

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1937



ENROLLED

Com. Sub. For
HOUSE BILL No. 16

Com. ON Roads

(By Mr. _____)



PASSED March 13, 1937

In Effect ninety days from Passage

ENROLLED

COMMITTEE SUBSTITUTE FOR

House Bill No. 16

(Originating in the Committee on Roads)

[Passed March 13, 1937; in effect ninety days from passage.]

AN ACT to provide for the working of felony prisoners in the construction of state roads, and in making articles required by the state departments and institutions or otherwise, by amending and reenacting the whole of article five, chapter seventeen, and amending and reenacting sections one, two and four, article fifteen, chapter seventeen, and section nine, article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, and repealing the portions thereof not reenacted.

Be it enacted by the Legislature of West Virginia:

That article five, chapter seventeen, and sections one, two and five, article fifteen, chapter seventeen of the code of West Virginia,

one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Article 5.

Section 1. *Constitution of State Convict Road Force.* All
2 male persons convicted of felony and sentenced to imprison-
3 ment or confinement in the penitentiary by any court, or who
4 may hereafter be sentenced for a felony, whether actually
5 sentenced to labor or not, or so many thereof as may be re-
6 quired by the state road commissioner, shall, as incident to
7 such sentence or confinement, constitute the state convict road
8 force and as such may be employed under the supervision of
9 the state road commissioner in building, surfacing, and main-
10 taining roads under the supervision of the state road com-
11 missioner, including both primary and secondary roads, and
12 in and about any quarries, gravel pits, sandbanks, crushers,
13 brick kilns, or other plants and places operated by the state
14 road commission for the manufacture and acquisition of ma-
15 terials for use in the construction, maintenance and repair
16 of such roads.

Sec. 2. *How Convict Workers to be Selected.* The warden
2 of the penitentiary shall prepare for the road commissioner

3 a monthly report which shall show the names of not less than
4 five hundred inmates who are suitable for road work. From
5 the said prepared list of inmates the road commissioner shall
6 select the number needed for road work.
7 The warden shall deliver and the road commissioner shall
8 receive at the penitentiary, convicts selected by the warden
9 to work on the road.

Sec. 4. *Guards and Regulations.* The state convict road
2 force shall be guarded when working on the roads and in
3 making road materials, and when being transported to and
4 from the penitentiary, by guards detailed by the warden,
5 who shall designate one guard as the superior, and the other
6 or others as assistants. The state guard and assistants shall
7 obey the rules prescribed for prison camps. Any guard or
8 assistant not obeying such rules shall, on the recommendation
9 of the superintendent or engineer in charge of the work, be
10 immediately recalled, and some other person detailed in his
11 stead. The wages of each guard, superior and assistant, shall
12 be fixed by the road commissioner. All guards and prisoners
13 shall be under the direction of the warden, or his authority,
14 and shall work not to exceed sixty hours per week, and each

15 prisoner shall be paid for each work day, not to exceed ten
16 hours, the sum of ten cents and for time in excess thereof
17 ten cents per hour for such excess time worked.

Sec. 5. *Medical Treatment.* The state board of health, war-
2 den and the state road commissioner shall promptly formulate
3 rules and regulations governing the camps essential to the
4 housing of the prisoners, and the state road commissioner shall
5 provide suitable quarters, not inconsistent with such rules and
6 regulations, for such convict road force, to be constructed,
7 when practicable, with prison labor. He shall supply such
8 force with all necessary food, cooking utensils, beds and bed-
9 ding, and provide means of transportation for such road
10 force and camp equipment, when necessary, from place to
11 place, or to and from the work of such convicts.

Sec. 6. *Escape of Convict From State Road Force.* Any
2 penitentiary convict who shall escape from the state road
3 force, or in going to or returning therefrom, shall be guilty
4 of a felony and on conviction in the county where the escape
5 was made, shall be sentenced by the court and returned to
6 the authority from which he escaped, there to labor on the
7 roads for a sentence of not more than two years in addition

8 to the unserved time of his original sentence; and it is made
 9 the duty of all arresting officers in the state to apprehend
 10 such escaped prisoner and return him to the jail of the county
 11 from which he escaped as for an original felony; and the
 12 costs shall be paid as in other cases of felony; but the road
 13 commissioner may offer and pay suitable rewards for his
 14 apprehension, and any guard may pursue and arrest him in
 15 any county.

Sec. 7. *Whom to Have Power to Return Convicts.*

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

9 Under the supervision of the warden, or rules pro-
 10 mulgated for the government and discipline of the state
 11 convict road force approved by him, such force, or so many
 12 thereof as appear eligible and trustworthy, shall be made
 13 trusties; but reasonable corrective measures may be taken

14 against trustees who violate their privileges as such.

Sec. 8. *Physician or Physicians to Inspect Camps.* It

2 shall be the duty of the state road commissioner to designate

3 some competent physician or physicians to make inspection

4 of all camps where a convict road force is employed. It shall

5 be the duty of such physician to make thorough investigations

6 of the sanitary conditions of such camps each sixty days and

7 report every inspection to the governor, together with such

8 recommendations as he may deem necessary; and he shall

9 furnish copies thereof to the warden of the penitentiary, the

10 state road commissioner, the state public health council, and

11 the local board of health of the county in which such camp

12 is located. A reasonable compensation to the physician ren-

13 dering such services shall be paid by the commissioner.

Sec. 9. *Convicts to Be Classified in Camps.* It shall be

2 the duty of the state road commissioner, with the assistance of

3 the warden, to organize the penitentiary convicts in the state

4 road force, as far as practicable, into groups or classes ac-

5 cording to the similarity of their respective dispositions, tem-

6 peraments, criminal inclinations, regard for orderly observ-

7 ance of the rules and general habits respecting stability or

8 safety, and, as far as practicable, to place those so classified
9 in separate camps, and particularly to employ or use in one
10 camp, or class of camps, those youths and first offenders
11 whose correction, improvement and reclamation may reas-
12 onably be anticipated and whose habits are not dangerous to
13 their fellow convicts, and for the purpose of effecting such
14 classifications prisoners may be removed from one camp to
15 another. All classes of prisoners on the state convict road
16 force shall be employed and used under such safeguards and
17 in accordance with such rules and regulations as may be pro-
18 vided by the road commissioner, the warden and the gov-
19 ernor.

Sec. 10. *Commissioner to Pay Expenses.* The expenses
2 incident to the transportation of convicts and prisoners, their
3 food, clothing, medical attention and maintenance while in
4 the state convict road force shall be paid by the state road
5 commissioner, and all equipment, materials, tools, teams and
6 machinery necessary in the prosecution of the work shall be
7 provided out of any funds at his disposal available for the
8 building, surfacing, paving and completing of the roads upon
9 which such convicts and prisoners labor. And when a con-

10 vict is discharged at camp the commissioner shall pay him
11 any sum due him and may pay in whole or in part his ex-
12 penses home.

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

Sec. 11. *Warden Empowered to Discharge Convict.* The
2 warden of the penitentiary shall have power to discharge any
3 prisoner working on the state road force wherever he may
4 be in the state when the term of such prisoner has expired,
5 and section twenty-seven, article five, chapter twenty-eight
6 shall apply to all convicts from the penitentiary on said state
7 road force.

Sec. 12. *Commissioner May Act Through Agents.* Where
2 anything herein is required or permitted to be done by the
3 state road commissioner, the same may be done in person
4 or by superintendents, agents, or employees of the state road
5 commissioner, upon his authority duly given, and he may set
6 up a department of prison labor having charge of the agen-
7 cies and persons under his authority as herein provided for,

8 and account for the operations of the state convict road force
9 therein; but in any event such accounts and operations shall
10 be separately stated.

Sec. 16. *Warden May Employ All Convicts.* Convicts of
2 both sexes not employed in the state convict road force as
3 provided by article five of chapter seventeen, may be em-
4 ployed by the warden under the directions of the state board
5 of control in work for the state at the penitentiary or any
6 farm now or hereafter under control of the state, but such
7 convicts actually confined within the penitentiary and not
8 available for outside work shall, as far as possible, be used in
9 the making of articles required by the state departments and
10 institutions. The warden may charge the various state de-
11 partments and institutions for such convict-made supplies
12 the actual costs of the materials used in the manufacture of
13 the articles furnished them and, in addition thereto, an
14 amount sufficient to defray the maintenance cost of the pris-
15 oners employed in such manufacture and to keep in repair
16 with suitable replacements the machinery, tools and appli-
17 ances used in the manufacture of such articles, to the extent
18 of the fair market price thereof, the amount of which shall

19 be stated by the state board of control. Any articles and
20 supplies so manufactured and not required by the state de-
21 partments and institutions may be sold by the warden to
22 municipalities and counties and the agencies thereof, or to
23 federal agencies, upon the same terms and conditions, but in
24 no event shall such articles be sold to private persons, firms,
25 or corporations, or be sold or consumed otherwise than by
26 public departments and institutions of government.

27 This act shall not impair any contracts now existing be-
28 tween the state board of control and any person, firm, or
29 corporation for the use of convict labor for manufacturing
30 within the walls of the penitentiary, nor prevent the hiring
31 of convicts either within or without the walls as otherwise
32 provided by this article.

Sec. 17. *Other Acts Repealed.* Article five of chapter
2 seventeen, sections one, two and four of article fifteen of
3 chapter seventeen and section nine of article five of chapter
4 twenty-eight of the code of West Virginia, one thousand nine
5 hundred thirty-one, except to the extent amended and re-
6 enacted by this act, are hereby repealed.

11 [Enrolled Com. Sub. for H. B. No. 16

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Carl B. Guthrie
Chairman Senate Committee

Deputy Baker
Chairman House Committee

Originated in the.....

Takes effect..... passage.

Chaudhury
Clerk of the Senate

W. J. Hare
Clerk of the House of Delegates

Chas. E. Hodges
President of the Senate

J. K. Shivers
Speaker House of Delegates

The within..... this the.....

day of....., 1937.

.....
Governor.

Filed in the office of the Secretary of State
of West Virginia. MAR 19 1937

Wm. S. O'BRIEN,
Secretary of State

I certify that the foregoing act, having been presented to the Governor for his approval, and not having been returned by him to the House of the Legislature in which it originated within the time prescribed by the constitution of the state, has become a law without his approval.

This the 19th day of March, 1937.

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SECRETARY OF STATE