

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

Senate Bill 435

BY SENATORS ROBERTS AND KARNES

[Originating in the Committee on Education; reported

on March 3, 2021]

1 A BILL to amend and reenact §21-6-3, §21-6-4, §21-6-5, and §21-6-10 of the Code of West
2 Virginia, 1931, as amended, all relating to issuance of a work permit for a child 14 or 15
3 years of age; authorizing certain additional persons to issue a work permit; requiring
4 review rather than receipt of certain documents required as a condition of the issuance of
5 a work permit; providing exception to the requirement for a certificate showing that the
6 child is attending school; resolving conflict as to whether child must appear before the
7 person issuing the work permit; and requiring the printed forms for work permits be made
8 available to all authorized to issue work permits.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. CHILD LABOR.

§21-6-3. Issuance of work permit.

1 (a) A child 14 or 15 years of age may be employed or permitted to work in any gainful
2 occupation, except as provided in ~~section two of this article~~ §21-6-2 of this code, when the person,
3 firm, or corporation by whom the child is employed or permitted to work, obtains and keeps on file
4 and accessible to officers charged with the enforcement of this article, a work permit issued by
5 the Superintendent of Schools of the county in which the child resides, ~~or~~ by some person
6 authorized by him or her in writing, or by a person authorized to issue education credentials to
7 that child upon completion of the secondary education program pursuant to §18-8-12 of this code.
8 Whenever a work permit has been issued, or wherever an age certificate has been issued under
9 the provisions of ~~section five of this article~~ §21-6-5 of this code, it shall be conclusive as to the
10 age of the child on whose behalf the work permit or age certificate was issued.

11 (b) The Superintendent of Schools, ~~or~~ person authorized by him or her in writing, or other
12 person authorized to issue a work permit pursuant to subsection (a) of this section shall issue the
13 work permit only upon ~~receipt~~ review of the following documents:

14 (1) A written statement, signed by the person for whom the child expects to work, that he
15 or she intends legally to employ the child;

16 (2) A brief written description of the job the child is expected to perform;

17 (3) A birth certificate, or attested transcript thereof, issued by the registrar of vital statistics
18 or other officer charged with the duty of recording births;

19 (4) A certificate signed by the principal ~~or registrar~~ of the school attended showing that the
20 child is attending school: Provided, That the requirement for review of this certificate does not
21 apply in the case of a homeschooled student exempt from compulsory school attendance
22 pursuant to §18-8-1(c) of this code; and

23 (5) The written consent of the parent or parents, guardian, or custodian of the child.

24 (c) ~~The superintendent of schools~~ No person authorized to issue a work permit pursuant
25 to subsection (a) of this section may ~~not~~ require a physical examination to be included in the
26 application for a work permit.

27 (d) ~~The superintendent of schools~~ No person authorized to issue a work permit pursuant
28 to subsection (a) of this section is ~~not~~ required to certify that the minor personally appeared before
29 him or her prior to the issuance, modification, or rejection of a work permit.

§21-6-4. Contents of work permit; forms; filing; records; revocation.

1 (a) A work permit issued under this article shall set forth the full name and the date and
2 place of birth of the child, with the name and address of his or her parents or parent, or guardian
3 or custodian. It shall certify that the child has ~~appeared before the officer issuing the permit and~~
4 submitted for review proofs of age, school attendance except as provided in §21-6-3 of this code,
5 prospective employment, brief description of job and parental or other consent required in ~~section~~
6 three §21-6-3 of this code.

7 (b) The State Commissioner of Labor shall prepare printed forms for work permits and
8 furnish them to the superintendents of schools in the counties of the state and make them
9 available to all others authorized to issue work permits pursuant to §21-6-3 of this code by posting
10 on the Division of Labor's website or other method as determined pursuant to rule. A copy of each
11 permit issued shall be forwarded to the State Commissioner of Labor within four days after its

12 issuance. A record of all permits granted and of all applications denied as well as all certificates
13 of age, and documents evidencing school attendance, prospective employment, brief description
14 of job and parental or other consent submitted by the applicants for permits shall be kept in the
15 office of the issuing officer or other person issuing the permit.

16 (c) The State Commissioner of Labor may at any time revoke a permit if in his or her
17 judgment it was improperly issued, and for this purpose he or she is authorized to investigate the
18 true age of any child employed, to hear evidence, and to require the production of relevant books
19 and documents. If a permit is revoked, the issuing officer shall be notified of the action, and the
20 child may not thereafter be employed or permitted to labor until a new permit has been legally
21 obtained or until the child is to be outside the operation of this article.

**§21-6-5. Age certificate for employers; inquiry as to age; revocation of certificate;
supervision by State Superintendent of Schools.**

1 (a) Upon request of any employer who is desirous of employing a child who represents
2 his or her age to be ~~sixteen~~ 16 years or over, the officer or other person charged with the issuance
3 of work permits shall require of the child the proof of age specified in ~~section three of this article~~
4 §21-6-3 of this code, and, upon ~~receipt~~ review thereof, if it be found that the child is actually
5 ~~sixteen~~ 16 years of age or over, shall issue to the employer a certificate showing the age and date
6 and place of birth of the child. The age certificate, when filed in the office of the employer, must
7 be accepted by an officer charged with the enforcement of this article as evidence of the age of
8 the child in whose name it was issued.

9 (b) Any officer charged with the enforcement of this article may inquire into the true age of
10 a child apparently under the age of ~~sixteen~~ 16 years who is employed or permitted to work in any
11 gainful occupation and for whom no work permit or age certificate is on file; and if the age of the
12 child is found to be actually under ~~sixteen~~ 16 years, the employment of the child shall be
13 considered a violation of the provisions of this article.

14 (c) The State Commissioner of Labor may at any time revoke any age certificate if in his
15 or her judgment it was improperly issued, and for this purpose he or she is authorized to
16 investigate the true age of any child employed as in the case of work permits.

17 (d) The issuance of work permits and of age certificates shall be under the supervision of
18 the State Superintendent of Schools.

§21-6-10. Offenses; penalties.

1 (a) Any person who violates a provision of this article, or any parent, guardian, or custodian
2 of a child, who permits the child to work in violation of the provisions of this article, or any school
3 official or other person who illegally issues a work permit, or any person who furnishes false
4 evidence in reference to the age, birthplace, job description, consent, or educational qualifications
5 of a child under this article, shall be guilty of a misdemeanor and, upon conviction thereof, shall
6 for the first offense be fined not less than \$50 nor more than \$200.

7 (b) For the second or subsequent offense, a person convicted of violating a provision of
8 this article shall be fined not less than \$200 nor more than \$1,000, or confined in the county or
9 regional jail for not more than six months, or both fined and confined.