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**WEST VIRGINIA CODE CHAPTER 21**  
**ARTICLE 1**

WV Legislature

**§21-1-1. Creation, control and management of department.**

There shall be a state department of labor, which shall be under the control and management of a state commissioner of labor.

WV Legislature

**§21-1-2. Appointment of Commissioner of Labor; qualifications; term of office; salary.**

The state Commissioner of Labor shall be appointed by the Governor, by and with the advice and consent of the Senate. He or she shall be a competent person, who is identified with and has knowledge and experience in employee issues and interests including employee-employer relations in this state. The commissioner shall receive an annual salary as provided in section two-a, article seven, chapter six of this code.

**§21-1-3. Inspections by commissioner; duties and records of employers; commissioner may appoint assistants.**

The commissioner of labor and his or her authorized representatives shall have the power and authority in the discharge of their duties, to enter any place of employment or public institution, for the purpose of collecting facts and statistics relating to the employment of workers and of making inspections for the proper enforcement of all labor laws of the state. No employer or owner shall refuse to admit the commissioner of labor or his or her authorized representative when they so seek admission to his place of employment, public building, or place of public assembly.

The commissioner or his or her authorized representative shall, at least once each year, visit and inspect the principal factories and workshops of the state, and shall, upon complaint and request of any three or more reputable citizens, visit and inspect any place where labor is employed and make true report of the result of his or her inspection.

Every employer and owner shall furnish to the division of labor all information which the commissioner of labor or his or her representative is authorized to require, and shall make true and specific answers to all questions submitted by the division of labor, orally or in writing as required by said division. Every employer shall keep a true and accurate record of the name, address, and occupation of each person employed by him or her and of the daily and weekly hours worked by each such person, and of the wages paid each pay period to each such person. Such records shall be kept on file for at least one year after the date of the record. No employer shall make or cause to be made any false entries in any such record.

In addition to such other powers and duties as may be conferred upon the commissioner of labor by law, the commissioner of labor shall have the power, duty, jurisdiction, and authority to employ, promote, and remove deputies, inspectors, clerks, and other assistants, as needed, and to fix their compensation, with regard to existing laws applicable to the employment and compensation of officers and employees of the State of West Virginia, and to assign to them their duties; to make or cause to be made all necessary inspections, including inspections relating to enforcing the West Virginia Contractor Licensing Act, §30-42-1 *et seq.*, of this code, to see that all laws and lawful orders which the department has the duty, power, and authority to enforce, are promptly and effectively carried out.

**§21-1-4. Annual report to Governor; collection of statistical information.**

It shall be the duty of the commissioner of labor to collect, compile and present to the Governor, on or before December 1, of each year, an annual report, with statistical details relating to all departments of labor and the industrial interests of the state, especially in relation to the financial, social, educational and sanitary condition of the laboring classes, and all other statistical information that may tend to increase the prosperity of the productive industries of the state. He shall also make such suggestions as he may deem advisable as to legislation tending to promote and increase the prosperity of the industrial establishments of the state, and to protect the lives and health and promote the prosperity of the persons employed therein. All state, county, district and city officers shall furnish the commissioner of labor, upon request, all statistical information relating to labor which may be in their possession as such officers.

**§21-1-5. Continuation of division.**

Pursuant to article ten, chapter four of this code, the Division of Labor shall continue to exist until July 1, 2004, unless sooner terminated, continued or reestablished pursuant to that article.

WV Legislature

**§21-1-6. Use of criminal records as disqualification from authorization to engage in licensed profession or occupation.**

(a) The commissioner may not disqualify an applicant from initial licensure, as required in this chapter, because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the activity requiring licensure. In determining whether a criminal conviction bears a rational nexus to a profession or occupation, the commissioner shall consider at a minimum:

- (1) The nature and seriousness of the crime for which the individual was convicted;
- (2) The passage of time since the commission of the crime;
- (3) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; and
- (4) Any evidence of rehabilitation or treatment undertaken by the individual.

(b) Notwithstanding any other provision of this code to the contrary, if an applicant is disqualified from licensure because of a prior criminal conviction, the commissioner shall permit the applicant to apply for initial licensure if:

- (1) A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;
- (2) The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and
- (3) The conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the commissioner.

(c) An individual with a criminal record who has not previously applied for licensure may petition the commissioner at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. This petition shall include sufficient details about the individual's criminal record to enable the commissioner to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction. The commissioner shall provide the determination within 60 days of receiving the petition from the applicant. The commissioner may charge a fee to recoup its costs for each petition.