WEST VIRGINIA CODE CHAPTER 21 ARTICLE 6

WV Legislature

§21-6-1. Employment of children under fourteen.

Except as permitted and authorized by the provisions of this article, a child under fourteen years of age shall only be employed or permitted to work the following jobs: (1) Agriculture and horticulture activities which have not been declared hazardous by the secretary of the United States department of labor;

(2) Domestic services within the residence of the employer;

(3) Work for parents or legal guardian in their solely owned business, except those jobs set out in section two of this article;

(4) As actors or performers in motion pictures, theatrical, radio or television productions; and

(5) Newspaper delivery.

WV Legislature

§21-6-2. Employment of children under 16 in certain occupations; determination as to other occupations; exemptions for certain students performing roofing operations.

(a) A child 16 years of age or older may not be employed, permitted, or suffered to work in, about, or in connection with any nonagricultural category of employment prohibited by the U.S. Department of Labor for individuals in such age range, pursuant to federal law or Hazardous Occupation Order issued by the U.S. Secretary of Labor pursuant to federal law, except as subject to any and all special provisions permitting employment of such minors in such nonagricultural categories, or subject to any and all exemptions from specified Hazardous Occupation Orders for Apprentices and Student-Learners granted by the U.S. Department of Labor: *Provided*, That the following occupation(s) shall be subject to whatever applicable age restrictions and additional authorizations and prohibitions are established pursuant to federal law, the Code of West Virginia, or by legislative rule of the commissioner:

(1) Ore reduction works, smelters, hot rolling mills, furnaces, foundries, forging shops, or in any other place in which the heating, melting, or heat treatment of metals is carried on; but

(2) May work in hazardous occupations in agriculture and with hours and times in accordance with those authorized by federal law or exemptions issued by the U.S. Secretary of Labor pursuant to federal law for such agricultural occupations, unless expressly prohibited by the commissioner pursuant to §21-6-2(d) of this code.

(b) Children under the age of 16 may only be employed as specifically authorized by exceptions and special provisions issued by the U.S. Secretary of Labor pursuant to federal law, unless expressly prohibited by the commissioner pursuant to §21-6-2(d) of this code.

(c) A child under 18 years of age may not be employed or permitted to work in a bar, or be permitted, employed, or suffered to sell, dispense, or serve alcoholic beverages in any place or establishment where the consumption of alcoholic beverages is permitted by law: *Provided*, That the prohibitions of this subsection shall be subject to the exceptions allowing retail sales by employees between the inclusive ages of 16 years and 20 years when directly supervised by a person 21 years of age or older as set forth in §60-3A-25(c), §§60-7-12(a)(10)(A)-(B), §60-8-20(g), and §11-16-18(d) of this code.

(d) A child at least 16 years old but under 18 years of age may be employed or permitted to work in any occupation not otherwise prohibited by §21-6-2(a), §21-6-2(b) or §21-6-2(c) of this code, or which is expressly prohibited by West Virginia state law, or expressly determined by the commissioner by legislative rulemaking to be dangerous or injurious: *Provided*, That a child between the ages of 16 and 18 years who is enrolled in, participating in, or has completed the minimum training requirements of the West Virginia State Fire Commission, West Virginia Department of Education Public Service Training, or West Virginia University fire service extension, or equivalent approved program, and who has the written consent of his or her parents or guardian, may be employed by or elected as a

WV Legislature

member of a volunteer fire department to perform firefighting functions: *Provided*, however, That no child may be permitted to operate any fire fighting vehicles, enter a burning building in the course of his or her employment or work or enter into any area determined by the fire chief or fireman in charge at the scene of a fire or other emergency to be an area of danger exposing the child to physical harm by reason of impending collapse of a building or explosion, unless the child is under the immediate supervision of a fire line officer.

(e) Students enrolled in a Youth Apprenticeship Program pursuant to §18-2-7g of this code are authorized to work on machinery associated with any occupations not prohibited by §21-6-2(a) , §21-6-2(b), or §21-6-2(d) of this code.

(f) In compliance with U.S. Child Labor Provisions for nonagricultural occupations under the Fair Labor Standards Act, Child Labor Bulletin 101, exemptions shall be made for students 16 years of age or older performing roofing operations above ground level for the express purpose of learning how to install, wire, or repair a rooftop or other equipment provided the student is employed under the following conditions:

(1) The student is enrolled in a course of study and training in a cooperative vocational training program under a recognized state or local educational authority or in a course of study in a substantially similar program conducted by a private school;

(2) Written consent of the parent or legal guardian for the student to perform roofing operations pursuant to this subsection is submitted to both the cooperative vocational training program or private school, as applicable, and the employer; and

(3) The student is employed under a written agreement which stipulates that:

(A) The work will be intermittent and under the direct and close supervision of a qualified and experienced person;

(B) Safety instruction will be provided by the school and coordinated with the employer through on-the-job training; and

(C) A schedule of organized and progressive work processes be performed.

(g) Other limited exemptions for nonagricultural work in compliance with U.S. Child Labor Provisions for nonagricultural occupations under the Fair Standards Act, Child Labor Bulletin 101 may be permitted by the department.

WV Legislature

§21-6-3. Parental consent for employment of children under 16.

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, the written consent of the parent or parents, guardian, or custodian of the child.

WV Legislature

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

[Repealed.]

WV Legislature

§21-6-5. Age certificate for employers; contents of certificate; forms; records; filing; inquiry as to age; revocation of certificate.

(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, an age certificate issued by the State Commissioner of Labor or a person authorized by him or her in writing. 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 commissioner or a person authorized by him or her in writing shall issue to the employer an age certificate in accordance with the provisions of this article.

(b) The commissioner, or a person authorized by him or her in writing to issue an age certificate under this article, shall issue the certificate only upon obtaining proof of age of the child in the form of a birth certificate, or attested transcript thereof, issued by the registrar of vital statistics or other officer charged with the duty of recording births. The age certificate 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 proof of age, school attendance, prospective employment, brief description of job supplied by the employer, parental or other consent for children under 16 years of age as required by §21-6-3 of this code, and applicable work hours for children under 16 years of age as provided for in §21-6-7 of this code, with such work hours to be printed on the age certificate.

(c) The commissioner shall prepare printed forms for age certificates and make them available by posting on the Division of Labor's website or other method determined pursuant to rule. A record of all age certificates issued shall be kept in the office of the commissioner.

(d) 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.

(e) 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 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.

(f) The commissioner 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, to hear evidence, and to require the production of relevant books and documents. If an age certificate is revoked, the issuing officer shall be notified of the action.

WV Legislature

§21-6-6.

Repealed.

Acts, 2002 Reg. Sess., Ch. 49.

WV Legislature

§21-6-7. Hours and days of labor by minors.

(a) No child under the age of sixteen who is employed or permitted to work in accordance with the provisions of this article shall work:

(1) During school hours, except as provided in work experience and career exploration programs approved by the United States Secretary of Labor;

(2) Before seven o'clock antemeridian or after seven o'clock postmeridian: Provided, That a child under the age of sixteen may work until nine o'clock postmeridian from June 1 through Labor Day;

(3) More than three hours per day, on days in which public schools are in session;

(4) More than eighteen hours per week, in weeks in which public schools are in session;

(5) More than eight hours, on days in which public schools are not in session;

(6) More than forty hours per week, in weeks in which public schools are not in session; or

(7) More than five hours continuously without an interval of at least thirty minutes for a lunch period.

(b) The provisions of subsection (a) of this section do not apply to children under sixteen performing the jobs set out in section one of this article.

WV Legislature

§21-6-8. Supervision permits.

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

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

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

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

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

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

WV Legislature

§21-6-8a. Blanket work permits.

[Repealed.]

WV Legislature

§21-6-9. Enforcement of article.

It is the duty of the state commissioner of labor, and of his or her authorized representatives within the Division of Labor, to enforce the provisions of this article. To aid in enforcement, the commissioner and his or her representatives are authorized to enter and inspect any place or establishment covered by this article, and to have access to all files and records of employers the inspection of which is pertinent to the objects and purposes of this article. School officials, including truancy officers, shall lend to the commissioner all possible assistance toward effectuating such objects and purposes.

WV Legislature

§21-6-10. Offenses; penalties.

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 other person who illegally issues an age certificate, 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. A person convicted of a second or subsequent offense 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.

WV Legislature

§21-6-11. Rules.

The commissioner of the Division of Labor may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, to effectuate the provisions of this article. The rules may include provisions prohibiting the employment of children in occupations determined to be dangerous or injurious.

WV Legislature