WEST VIRGINIA CODE CHAPTER 21 ARTICLE 5G

WV Legislature

§21-5G-1. Definitions.

As used in this article:

(1) The term “person” means any individual, proprietorship, partnership, firm, association, corporation, labor organization or any other legal entity.

(2) The term “labor organization” means any organization, agency, union or employee representation committee of any kind that exists, in whole or in part, to assist employees in negotiating with employers concerning grievances, labor disputes, wages, rates of pay or other terms or conditions of employment.

(3) The term “employer” means any person employing at least one individual in the state or any agent of an employer employing at least one individual in the state.

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§21-5G-2. Individual's right to refrain from affiliating with a labor organization.

A person may not be required, as a condition or continuation of employment, to:

(1) Become or remain a member of a labor organization;

(2) Pay any dues, fees, assessments or other similar charges, however denominated, of any kind or amount to any labor organization; or

(3) Pay any charity or third party, in lieu of those payments, any amount that is equivalent to or a pro rata portion of dues, fees, assessments or other charges required of members of a labor organization.

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§21-5G-3. Contracting for exclusion from employment because of affiliation or nonaffiliation with a labor organization.

Any agreement, contract, understanding or practice, either written or oral, implied or expressed, between any labor organization and an employer or public body which provides for the exclusion from employment of any person because of membership in, affiliation with, resignation from, or refusal to join or affiliate with any labor organization or employee organization of any kind is hereby declared to be unlawful, null and void, and of no legal effect.

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§21-5G-4. Criminal penalty.

Any person who knowingly requires another person, as a condition or continuation of employment, to perform any of the conduct enumerated in section two of this article, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500 nor more than $5,000.

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§21-5G-5. Civil relief; damages.

Any person injured as a result of any violation or threatened violation of this article shall have a cause of action, and, if proven in a court of competent jurisdiction, may be entitled to the following relief against a person or persons violating or threatening to violate this article:

(1) Compensatory damages;

(2) Costs and reasonable attorney fees, which shall be awarded if the injured person substantially prevails;

(3) Punitive damages in accordance with the provisions of section twenty-nine, article seven, chapter fifty-five of this code;

(4) Preliminary and permanent injunctive relief; and

(5) Any other appropriate equitable relief.

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§21-5G-6. Exceptions.

This article does not apply:

(1) To any employee or employer covered by the federal Railway Labor Act, 45 U. S. C. §151, et seq.;

(2) To any employee of the United States or a wholly owned corporation of the United States;

(3) To any employee who is employed on property over which the United States government has exclusive jurisdiction for purposes of labor relations; or

(4) Where the provisions of this article would otherwise conflict with, or be preempted by, federal law.

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§21-5G-7. Applicability; severability.

(a) Applicability. — This article applies to any written or oral contract or agreement entered into, modified, renewed or extended on or after July 1, 2016: Provided, That the provisions of this article do not otherwise apply to or abrogate a written or oral contract or agreement in effect on or before June 30, 2016.

(b) Severability. — If any provision of this article or the application of any such provision of this article to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of this article or the application of its provisions to persons or circumstances other than those to which it is held invalid is not affected thereby.

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