

**Coal Mine Foreman, Definition of. Examinations for Coal Mine Foreman, When Required.**

The owner of a mine, or a prospector, working but one or two men upon his property is not a mine foreman within the provisions of Chapter 60, Laws of 1909, and is not required to have a certificate to work such mine, nor is he entitled to such a certificate.

Helena, Montana, June 28, 1909.

Mr. James Pearson,  
Stockett, Montana.

Dear Sir:

I am in receipt of your letter of recent date in which you request, as a member of the board of examiners for applicants for positions in coal mines, a construction of the law relating to the examination of mine foremen, etc., for coal mines, the particular statement of facts you present being as follows:

Does such law apply to coal operators who are working small local mines in this district. For instance, a man who owns a small mine and only employs one or two men. Under the new law is entitled to a foreman's certificate without undergoing an examination. It seems to be the general opinion in this district, that such a person should not be granted a certificate for past services. It also seems to be the opinion that a man who owns a small mine and does not employ more than one or two men, should not require a certificate of any kind, to operate his mine according to law.

In our opinion the law does not apply to the owner of a mine working one or two men only. Section 5 of chapter 68, laws of 1909 makes the only provision granting such a certificate to a mine foreman without taking examination. The owner of a mine cannot be held to be a mine foreman.

"The word 'foreman' is generally understood to mean a laborer with power to superintend the labor of those working with him."

Baldwin v. St. Louis, 25 N. W. (Iowa) 25;

Pervost v. Citizens Ice & Refrigerator Co., 40 Atlantic (Pa.) 88.

From the above construction of the law, as given by courts of other

states, it follows that the owner of a mine working one or two men is not a foreman, and therefore would not be entitled to such certificate.

In our opinion the law was not intended to apply to a prospector or person owning a small mine in which he worked but one or two men, and that in such case the owner of such mine would not be required to have a certificate such as is provided for in said law.

That such is the policy of the law is shown by Section 1720 relating to the regulations for metalliferous mines, which expressly excepts the provisions of such law from mines in which less than five men are employed. While no such provision is contained in the law regarding mining of coal, in our opinion it is not the intention of such law to apply to the owner of a mine who is working one or two men.

Very truly yours,

ALBERT J. GALEN,

Attorney General.