

**TITLE 38  
MINING AND GAS AND OIL PRODUCTION**

**CHAPTER 38-01  
GENERAL PROVISIONS**

**38-01-01. Definitions.**

Repealed by S.L. 1979, ch. 398, § 9.

**38-01-02. Weighmen and check weighmen - Oath or affirmation - Violation of provisions governing - Prosecution.**

Repealed by S.L. 1971, ch. 347, § 20.

**38-01-03. Use of fraudulent means in weighing output of coal prohibited.**

Repealed by S.L. 1971, ch. 347, § 20.

**38-01-04. Limitation on hours of labor per day - Exceptions.**

Repealed by S.L. 1971, ch. 347, § 20.

**38-01-05. Penalty for employing minors under eighteen years of age in mining industry.**

Repealed by S.L. 1971, ch. 347, § 20.

**38-01-06. Road over mine may be acquired by condemnation proceedings.**

Repealed by S.L. 1991, ch. 386, § 2.

**38-01-07. Damages for condemnation of road over mine - Undertaking in lieu of damages - Conditions of undertaking.**

Repealed by S.L. 1991, ch. 386, § 2.

**38-01-07.1. Road may be closed for surface coal mining operations.**

A surface coal mining operator may petition the board of county commissioners to temporarily close or relocate a section line road or other road if the road interferes with the operator's conduct of surface coal mining operations. The board of county commissioners, if so petitioned, may, after notice and public hearing, temporarily close or relocate the section line road or other road, providing the road is not required due to readily accessible alternate routes of travel and the closing or relocation does not deprive adjacent landowners access to their property. If a road is closed as provided for in this section, the board of county commissioners may require that after completion of surface coal mining operations the operator restore the road to as good a condition as existed prior to the closing of the road.

**38-01-07.2. Notice required.**

Within thirty days after the board of county commissioners receives a petition to temporarily close or relocate a section line road or other road, the board shall fix a time and place for hearing, and the petitioner, at least ten days prior to the time fixed for the hearing, shall cause notice to be served personally or by mail on all surface owners of the land through which the road passes. The petitioner shall also cause notice to be published once each week for two successive weeks in a newspaper having a general circulation in the county in which the road is located, with the last publication being at least ten days prior to the time fixed for hearing.

**38-01-08. Penalties for violation of provisions of title relating to coal mines.**

Repealed by S.L. 1979, ch. 398, § 9.

**38-01-09. Owner or operator of lignite mine not to discriminate against certain persons - Penalty.**

Repealed by S.L. 1971, ch. 347, § 20.

**38-01-10. Exploration organizations - Agent - Service of process.**

Each person, firm, association, partnership, corporation, or limited liability company exploring for oil, gas, coal, or other minerals in this state shall appoint an agent who must be registered with the secretary of state for the purpose of accepting service for any nonresident representative of the person or organization.

Whenever such a person or organization fails to appoint or maintain a registered agent in this state, or whenever the registered agent cannot with reasonable diligence be found at the registered office, the secretary of state is an agent of such person or organization upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand must be made by delivering to and leaving with the secretary of state, or any clerk having charge of the corporation department of the office of the secretary of state, duplicate copies of such process, notice, or demand. In the event any such process, notice, or demand is served on the secretary of state, the secretary of state shall immediately cause one of the copies thereof to be forwarded by registered or certified mail, addressed to the person or organization at the person's or organization's registered office or to the nonresident representative at that person's filed address, as the case may be. Any such service on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices, and demands served upon the secretary of state under this section, and shall record therein the time of such service and the secretary of state's action with reference thereto.

Nothing in this section limits or affects the right to serve any process, notice, or demand required or permitted by law to be served in any other manner permitted by law.