



February 23, 2024

Honorable Representatives of Kentucky,

On behalf of Kentucky Resources Council (KRC) and Appalachian Citizens Law Center (ACLC), we are writing to ask you to vote “no” to HB85 and the adopted committee substitute. KRC is a non-profit and nonpartisan group of lawyers, policy experts, and advocates working for environmental quality, justice, and health across the Commonwealth. ACLC is a nonprofit law firm fighting for justice in the coalfields, representing coal miners and their families on issues of black lung and mine safety. We submit these concerns on behalf of our organizations, and our members and clients who may be impacted by this law.

HB 85 (Rep. Wesley) would amend KRS 351.127 to reduce the number of emergency medical or mine emergency technicians required to be on shift from two to one, if the number of employees on the shift is 10 or less. Reducing the required medical personnel compromises the ability to ensure swift and effective emergency medical care in the event of accidents or health crises.

Currently, Ky. Rev. Stat. § 351.127 requires certified emergency medical technicians or mine emergency technicians to be employed at every licensed coal mine whose employees are actively engaged in the extraction, production, or preparation of coal. At least two (2) emergency medical or mine emergency technicians must be employed on every shift engaged in the production of coal, and at least one (1) emergency medical or mine emergency technician shall be employed on every nonproduction shift. For underground mines, at least one (1) of the two (2) emergency or mine emergency technicians must be underground at all times while miners are working in the mines.

The Kentucky Legislature enacted this law in 2007, following a terrible accident wherein David "Bud" Morris died on Dec. 30, 2005, after he was hit by an underground coal car, cutting his left leg off 17 inches above the heel and crushing his right knee. An investigation found that Mr. Morris bled to death because he did not receive proper medical care at the mine. The one emergency technician on site (who reportedly became sick) “stood by, rendering no aid” to Morris, who “was bleeding to death, his legs nearly severed below the knees,” as reported by The Courier-Journal at the time.

The mine-safety laws enacted in 2006 and 2007 were accomplishments to prevent such a tragedy from happening again. The additional compensation MET's receive doesn't appear to present an excessive burden of cost. Having two METs on site provides a safety net if the first MET is injured or incapable of performing their duties for whatever

reason. This is true whether there are ten miners working or more than ten. There is no sufficient reason for this important mining safety procedure to be changed, especially when there is so little to gain and mine lives and safety at stake.

This bill passed favorably out of committee with a substitute. The committee substitute to HB85 amends KRS 351.010 to define “emergency medical technician” and “mine emergency technician” and amends KRS 351.127 to require METs to be employed in a different manner. For example, Section 2 (2)(a) would not only permit just 1 MET on shift but adjust the responsibility of that MET from 10 miners proposed in the original bill to 15. This adjustment exacerbates our concern for miner safety.

We appreciate that the proposed substitute includes an additional MET per every 50 miners on shifts that already have 51 miners. However, the substitute retains the original language of the statute which requires just 1 MET underground while in operation, instead of changing it to require a second MET underground to appropriately reflect the burden of serving shifts this large.

Although we don't support the underlying premise of the bill, we believe that at the very least, gatekeeping language should be included to prevent mines with multiple reportable accidents or with one serious or fatal accident, from benefiting from this legislation until they are accident free for at least one year. This type of language would prevent mines with unsafe conditions from compromising worker safety for the sake of continuous operation. Please note that the Division of Mine Safety's Annual Report demonstrates that in 2022 there were 2 fatalities and 202 reportable accidents from underground and surface mining activities combined.

Given that more protective language has yet to be added to the bill, we ask you to vote “no” to HB85/HCS.

Sincerely,



Audrey Ernstberger, Esq.
Staff Attorney
Kentucky Resources Council
audrey@kyrc.org

Courtney Rhoades Mullins
Black Lung Organizer
Appalachian Citizens' Law Center
courtney@aclc.org