to or witnessed the accident or fatality.
- (7) The post-accident testing permitted by subsection (6) 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 Division of Mine Safety; and
 - (c) Be performed on samples obtained within eight (8) hours of the accident.

- (8) 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.
- (9) 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: July 14, 2018

History: Amended 2018 Ky. Acts ch. 85, sec. 15, effective July 14, 2018. -- Amended 2015 Ky. Acts ch. 87, sec. 31, effective June 24, 2015. -- 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 (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.