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OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4430

(By Delegates Douglas, Kuhn, Caputo and Tucker)



Passed March 9, 2002

In Effect Ninety Days from Passage

FILED

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DEPARTMENT OF WEST VIRGINIA
SECRETARY OF STATE

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FOR

H. B. 4430

(BY DELEGATES DOUGLAS, KUHN, CAPUTO AND TUCKER)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to repeal section six, article six, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections one, two, three, four, five, seven, eight, eight-a, nine, ten and eleven of said article, all relating to the employment of children; prohibiting employment of children in certain occupations; providing for rule-making authority; and amending the criminal penalties for violation of this article.

Be it enacted by the Legislature of West Virginia:

That section six, article six, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that sections one, two, three, four, five, seven, eight, eight-a, nine, ten and eleven of said article be amended and reenacted, all to read as follows:

ARTICLE 6. CHILD LABOR.

§21-6-1. Employment of children under fourteen.

1 Except as permitted and authorized by the provisions of this
2 article, a child under fourteen years of age shall only be
3 employed or permitted to work the following jobs:

4 (1) Agriculture and horticulture activities which have not
5 been declared hazardous by the secretary of the United States
6 department of labor;

7 (2) Domestic services within the residence of the employer;

8 (3) Work for parents or legal guardian in their solely owned
9 business, except those jobs set out in section two of this article;

10 (4) As actors or performers in motion pictures, theatrical,
11 radio or television productions; and

12 (5) Newspaper delivery.

**§21-6-2. Employment of children under eighteen in certain
occupations; determination as to other occupa-
tions; appeal to supreme court.**

1 (a) No child under eighteen years of age may be employed,
2 permitted or suffered to work in about, or in connection with
3 any of the following occupations:

4 (1) Motor vehicle driver and outside helper whose work
5 includes riding on a motor vehicle outside the cab for the
6 purpose of assisting in transporting or delivery of goods;

7 (2) The manufacture, storage, handling or transportation of
8 explosives or highly flammable substances;

9 (3) Ore reduction works, smelters, hot rolling mills,
10 furnaces, foundries, forging shops, or in any other place in
11 which the heating, melting or heat treatment of metals is carried
12 on;

13 (4) Logging and saw milling occupations;

14 (5) Power-driven woodworking machine occupations;

15 (6) Occupations involving exposure to radioactive sub-
16 stances and ionizing radiations;

17 (7) Power-driven hoisting apparatus occupations;

18 (8) Power-driven metal-forming, punching, and shearing
19 machine occupations;

20 (9) Mining, including coal mining;

21 (10) Occupations involving slaughtering, meat-packing, or
22 processing or rendering;

23 (11) Power-driven bakery machines;

24 (12) Power-driven paper-products machine occupations;

25 (13) Occupations involved in the manufacturing of brick,
26 tile, and kindred products;

27 (14) Occupations involved in the operation of power-driven
28 circular saws, band saws, and guillotine shears;

29 (15) Occupations involved in wrecking, demolition, and
30 ship-breaking operations;

31 (16) Roofing operations above ground level; and

32 (17) Excavation operations.

33 (b) No child under eighteen years of age may be employed
34 or permitted to work in a bar, or be permitted, employed or
35 suffered to sell, dispense or serve alcoholic beverages in any
36 place or establishment where the consumption of alcoholic
37 beverages is permitted by law.

38 (c) No child under eighteen years of age may be employed
39 or permitted to work in any occupation prohibited by law or
40 determined by the commissioner to be dangerous or injurious:
41 *Provided*, That a child between the ages of sixteen and eighteen
42 years who has completed the minimum training requirements
43 of the West Virginia University fire service extension
44 firefighter training section one, or its equivalent, and who has
45 the written consent of his or her parents or guardian may be
46 employed by or elected as a member of a volunteer fire
47 department to perform fire-fighting functions : *Provided*,
48 *however*, That no child may be permitted to operate any
49 fire-fighting vehicles, enter a burning building in the course of
50 his or her employment or work or enter into any area deter-
51 mined by the fire chief or fireman in charge at the scene of a
52 fire or other emergency to be an area of danger exposing the
53 child to physical harm by reason of impending collapse of a
54 building or explosion, unless the child is under the immediate
55 supervision of a fire line officer.

§21-6-3. Issuance of work permit.

1 (a) A child fourteen or fifteen years of age may be em-
2 ployed or permitted to work in any gainful occupation, except
3 as provided in section two of this article, when the person, firm
4 or corporation by whom the child is employed or permitted to
5 work, obtains and keeps on file and accessible to officers
6 charged with the enforcement of this article, a work permit
7 issued by the superintendent of schools of the county in which
8 the child resides, or by some person authorized by him or her in
9 writing. Whenever a work permit has been issued, or wherever

10 an age certificate has been issued under the provisions of
11 section five of this article, it shall be conclusive as to the age of
12 the child on whose behalf the work permit or age certificate was
13 issued.

14 (b) The superintendent of schools, or person authorized by
15 him or her in writing, shall issue the work permit only upon
16 receipt of the following documents:

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

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

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

25 (4) A certificate signed by the principal or registrar of the
26 school attended showing that the child is attending school; and

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

**§21-6-4. Contents of work permit; forms; filing; records; revoca-
tion.**

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

8 (b) The state commissioner of labor shall prepare printed
9 forms for work permits and furnish them to the superintendents
10 of schools in the counties of the state. A copy of each permit
11 issued shall be forwarded to the state commissioner of labor
12 within four days after its issuance. A record of all permits
13 granted and of all applications denied as well as all certificates
14 of age, and documents evidencing school attendance, prospec-
15 tive employment, brief description of job and parental or other
16 consent submitted by the applicants for permits shall be kept in
17 the office of the issuing officer.

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

**§21-6-5. Age certificate for employers; inquiry as to age; revoca-
tion of certificate; supervision by state superinten-
dent of schools.**

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

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

19 (c) The state commissioner of labor may at any time revoke
20 any age certificate if in his or her judgment it was improperly
21 issued, and for this purpose he or she is authorized to investi-
22 gate the true age of any child employed as in the case of work
23 permits.

24 (d) The issuance of work permits and of age certificates
25 shall be under the supervision of the state superintendent of
26 schools.

§21-6-7. Hours and days of labor by minors.

1 (a) No child under the age of sixteen who is employed or
2 permitted to work in accordance with the provisions of this
3 article shall work:

4 (1) During school hours, except as provided in work
5 experience and career exploration programs approved by the
6 United States Secretary of Labor;

7 (2) Before seven o'clock antemeridian or after seven
8 o'clock postmeridian: *Provided*, That a child under the age of
9 sixteen may work until nine o'clock postmeridian from the first
10 day of June through Labor Day;

11 (3) More than three hours per day, on days in which public
12 schools are in session;

13 (4) More than eighteen hours per week, in weeks in which
14 public schools are in session;

15 (5) More than eight hours, on days in which public schools
16 are not in session;

17 (6) More than forty hours per week, in weeks in which
18 public schools are not in session; or

19 (7) More than five hours continuously without an interval
20 of at least thirty minutes for a lunch period.

21 (b) The provisions of subsection (a) of this section do not
22 apply to children under sixteen performing the jobs set out in
23 section one of this article.

§21-6-8. Supervision permits.

1 (a) The commissioner is authorized to prescribe and issue
2 supervision permits to meet special circumstances, and to
3 prescribe the terms and conditions thereof.

4 (b) The provisions of sections two, three and seven of this
5 article do not apply to a child's employment under a supervi-
6 sion permit issued by the commissioner under this section. The
7 commissioner shall issue a supervision permit only if he or she
8 finds, after careful investigation, as follows:

9 (1) That the child, in performance of the work contem-
10 plated, will be supervised by a responsible party;

11 (2) That the employer for whom the child will be employed
12 is not subject to federal regulation regarding child labor; and

13 (3) That the issuance of the supervision permit will promote
14 the best interests of the child.

15 A supervision permit is valid only so long as the employ-
16 ment is in compliance with the terms and conditions prescribed
17 by the commissioner and contained therein.

§21-6-8a. Blanket work permits.

1 (a) Blanket work permits are authorized when twenty-five
2 or more minors are to be employed for a period of ninety days
3 or less by an employer.

4 The employer, or person authorized by him or her in
5 writing, shall forward to the commissioner of labor the follow-
6 ing information:

7 (1) A letter from the employer stating that he or she is
8 familiar with the child labor law of West Virginia and will
9 abide by the law.

10 (2) A list containing the names, birthdates, ages, and job
11 classifications of each minor.

12 (b) The minors to be covered by the blanket work permit
13 may not be employed until the employer receives the permit
14 from the commissioner of labor.

15 The commissioner of labor shall acknowledge the receipt
16 of the information with a letter which shall be retained on file
17 by the employer for the duration of the minors' employment.
18 The commissioner of labor, after making proper inquiry, may
19 issue a blanket work permit for an employer for a period not to
20 exceed ninety days.

§21-6-9. Enforcement of article.

1 It is the duty of the state commissioner of labor, and of his
2 or her authorized representatives within the division of labor, to
3 enforce the provisions of this article. To aid in enforcement, the

4 commissioner and his or her representatives are authorized to
5 enter and inspect any place or establishment covered by this
6 article, and to have access to all files and records of employers
7 the inspection of which is pertinent to the objects and purposes
8 of this article. School officials, including truancy officers, shall
9 lend to the commissioner all possible assistance toward
10 effectuating such objects and purposes.

§21-6-10. Offenses; penalties.

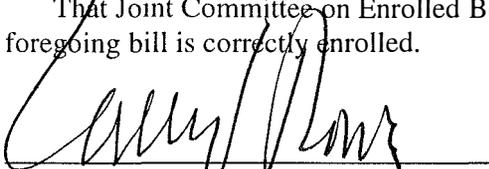
1 (a) Any person who violates a provision of this article, or
2 any parent, guardian or custodian of a child, who permits the
3 child to work in violation of the provisions of this article, or any
4 school official who illegally issues a work permit, or any person
5 who furnishes false evidence in reference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

10 (b) For the second or subsequent offense, a person con-
11 victed of violating a provision of this article shall be fined not
12 less than two hundred nor more than one thousand dollars, or
13 confined in the county or regional jail for not more than six
14 months, or both fined and imprisoned.

§21-6-11. Rules.

1 The commissioner of the division of labor may propose
2 rules for legislative approval in accordance with the provisions
3 of article three, chapter twenty-nine-a of this code, to effectuate
4 the provisions of this article. The rules may include provisions
5 prohibiting the employment of children in occupations deter-
6 mined to be dangerous or injurious.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee

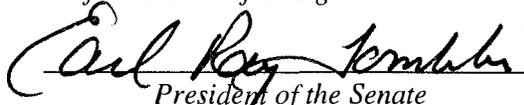

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

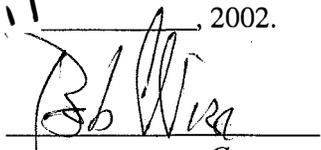

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within ~~is approved~~ this the 3rd
day of April, 2002.


Governor

DATE RECEIVED

BY

3/27/02

TIME

10:15 AM