

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

House Bill 5159

By Delegates Hite, Willis, Kump, Foster,

Worrell and Stephens

[Originating in the Committee on Government

Organization; Reported on February 14, 2024]

1 A BILL to repeal §21-6-3 and §21-6-4 of the Code of West Virginia, 1931, as amended; to amend
2 and reenact §21-6-5 and §21-6-8 of said code; to repeal §21-6-8a of said code; and to
3 amend and reenact §21-6-10 of said code, all relating to eliminating requirement that 14 or
4 15 year old obtain a work permit; establishing that employer seeking to hire a child 14 or
5 older receive an age certificate from the commission prior to employing the child; providing
6 commissioner the authority to issue age certificates for children ages 14 and over; and
7 providing penalties for a person that issues an age certificate in violation of the article.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. CHILD LABOR.

§21-6-3. ~~Issuance of work permit.~~ Parental consent for employment of children under 16.

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

11 (b) ~~The Superintendent of Schools, 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 review of the following documents:~~

14 (1) ~~A written statement, signed by the person for whom the child expects to work, that he or~~
15 ~~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 of the school attended showing that the child is~~
20 ~~attending school: *Provided*, That the requirement for review of this certificate does not apply in the~~
21 ~~case of a homeschooled student exempt from compulsory school attendance pursuant to §18-8-~~
22 ~~1(c) of this code; and~~

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

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

26 ~~(d) No person authorized to issue a work permit pursuant to subsection (a) of this section is~~
27 ~~required to certify that the minor personally appeared before him or her prior to the issuance,~~
28 ~~modification, or rejection of a work permit.~~

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

1 [Repealed.]

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

1 (a) Upon request of any employer who is desirous of employing a child who represents his
2 or her age to be ~~46~~ 14 years or over, the officer or other person charged with the issuance of work
3 permits shall require of the child the proof of age specified in ~~§21-6-3 of this code~~, and, upon
4 review thereof, if it be found that the child is actually ~~46~~ 14 years of age or over, shall issue to the
5 employer a certificate showing the age and date and place of birth of the child. The age certificate,
6 when filed in the office of the employer, must be accepted by an officer charged with the
7 enforcement of this article as evidence of the age of the child in whose name it was issued.

8 (b) Any officer charged with the enforcement of this article may inquire into the true age of a
9 child apparently under the age of ~~46~~ 14 years who is employed or permitted to work in any gainful
10 occupation; and for whom no work permit or age certificate is on file and if the age of the child is

11 found to be actually under ~~16~~ 14 years, the employment of the child shall be considered a violation
12 of the provisions of this article.

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

16 (d) The issuance of ~~work permits and of age certificates~~ shall be under the supervision of
17 ~~the State Superintendent of Schools~~ State Commissioner of Labor. The commissioner, person
18 authorized by him or her in writing, or other person authorized to issue an age certificate shall
19 issue the age certificate only upon review of a birth certificate, or attested transcript thereof, issued
20 by the registrar of vital statistics or other officer charged with the duty of recording births.

§21-6-8. Supervision permits.

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

3 (b) The provisions of ~~sections two, three and seven of this article~~ §21-6-2 and §21-6-7 of
4 this code do not apply to a child's employment under a supervision permit issued by the
5 commissioner under this section. The commissioner shall issue a supervision permit only if he or
6 she finds, after careful investigation, as follows:

7 (1) That the child, in performance of the work contemplated, will be supervised by a
8 responsible party;

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

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

12 A supervision permit is valid only so long as the employment is in compliance with the
13 terms and conditions prescribed by the commissioner and contained therein.

§21-6-8a. Blanket work permits.

1 [Repealed.]

§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~~ an age certificate, or any person who
4 furnishes false evidence in reference to the age, birthplace, job description, consent, or
5 educational qualifications of a child under this article, shall be guilty of a misdemeanor and, upon
6 conviction thereof, shall 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.

NOTE: The purpose of this bill is to eliminate the requirement that 14 or 15 year old obtain a work permit; establishing that employer seeking to hire a child 14 or older receive an age certificate from the commission prior to employing the child; providing commissioner the authority to issue age certificates for children ages 14 and over; and providing penalties for a person that issues an age certificate in violation of the article.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.