

Coal Mines, Oil Used In. Oils, Used in Coal Mines. Composition, of Oils. Mines, Oils Used In.

Mine operators and miners are given an option and authority to determine what oils substituted for the 16-84 composition named in the statute are in compliance with the law, and if

this option is exercised and conclusions reached the seller does not violate the law by selling the composition so agreed upon.

January 29, 1912.

Hon. J. B. McDermott,
Coal Mine Inspector,
Helena, Montana.

Dear Sir:

I am in receipt of statement made and conclusions reached by you relative to the result of test made in your office on October 17th, 1911, of certain oils submitted by the Continental Oil Company, the main question being whether or not the compound known as "Crystal Oil," composed of 70 per cent Summer White Cotton Seed Oil and 30 per cent Mineral oils is a compliance with the provisions of Section 94, Chapter 120, Session Laws of 1911, relative to oils used in coal mines.

Said Section 94 permits the sale for illuminating purposes of an oil composed of not less than 84 per cent pure animal or vegetable oil, and not more than 16 per cent pure mineral oil. Subdivision "a" of said Sec. 94 then concludes with this statement:

"It is provided, however, that any material that is as free from smoke and bad odor and of equal merit as an illuminant as a pure animal or vegetable oil may be used at the pleasure of mine operators and miners."

This section of the law, in effect, prohibits the sale of pure animal or pure vegetable oils, and then adopts these prohibited oils as the standard of comparison in determining what oils may be sold. The 1684 composition provided for in the first part of the section does not itself comply with the provisions of that part of the section above quoted, but the quoted part of the section does confer upon the mine operators and miners a discretionary power in determining whether or not the oil offered is a compliance with that provision of the law. If, therefore, yourself, as Mine Inspector, and the mine operators and miners reach the conclusion that the "Crystal Oil" above mentioned is within the provisions of the proviso above quoted, then the compounding and selling of such Crystal Oil for illuminating purposes in coal mines will not be a violation of said Chapter 120.

A strict, literal compliance with the provisions of the law above quoted is probably impossible, for it does not seem probable that any compound of mineral and animal or vegetable oil would be as free from smoke as a pure animal or a pure vegetable oil. The law, however, should be construed and administered so as to make it not only operative, but practical, and such seems to have been the intention of the legislature, investing in the parties who use the oil; that is, the mine operators and miners, a certain discretion in determining what composition does meet the requirements.

Very truly yours,

ALBERT J. GALEN,

Attorney General.