

Senate Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 89

SENATE BILL 1438

AN ACT

AMENDING SECTION 27-129, ARIZONA REVISED STATUTES; REPEALING SECTION 27-130, ARIZONA REVISED STATUTES; AMENDING SECTION 27-318, ARIZONA REVISED STATUTES; RELATING TO THE STATE MINE INSPECTOR.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 27-129, Arizona Revised Statutes, is amended to
3 read:

4 27-129. Locating abandoned mines; public education

5 A. Subject to legislative appropriation, the state mine inspector
6 shall establish a program to locate, inventory, classify and eliminate public
7 safety hazards at abandoned mines as defined in section 27-301. The state
8 mine inspector shall spend state appropriated monies to locate, inventory,
9 classify and eliminate public safety hazards at abandoned mines on state land
10 first and thereafter any public safety hazards at abandoned mines on land not
11 owned by this state.

12 B. Using reasonable efforts, the state mine inspector shall attempt to
13 notify in writing the owner, or other responsible party, of an abandoned mine
14 at which a public safety hazard exists of the requirements of section 27-318
15 with respect to abandoned mines.

16 C. The state mine inspector may establish public education programs to
17 recognize and avoid public safety hazards at abandoned mine sites.

18 D. To accomplish the purposes of this section, the state mine
19 inspector may accept monies for deposit in the state general fund received
20 from any source, including restricted or unrestricted federal funds, gifts
21 and contributions from other governmental agencies, individuals, corporations
22 or other organizations. The state shall separately account for monies that
23 are received pursuant to this subsection and that are deposited in the state
24 general fund.

25 E. The state mine inspector may enter into intergovernmental
26 agreements with Indian tribes in the state to extend the abandoned mine
27 program onto tribal lands.

28 F. THE STATE MINE INSPECTOR MAY ACCEPT IN-KIND DONATIONS OF MATERIAL,
29 EQUIPMENT OR SERVICES TO ELIMINATE PUBLIC SAFETY HAZARDS AT AN ABANDONED MINE
30 FROM ANY PERSON, PUBLIC ENTITY OR OTHER LEGAL ENTITY.

31 G. A PERSON, PUBLIC ENTITY OR OTHER LEGAL ENTITY WHO MAKES DONATIONS
32 PURSUANT TO THIS SECTION OR SECTION 27-131 SHALL NOT BE LIABLE FOR DAMAGES IN
33 ANY CIVIL ACTION FOR ANY INJURY OR DEATH RELATED TO THE ELIMINATION OF PUBLIC
34 SAFETY HAZARDS AT AN ABANDONED MINE UNLESS THE INJURY OR DEATH IS A DIRECT
35 RESULT OF THE INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE OF THE DONOR.

36 Sec. 2. Repeal

37 Section 27-130, Arizona Revised Statutes, is repealed.

38 Sec. 3. Section 27-318, Arizona Revised Statutes, is amended to read:

39 27-318. Abandoned and inactive mines to be secured; inspector
40 authority; violation; classification

41 A. Every mine operator or former mine operator or claimant who owns a
42 mine or mining claim or possesses a mine or mining claim under lease,
43 contract, permit or otherwise, who knowingly permits the existence on the
44 premises of an abandoned or inactive mining shaft, portal, pit or other
45 excavation which is dangerous to persons legally on the premises, who fails

1 to cover, fence, fill or otherwise secure it and post warning signs, within
2 sixty days of notification by the inspector and who fails to keep it so
3 protected is guilty of a class 2 misdemeanor. If it is impossible or
4 impracticable to comply with this subsection within the required sixty days,
5 the operator may submit a written plan of action to the inspector which
6 specifically outlines the measures that will be taken and the number of
7 additional days necessary to comply with this section. In no case may the
8 time extension granted by the inspector exceed an additional one hundred
9 eighty days.

10 B. The inspector may enter on such land to inspect for dangerous
11 conditions which may present a health and safety hazard to the public. If
12 hazards exist, the inspector may erect warning signs across or near the
13 entrance of any mine shaft, portal, pit or other mine opening prohibiting the
14 entry of unauthorized persons or erect other protective devices as necessary.

15 C. If the mine operator cannot be located through reasonable efforts,
16 the owner of record is the responsible party for the purposes of this
17 section. If neither the mine operator or owner of record can be located
18 through reasonable efforts, the inspector shall erect warning signs across or
19 near the entrance of any mine shaft, portal, pit or other mine opening
20 prohibiting entry of unauthorized persons or erect other protective devices
21 as necessary.

22 D. A person who knowingly and without authority removes, destroys or
23 tampers with any warning sign, covering, fencing or other protection placed
24 on, around or over any shaft, portal or other excavation is guilty of a class
25 6 felony.

26 E. ANY REASONABLE AND NECESSARY COST INCURRED BY THE STATE MINE
27 INSPECTOR PURSUANT TO THIS SECTION MAY BE RECOVERED IN A CIVIL ACTION BROUGHT
28 BY THE ATTORNEY GENERAL AGAINST ANY RESPONSIBLE PARTY.

29 F. INERT MATERIAL, AS DEFINED IN SECTION 49-701, INCLUDING CONCRETE,
30 ASPHALTIC PAVEMENT, BRICK, ROCK, GRAVEL, SAND, SOIL AND METAL IF USED AS
31 REINFORCEMENT IN CONCRETE AND GLASS MAY BE USED AS FILL MATERIAL FOR THE
32 CLOSURE OF ABANDONED MINES WITH FINAL COVER CONSISTING OF EARTHEN MATERIAL
33 THAT IS AT LEAST TEN FEET DEEP.

APPROVED BY THE GOVERNOR APRIL 28, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 28, 2008.

Passed the House April 21, 20 08,

by the following vote: 60 Ayes,

0 Nays, 0 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate March 18, 20 08,

by the following vote: 24 Ayes,

6 Nays, 0 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
22nd day of April, 2008,

at 2:15 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 28 day of

April, 20 08,

at 10¹⁵ o'clock A. M.

[Signature]
Governor of Arizona

S.B. 1438

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 28 day of April, 2008,

at 1:35 o'clock P. M.

[Signature]
Secretary of State