WEST virginia legislature

2021 regular session

Enrolled

Committee Substitute

for

Senate Bill 435

By Senators Roberts and Karnes

[Passed March 26, 2021; in effect 90 days from passage]

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

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

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

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

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

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

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

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

(c) No person authorized to issue a work permit pursuant to subsection (a) of this section may require a physical examination to be included in the application for a work permit.

(d) No person authorized to issue a work permit pursuant to subsection (a) of this section is required to certify that the minor personally appeared before 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.**

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

(b) The State Commissioner of Labor shall prepare printed forms for work permits and furnish them to the superintendents of schools in the counties of the state and make them available to all others authorized to issue work permits pursuant to §21-6-3 of this code by posting on the Division of Labor’s website or other method as determined pursuant to rule. A copy of each permit issued shall be forwarded to the State Commissioner of Labor within four days after its issuance. A record of all permits granted and of all applications denied shall be kept in the office of the issuing officer or other person issuing the permit.

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

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

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

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

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

**§21-6-10. Offenses; penalties.**

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

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