

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

A Bill

SENATE BILL 300

4
5 By: Senator Whitaker
6 By: Representative Breedlove

For An Act To Be Entitled

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8
9
10 AN ACT TO REPEAL ARKANSAS CODE §§ 15-59-101 - 15-
11 59-115 CONCERNING THE DEPARTMENT OF ARKANSAS
12 STATE POLICE WEIGHING VEHICLES HAULING COAL; AND
13 FOR OTHER PURPOSES.

Subtitle

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16 TO REPEAL ARKANSAS CODE §§ 15-59-101 -
17 15-59-115.

18
19
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21
22 SECTION 1. Arkansas Code §§ 15-59-101 - 15-59-115 are repealed.

23 ~~15-59-101. Penalty.~~

24 ~~Whoever shall be found guilty of violating any provision of this act~~
25 ~~shall be deemed guilty of a misdemeanor and upon conviction shall be fined~~
26 ~~not less than twenty five dollars (\$25.00) nor more than one hundred dollars~~
27 ~~(\$100), or be imprisoned in the county jail for not less than fifteen (15)~~
28 ~~days nor more than sixty (60) days, or by both fine and imprisonment, in the~~
29 ~~discretion of the court or jury trying the case.~~

30
31 ~~15-59-102. Enforcement.~~

32 ~~(a) It shall be the duty of the Department of Arkansas State Police to~~
33 ~~cause this act to be enforced.~~

34 ~~(b)(1) It shall be the duty of all public officers charged with the~~
35 ~~duty of enforcing the criminal laws of this state to make arrests of persons~~
36 ~~violating any of the provisions of this act.~~



1 ~~(2) Members of the Department of Arkansas State Police are~~
2 ~~charged with the duty of excluding from the public highways of this state all~~
3 ~~trucks or vehicles hauling coal in violation of this act.~~

4 ~~(3) This act is not intended to repeal any existing laws against~~
5 ~~illegal use of the highways by trucks or vehicles, but it shall be cumulative~~
6 ~~of all existing laws or such other laws as may be hereafter enacted.~~

7 ~~(4) If any person at the time of his arrest shall have~~
8 ~~possession of a truck or vehicle being operated in violation of this act, the~~
9 ~~vehicle and the coal contained therein shall be seized by the arresting~~
10 ~~officer and held as evidence until released by the court, but not until after~~
11 ~~the coal has been weighed and a record made of the coal and truck, as is~~
12 ~~required by this act.~~

13
14 ~~15-59-103. Rules and regulations.~~

15 ~~(a) A representative of the Department of Arkansas State Police, a~~
16 ~~representative of the United Mine Workers of America District 21, and a~~
17 ~~representative of the Arkansas-Oklahoma Coal Operators Association, to be~~
18 ~~named by the respective associations shall make and promulgate reasonable~~
19 ~~rules and regulations for carrying this act into effect.~~

20 ~~(b) A copy of the rules and regulations shall be kept on file in the~~
21 ~~office of the Department of Arkansas State Police.~~

22 ~~(c) They shall designate the location of scales and name official coal~~
23 ~~weighers to weigh the coal, so as to afford weighing facilities at the mines,~~
24 ~~or as near the mines as may be practicable and convenient to coal producers,~~
25 ~~coal buyers, and coal sellers and to persons, firms, corporations, and~~
26 ~~associations engaged in transporting coal over the public highways, streets,~~
27 ~~and alleys.~~

28 ~~(d) They shall also make and promulgate reasonable rules and~~
29 ~~regulations for the guidance of official weighers provided for herein in~~
30 ~~weighing coal and in making and keeping records of weights, of vehicles used~~
31 ~~in the transportation of coal, and of the movement of those vehicles over and~~
32 ~~upon public highways, streets, and alleys.~~

33 ~~(e) When the rules and regulations have been made and promulgated,~~
34 ~~they shall have the binding force and effect of a law. A violation of the~~
35 ~~rules and regulations shall be deemed to be a misdemeanor and punishable as~~
36 ~~provided in this act.~~

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~~15-59-104.—Coal sold by predelivery weight.~~

~~It shall be the duty of every corporation, person, firm, or association engaged in the business of mining coal in this state to sell coal by weight and to cause the coal to be accurately weighed by an authorized weigher before delivery to any purchaser thereof or to any person whomsoever for transportation.~~

~~15-59-105.—Prohibition on transferring coal before weighing.~~

~~(a) It shall be unlawful for any person, firm, corporation, or association to transport coal in trucks or other vehicles from a mine over the public highways, streets, or alleys in the State of Arkansas before the coal has been weighed by an official coal weigher as provided in this chapter, except, in cases where the coal is being moved from a mine to the nearest official weigher or where the coal is being transported from a mine to a railroad car to be loaded thereon and weighed and shipped in due course of business.~~

~~(b) Any person operating scales that have been tested and sealed as provided by the general law shall be, upon demand, authorized as a weigher under the provisions of this act and be permitted to charge sums for this service as agreed to between the weigher and the transporter of coal.~~

~~15-59-106.—Official weighers.~~

~~(a) All official coal weighers shall be appointed by the Department of Arkansas State Police, and they shall hold office until their services as weighers are terminated by the Department of Arkansas State Police.~~

~~(b)(1) Each official weigher, before entering upon the discharge of his duties, shall take and subscribe to an oath or affirmation to the effect that:~~

- ~~(A) He is a citizen of the State of Arkansas;~~
- ~~(B) He resides in County, the county in which he proposes to act as official weigher;~~
- ~~(C) He is a qualified elector of the state;~~
- ~~(D) He will honestly and correctly weigh all coal brought to him to be weighed; and~~
- ~~(E) He will faithfully discharge his duties as official~~

1 ~~weigher and truly and correctly record and certify to such weights.~~

2 ~~(2) The oath or affirmation may be administered by the state~~
 3 ~~mine inspector or by any officer authorized by law to administer oaths in~~
 4 ~~this state.~~

5 ~~(c)(1) The official weigher shall also make and execute a bond to the~~
 6 ~~State of Arkansas, for the use and benefit of all persons who may suffer~~
 7 ~~damage on account of the neglect of duty of the official weigher.~~

8 ~~(2) The bond shall be in the penal sum of one thousand dollars~~
 9 ~~(\$1,000) with good and sufficient surety thereon, to be approved by the~~
 10 ~~Department of Arkansas State Police.~~

11 ~~(3) Any person, firm, corporation, or association suffering~~
 12 ~~damage by reason of any neglect of official duty by the official weigher~~
 13 ~~shall have a right of action against him and the sureties on his bond.~~

14 ~~(4) The Department of Arkansas State Police may, in its~~
 15 ~~discretion, accept as sureties on the bond any bonding company authorized to~~
 16 ~~do business in this state, or individuals.~~

17 ~~(5) The bond, when approved, shall be filed in the office of the~~
 18 ~~county clerk of the county in which the official weigher resides, and it~~
 19 ~~shall be recorded and kept on file as other official bonds are now kept.~~

20 ~~(6) A certified copy of the bond shall be sufficient for all~~
 21 ~~purposes whatsoever.~~

22
 23 ~~15-59-107. Fees for weighing coal.~~

24 ~~(a) The official coal weigher shall charge, demand, and receive for~~
 25 ~~his services in weighing and certifying to the weights of coal as provided in~~
 26 ~~this chapter, the sum of not more than twenty cents (20¢) per ton of two~~
 27 ~~thousand pounds (2,000 lbs.) thereof weighed by him to be fixed by the rules~~
 28 ~~provided for in § 15-59-103.~~

29 ~~(b) He shall receive twenty cents (20¢) for each load of coal weighed~~
 30 ~~by him where the coal weighed is less than one (1) ton of two thousand pounds~~
 31 ~~(2,000 lbs.).~~

32 ~~(c) Fees shall be paid by the person having the coal weighed and at~~
 33 ~~the time the coal is weighed.~~

34 ~~(d) The coal weigher shall receive no other fees or remuneration for~~
 35 ~~his services in weighing the coal or certifying to the weights as provided in~~
 36 ~~this chapter or for performing the duties required of him under this act, or~~

1 ~~as may be provided for under the rules and regulations.~~

2
3 ~~15-59-108. Certificates—Issuance and contents.~~

4 ~~(a) The official coal weigher shall weigh accurately all coal brought~~
5 ~~to him to be weighed and shall truthfully certify to the correct weights~~
6 ~~thereof on the forms prescribed in the rules made and promulgated pursuant to~~
7 ~~§ 15-59-103.~~

8 ~~(b) Certificates shall show:~~

9 ~~(1) The date the coal was weighed, the name and address of the~~
10 ~~seller, and the name of the mine from which the coal was removed;~~

11 ~~(2) The name and address of the buyer and the destination of the~~
12 ~~coal;~~

13 ~~(3) The name and address of the person in charge of the truck or~~
14 ~~other vehicle in which the coal is being transported; and~~

15 ~~(4) The gross weight of the load, the tare of the truck or~~
16 ~~vehicle containing the coal, and the net weight of the coal in the load.~~

17 ~~(c) The certificate shall also state:~~

18 ~~(1) The motor number of the vehicle containing the coal;~~

19 ~~(2) The license number of the truck or vehicle, if any;~~

20 ~~(3) The name of the state issuing the license; and~~

21 ~~(4) Other information as required under the rules and~~
22 ~~regulations provided for in § 15-59-103.~~

23
24 ~~15-59-109. Certificates—Form, number, and delivery.~~

25 ~~(a) The certificate provided for in this chapter shall be made out by~~
26 ~~the official weigher with a pen and ink or other indelible substance, so that~~
27 ~~there will be one (1) original and four (4) impression copies, each of which~~
28 ~~shall be legible.~~

29 ~~(b) At the time of weighing each load of coal, the official weigher~~
30 ~~shall deliver to the person in charge of the truck or vehicle containing the~~
31 ~~coal so weighed two (2) true copies of the certificate. One (1) of these~~
32 ~~copies shall be retained by the person in charge of the truck or vehicle and~~
33 ~~kept in his actual possession and upon his person at all times while he is~~
34 ~~operating the truck or vehicle. If he shall retire from the truck or vehicle~~
35 ~~before making delivery of the certificate to the person to whom the load of~~
36 ~~coal is to be delivered, he shall deliver the copy over to his successor who~~

1 shall retain it in like manner until he makes delivery of the coal as
2 aforesaid. The certificate shall be delivered over in immediate succession to
3 any and all persons operating the truck or vehicle until the coal is
4 delivered to its final destination. No person shall operate the truck or
5 vehicle except the one having the certificate in his possession and upon his
6 person. The other copy shall be delivered by the driver of the truck to the
7 person to whom the coal is finally delivered.

8
9 ~~15-59-110. Record of certificate data.~~

10 ~~(a) The official weigher shall, at the time of weighing each load of~~
11 ~~coal enter in a well bound book the matters and things required by this~~
12 ~~chapter to be given in the certificate of the weigher.~~

13 ~~(b) The forms in the book shall be prescribed in the rules and~~
14 ~~regulations provided for in § 15-59-103.~~

15 ~~(c) The things recorded in the book shall agree with the matters and~~
16 ~~things set forth in the certificate.~~

17 ~~(d) The official weigher shall retain the book in his possession~~
18 ~~subject to the inspection of the Department of Arkansas State Police and any~~
19 ~~citizen of the state, or any interested party, until his term of office shall~~
20 ~~expire. At that time, he shall deliver the book over to the Department of~~
21 ~~Arkansas State Police, where it shall be kept as a part of the official~~
22 ~~records of the Department of Arkansas State Police.~~

23
24 ~~15-59-111. Weighman and checkweighman—Employer's account book.~~

25 ~~(a) Before entering upon his duties, the weighman employed at any mine~~
26 ~~shall take and subscribe an oath, or affirmation, before some proper officer,~~
27 ~~to do justice between employer and employee, and to weigh the output from the~~
28 ~~mine honestly and correctly.~~

29 ~~(b) The miners engaged in working any mine shall have the privilege,~~
30 ~~if they so desire, of selecting, by a majority vote, and employing at their~~
31 ~~own expense, a checkweighman, who shall in like manner take an oath, who~~
32 ~~shall have like rights, powers, and privileges in attending and seeing that~~
33 ~~coal is correctly weighed and who shall be subject to the same penalties as~~
34 ~~the regular weighman. Each weighman shall keep account of all coal weighed at~~
35 ~~the mines in a well bound book kept for that purpose. The oath or affirmation~~
36 ~~shall be kept posted in a conspicuous place in the weight office.~~

1 ~~(c) Every owner, agent, or operator of any coal mine in this state~~
2 ~~shall keep a correct account of the output of coal at his mine in a well-~~
3 ~~bound book kept for that purpose, therein showing the amount of coal mined in~~
4 ~~each day, in each month and in each year. The account shall be kept in the~~
5 ~~general office in this state of the owner, agent, or operator, subject at all~~
6 ~~times to the inspection of the State Mine Inspector, and, if the mine is~~
7 ~~leased, subject also to the inspection of the owner of the mine, his agent,~~
8 ~~or attorney.~~

9
10 ~~15-59-112. Scales and measures.~~

11 ~~(a) It shall be the duty of every corporation, company, or person~~
12 ~~engaged in the business of mining and selling coal by weight to procure and~~
13 ~~constantly keep on hand at the proper place the necessary scales and whatever~~
14 ~~else may be necessary to correctly weigh the coal mined by the corporation,~~
15 ~~company, or person.~~

16 ~~(b) It shall be the duty of the State Mine Inspector to visit each~~
17 ~~coal mine operated therein. Where the scales are kept, at least once in each~~
18 ~~year, he shall test the correctness of the scales.~~

19 ~~(c) The owner or operator of each coal mine, or any two (2) or more of~~
20 ~~the miners working therein, may, in writing, require his attendance at the~~
21 ~~place where scales are kept at other times in order to test the correctness~~
22 ~~thereof. It shall be his duty to comply with the request as soon as he can~~
23 ~~after receiving the request.~~

24 ~~(d) Any corporation or person violating any of the provisions of this~~
25 ~~section shall be deemed guilty of a misdemeanor and upon conviction shall,~~
26 ~~for each offense, be fined not less than twenty five dollars (\$25.00) and not~~
27 ~~more than five hundred dollars (\$500); and the officers, agents, or employees~~
28 ~~of the corporation or company whose duty it was to do or perform the act, or~~
29 ~~to cause it to be done and performed, which is the subject of the indictment,~~
30 ~~may be indicted jointly with the corporation or company and upon conviction~~
31 ~~be fined in any sum not less than twenty five dollars (\$25.00) nor more than~~
32 ~~five hundred dollars (\$500).~~

33
34 ~~15-59-113. Testing weights.~~

35 ~~Every agent, owner, lessee, or operator engaged in mining coal in any~~
36 ~~quantity shall furnish and keep on hand for the use of the State Mine~~

1 ~~Inspector, for inspecting, testing, and examining scales, five hundred pounds~~
 2 ~~(500 lbs.) of United States standard testing weights.~~

3
 4 ~~15-59-114.—Screening coal.~~

5 ~~(a) It shall be unlawful for any mine owner, lessee, or operator of~~
 6 ~~coal mines in this state, employing miners at bushel or ton rates, or other~~
 7 ~~quantity, to pass the output of coal mined by the miners over any screen or~~
 8 ~~any other device which shall take any part from the value thereof before the~~
 9 ~~coal shall have been weighed and duly credited to the employee sending the~~
 10 ~~coal to the surface. It shall be accounted for at the legal rate of weights~~
 11 ~~as fixed by the laws of Arkansas. No employee within the meaning of this~~
 12 ~~section shall be deemed to have waived any right accruing to him under this~~
 13 ~~section by any contract he may make contrary to the provisions thereof. Any~~
 14 ~~provision, contract, or agreement between the mine owners, lessees, or~~
 15 ~~operators thereof and the miners employed therein, whereby the provisions of~~
 16 ~~this section are waived, modified, or annulled, shall be void and of no~~
 17 ~~effect, and the coal sent to the surface shall be accepted or rejected. If~~
 18 ~~accepted, the coal shall be weighed in accordance with the provisions of this~~
 19 ~~section, and right of action shall not be invalidated by reason of any~~
 20 ~~contract or agreement.~~

21 ~~(1) Provided, that in Cane Creek, River, and Logan Townships in~~
 22 ~~Logan County, and all of Johnson County, except Grant Township, all coal~~
 23 ~~mined and paid for by weight may be paid for on the mine run basis or upon~~
 24 ~~the screen coal basis, which shall be a matter of agreement between the~~
 25 ~~operators and the miners.~~

26 ~~(2) Provided, further, that if any coal shall be mined on the~~
 27 ~~screen coal basis, it shall pass over the following kind of screen:~~

28 ~~(A) The screen shall not be more than four feet (4') wide~~
 29 ~~and not more than twelve feet (12') long, made of steel or iron bars, which~~
 30 ~~shall not be less than five eighths inch (5/8'') in thickness on the face and~~
 31 ~~not less than five sixteenths inch (5/16'') in thickness on the bottom and~~
 32 ~~not less than one and one quarter inch (1¼'') in width and shall be in no~~
 33 ~~ease more than one and one quarter inch (1¼'') apart.~~

34 ~~(B) The screen shall be supported by rests or cross bars.~~

35 ~~(C) The rests or cross bars shall in no event be placed~~
 36 ~~more than three feet (3') apart.~~

1 ~~(D) The screen bars shall be placed upon rests in such a~~
2 ~~manner as to prevent spreading and the rests or cross bars shall be firmly~~
3 ~~fastened to each side of the chute through which the coal passes.~~

4 ~~(E) Rests or cross bars shall be so arranged as in no case~~
5 ~~to rise above the top of the screen bars in such a manner as to retard the~~
6 ~~speed of the coal in passing over the screen.~~

7 ~~(F) Where coal is screened before it is weighed it shall~~
8 ~~be dumped upon flat sheets and passed over the screen as described above and~~
9 ~~there shall be no obstruction on the screens.~~

10 ~~(b) Any owner, agent, lessee, or operator of any coal mine in this~~
11 ~~state where ten (10) or more men are employed underground, who shall~~
12 ~~knowingly violate any of the provisions of this section, shall be deemed~~
13 ~~guilty of a misdemeanor and upon conviction shall be punished by a fine of~~
14 ~~not less than two hundred dollars (\$200) nor more than five hundred dollars~~
15 ~~(\$500) for each offense or by imprisonment in the county jail for a period of~~
16 ~~not less than sixty (60) days nor more than six (6) months, or both such fine~~
17 ~~and imprisonment. Each day any mine or mines are operated thereafter shall be~~
18 ~~a separate and distinct offense. Proceedings are to be instituted in any~~
19 ~~court having competent jurisdiction.~~

20
21 ~~15-59-115. Annual report of coal mined.~~

22 ~~(a) Every owner, agent, lessee, or operator operating a coal mine in~~
23 ~~this state, shall annually, on July 1 of each year, make a report, under~~
24 ~~oath, upon blank forms to be furnished by the State Mine Inspector, of the~~
25 ~~true amount of coal mined each month for the twelve (12) months next~~
26 ~~preceding the making of the report. The blank forms shall be prepared by the~~
27 ~~Arkansas State Police and contain the necessary headings and columns to~~
28 ~~obtain a correct and true statement of all coal of every kind mined.~~

29 ~~(b) This section shall apply to all mines without regard to the number~~
30 ~~of men employed.~~

31 ~~(c) Any owner, agent, lessee, or operator who fails or refuses to~~
32 ~~file, swear to, and return the reports by July 1 of each year shall be deemed~~
33 ~~guilty of a misdemeanor. On conviction, he shall be fined not less than~~
34 ~~twenty five dollars (\$25.00) nor more than one hundred dollars (\$100) for~~
35 ~~each day of failure. Any agent, owner, lessee, or operator who knowingly~~
36 ~~swears to a false report shall be deemed guilty of perjury and punished~~

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