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**WEST VIRGINIA CODE CHAPTER 17**  
**ARTICLE 5**

WV Legislature

**§17-5-1. State convict road force; how used.**

All male persons convicted of felony and, sentenced to imprisonment or confinement in the penitentiary by any court, or who may hereafter be sentenced for a felony, whether actually sentenced to labor or not, or so many thereof as may be required by the state road commissioner, shall, as incident to such sentence or confinement, constitute the state convict road force and as such may be employed under the supervision of the state road commissioner in building, surfacing and maintaining roads under the supervision of the state road commissioner, including all roads in the state road system, and in and about any quarries, gravel pits, sandbanks, crushers, brick kilns, or other plants and places operated by the state road commission for the manufacture and acquisition of materials for use in the construction, maintenance and repair of such roads.

**§17-5-2. How convict workers selected; monthly report of suitable inmates.**

The warden of the penitentiary shall prepare for the road commissioner a monthly report which shall show the names of not less than five hundred inmates who are suitable for road work. From the said prepared list of inmates the road commissioner shall select the number needed for road work.

The warden shall deliver and the road commissioner shall receive at the penitentiary, convicts selected by the warden to work on the road.

**§17-5-3. Superior guard and assistants; hours of work of guards and prisoners; pay of prisoners.**

The state convict road force shall be guarded when working on the roads and in making road materials, and when being transported to and from the penitentiary, by guards detailed by the warden, who shall designate one guard as the superior, and the other or others as assistants. The state guard and assistants shall obey the rules prescribed for prison camps. Any guard or assistant not obeying such rules shall, on the recommendation of the superintendent or engineer in charge of the work, be immediately recalled, and some other person detailed in his stead. The wages of each guard, superior and assistant, shall be fixed by the road commissioner. All guards and prisoners shall be under the direction of the warden, or his authority, and shall work not to exceed sixty hours per week, and each prisoner shall be paid for each work day, not to exceed ten hours, the sum of 10¢ and for time in excess thereof 10¢ per hour for such excess time worked.

**§17-5-4. Housing, feeding and transportation of prisoners.**

The state board of health Should this be Secretary of the Department of Health and, warden and the state road commissioner shall promptly formulate rules and regulations governing the camps essential to the housing of the prisoners, and the state road commissioner shall provide suitable quarters, not inconsistent with such rules and regulations, for such convict road force, to be constructed, when practicable, with prison labor. He shall supply such force with all necessary food, cooking utensils, beds and bedding, and provide means of transportation for such road force and camp equipment, when necessary, from place to place, or to and from work of such convicts.

**§17-5-5. Escape of convict from state road force.**

Any penitentiary convict who shall escape from the state road force, or in going to or returning therefrom, shall be guilty of a felony and, on conviction in the county where the escape was made, shall be sentenced by the court for a term of not less than one nor more than two years in addition to the unserved time of his original sentence; and he shall be returned to the West Virginia penitentiary; and it is made the duty of all arresting officers in the state to apprehend such escaped prisoner and return him to the West Virginia penitentiary where he will be available for court arraignment in the county where the escape was made; and the costs shall be paid by the state road commissioner, and the road commissioner may offer and pay suitable rewards for his apprehension, and any guard may pursue and arrest him in any county.

**§17-5-6. Return of convicts to penitentiary because of infirmity, bad conduct, etc.; trusties.**

The state road commissioner or warden shall in all cases where convicts or prisoners are under his control and supervision have authority to return any convict or prisoner to the penitentiary who because of mental or physical infirmity is unable to work, or whose presence in the camp, due to insubordination, bad conduct or disposition may impair the discipline of the road force.

Under the supervision of the warden, or rules promulgated for the government and discipline of the state convict road force approved by him such force, or so many thereof as appear eligible and trustworthy, shall be made trusties; but reasonable corrective measures may be taken against trusties who violate their privileges as such.

**§17-5-7. Medical inspection of convict camps.**

It shall be the duty of the state road commissioner to designate some competent physician or physicians to make inspection of all camps where a convict road force is employed. It shall be the duty of such physician to make thorough investigations of the sanitary conditions of such camps each sixty days and report every inspection to the Governor, together with such recommendations as he may deem necessary; and he shall furnish copies thereof to the warden of the penitentiary, the state road commissioner, the West Virginia board of health, and the local board of health of the county in which such camp is located. A reasonable compensation to the physician rendering such services shall be paid by the commissioner.

**§17-5-8. Convicts in same classification to be placed in same camp.**

It shall be the duty of the state road commissioner, with the assistance of the warden, to organize the penitentiary convicts in the state road force, as far as practicable, into groups or classes according to the similarity of their respective dispositions, temperaments, criminal inclinations, regard for orderly observance of the rules and general habits respecting stability or safety, and, as far as practicable, to place those so classified in separate camps, and particularly to employ or use in one camp, or class of camps, those youths and first offenders whose correction, improvement and reclamation may reasonably be anticipated and whose habits are not dangerous to their fellow convicts, and for the purpose of effecting such classifications prisoners may be removed from one camp to another. All classes of prisoners on the state convict road force shall be employed and used under such safeguards and in accordance with such rules and regulations as may be provided by the road commissioner, the warden and the Governor.

**§17-5-9. Commissioner to pay expenses of convicts and cost of equipment and materials.**

The expenses incident to the transportation of convicts and prisoners, their food, clothing, medical attention and maintenance while in the state convict road force shall be paid by the state road commissioner, and all equipment, materials, tools, teams and machinery necessary in the prosecution of the work shall be provided out of any funds at his disposal available for the building, surfacing, paving and completing of the roads upon which such convicts and prisoners labor. And when a convict is discharged at camp the commissioner shall pay him any sum due him and may pay in whole or in part his expenses home.

In any case of a prisoner taken from the penitentiary to a road convict camp the state road commissioner shall pay for the per diem cost of feeding, clothing and caring for such prisoners.

**§17-5-10. Discharge of convicts at expiration of term; application of section relating to deduction from sentence for good conduct.**

The warden of the penitentiary shall have power to discharge any prisoner working on the state road force wherever he may be in the state when the term of such prisoner has expired, and section twenty-seven, article five, chapter twenty-eight shall apply to all convicts from the penitentiary on said state road force.

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**§17-5-11. Commissioner may act through agents and may set up department of prison labor.**

Where anything herein is required or permitted to be done by the state road commissioner, the same may be done in person or by superintendents, agents, or employees of the state road commissioner, upon his authority duly given, and he may set up a department of prison labor having charge of the agencies and persons under his authority as herein provided for, and account for the operations of the state convict road force therein; but in any event such accounts and operations shall be separately stated.

**§17-5-12. Work which may be performed by convicts other than on state road force.**

Convicts of either sex not employed in the state convict road force as provided by article five, chapter seventeen, may be employed by the warden under the directions of the state commissioner of public institutions in work for the state penitentiary or any farm now or hereafter under control of the state and in work for any public, nonprofit enterprise or program sponsored by the state or any of its governmental subdivisions, but such convicts actually confined within the penitentiary and not available for outside work shall as far as possible, be used in the making of articles required by the state departments and institutions. The warden may charge the various state departments and institutions for such convict-made supplies the actual costs of the materials used in the manufacture of the articles furnished them and, in addition thereto, an amount sufficient to defray the maintenance cost of the prisoners employed in such manufacture and to keep in repair with suitable replacements the machinery, tools and appliances used in the manufacture of such articles, to the extent of the fair market price thereof, the amount of which shall be stated by the state commissioner of public institutions. Any articles and supplies so manufactured and not required by the state departments and institutions may be sold by the warden to municipalities and counties and the agencies thereof, or to federal agencies, upon the same terms and conditions, but in no event shall such articles be sold to private persons, firms or corporations, or be sold or consumed otherwise than by public departments and institutions of government.

This article shall not impair any contracts now existing between the state commissioner of public institutions and any person, firm or corporation for the use of convict labor for manufacturing within the walls of the penitentiary, nor prevent the hiring of convicts either within or without the walls as otherwise provided by this article.