

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1937



ENROLLED

Com. Sub. for
HOUSE BILL No. 261

(By ~~Mr.~~ Com. on the Judiciary)



PASSED March 10, 1937

In Effect 90 days from Passage

ENROLLED

COMMITTEE SUBSTITUTE FOR

House Bill No. 261

(Originating in the Committee on the Judiciary)

[Passed March 10, 1937; in effect ninety days from passage.]

AN ACT to amend and reenact sections two and three, article one; and sections one, seven and fourteen, article three, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to the state department of labor.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article one; sections one, seven and fourteen, article three, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Article I.

Section 2. *Commissioner of Labor; Qualifications; Appointment; Term of Office.* The state commissioner of labor shall be appointed by the governor, by and with the advice

4 and consent of the senate. He shall be a competent person,
5 who is identified with the labor interests of the state. The
6 commissioner of labor in office on the effective date of this
7 act shall, unless sooner removed, continue to serve until his
8 term expires and his successor has been appointed and has
9 qualified. On or before the first day of March, one thousand
10 nine hundred thirty-one, and on or before the first day of
11 March of each fourth year thereafter, the governor shall
12 appoint a commissioner of labor to serve for a term of four
13 years, commencing on said first day of March. The salary of
14 the commissioner of labor shall be four thousand dollars per
15 annum.

Sec. 3. *Right of Entry; Employers to Furnish Informa-*
2 *tion; Keep Records.* The commissioner of labor and his au-
3 thorized representatives shall have the power and authority
4 in the discharge of their duties, to enter any place of em-
5 ployment or public institution, for the purpose of collecting
6 facts and statistics relating to the employment of workers
7 and of making inspections for the proper enforcement of all
8 labor laws of the state. No employer or owner shall refuse
9 to admit the commissioner of labor or his authorized repre-

10 sentative when they so seek admission to his place of employ-
11 ment, public building or place of public assembly.

12 The commissioner or his authorized representative shall,
13 at least once each year, visit and inspect the principal fac-
14 tories and workshops of the state, and shall, upon complaint
15 and request of any three or more reputable citizens, visit and
16 inspect any place where labor is employed and make true
17 report of the result of his inspection.

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

31 In addition to such other powers and duties as may be
32 conferred upon the commissioner of labor by law, the said
33 commissioner of labor shall have the power, duty, jurisdiction
34 and authority to employ, promote and remove deputies, in-
35 spectors, clerks, and other assistants, as needed, and to fix
36 their compensation, with regard to existing laws applicable
37 to the employment and compensation of officers and employees
38 of the state of West Virginia, and to assign to them their
39 duties; to make or cause to be made all necessary inspections,
40 to see that all laws and lawful orders which the department
41 has the duty, power, and authority to enforce, are promptly
42 and effectively carried out.

Article III.

Section 1. *Construction Equipment of Factories, Investi-*
2 *gation by Department of Labor.* Every employer shall fur-
3 nish employment which shall be reasonably safe for the em-
4 ployees therein engaged and shall furnish and use safety
5 devices and safeguards, and shall adopt and use methods
6 and processes reasonably adequate to render employment and
7 the place of employment safe, and shall do every other thing
8 reasonably necessary to protect the life, health, safety, and

9 welfare of such employees: *Provided*, That, as used in this
10 section, the terms "safe" or "safety" as applied to any
11 employment, place of employment, place of public assembly
12 or public building, shall include, without being restricted
13 hereby, conditions and methods of sanitation and hygiene
14 reasonably necessary for the protection of the life, health,
15 safety, or welfare of employees or the public.

16 Every employer and every owner of a place of employment,
17 place of public assembly, or a public building, now or here-
18 after constructed, shall so construct, repair and maintain the
19 same as to render it reasonably safe.

20 When an accident occurs in any place of employment or
21 public institution which results in injury to any employee,
22 the employer or owner of such place of employment or public
23 institution, when the same shall come to his knowledge, shall
24 provide the commissioner of labor the necessary information
25 as to cause of the injury, on blanks furnished free of charge
26 to the employer and prescribed by the commissioner of labor.

27 To carry out the provisions of this chapter the commis-
28 sioner of labor shall have the power to investigate and pre-
29 scribe that reasonable safety devices, safeguards, or other

30 means of protection be adopted for the prevention of acci-
31 dents in every employment or place of employment, and to
32 make, modify, repeal, and enforce reasonable general orders,
33 applicable to either employers or employees, or both, for the
34 prevention of accidents.

35 All orders of the commissioner of labor shall be prima
36 facie lawful and reasonable, and shall not be held invalid
37 because of any technical omission, provided there is sub-
38 stantial compliance with the provisions of this act.

Sec. 7. *Regulations on Operation of Steam Boilers.* Any
2 person owning or operating a steam boiler of more than
3 three horse power (except boilers on railroad locomotives
4 subject to inspection under federal laws, portable boilers used
5 for agricultural purposes, boilers on automobiles, boilers of
6 steam fire engines brought into the state for temporary use
7 in times of emergency for the purpose of checking conflagra-
8 tions, boilers carrying pressure of less than fifteen pounds
9 per square inch, which are equipped with safety devices ap-
10 proved by the commissioner of labor, and boilers under the
11 jurisdiction of the United States) in this state shall first
12 obtain a permit to operate a steam boiler from the commis-

13 sioner of labor, or from an inspector working under his juris-
14 diction.

15 Applications for permits to operate a steam boiler must
16 be accompanied by a sworn statement made by the owner or
17 operator of such boiler, setting forth the condition of the
18 boiler and its appurtenances, at which time, if the facts dis-
19 closed by such statement meet the safety requirements estab-
20 lished under this article, the commissioner of labor shall issue
21 a temporary permit, which shall be valid until such boiler has
22 been inspected by a boiler inspector authorized by the state
23 commissioner of labor; thereupon, if the boiler meets the
24 safety requirements established under this article, the com-
25 missioner of labor shall issue an annual permit to operate
26 such steam boiler: *Provided, however,* That boilers which are
27 insured by an insurance company operating in this state and
28 which are inspected by such insurance company's boiler in-
29 spector, then such boiler will not be subject to inspection by
30 the state department of labor for so long a period as is covered
31 by a copy of the insurance company's boiler inspector's sworn
32 report when such report is filed annually with the state de-
33 partment of labor, or as often as such boiler inspection is

34 made by the insurance company's boiler inspector.

35 The commissioner of labor or state boiler inspector shall
36 have the authority to inspect steam boilers in this state. To
37 carry out the provisions of this section, the commissioner of
38 labor shall prescribe rules and regulations under which
39 boilers may be constructed and operated, according to their
40 class. The commissioner of labor shall be authorized to revoke
41 any permit to operate a steam boiler of the rules prescribed
42 by the commissioner of labor, or his authorized representa-
43 tive, are violated, or if a condition shall prevail which is
44 hazardous to the life and health of persons operating or
45 employed at or around the boiler. Any person or corporation
46 who shall operate a steam boiler for which a permit is neces-
47 sary under the provisions of this section, without first obtain-
48 ing such permit to operate a steam boiler, shall be guilty of
49 a misdemeanor, and upon conviction thereof shall be fined
50 not less than one hundred dollars nor more than five hundred
51 dollars. Each day a steam boiler requiring a permit to oper-
52 ate is operated without such permit shall be considered a
53 separate offense.

Sec. 14. *Power of Commissioner as to Witness.* The com-

2 missioner of labor or any authorized representative of the
3 department of labor in the performance of any duty or the
4 execution of any power prescribed by law shall have the
5 power to administer oaths, certify to official acts, take and
6 cause to be taken depositions of witnesses.

7 It shall be the duty of the attorney general and the several
8 prosecuting attorneys, upon request of the commissioner of
9 labor or any of his authorized representatives, to prosecute
10 any violation of the law which it is made the duty of the said
11 commissioner of labor to enforce.

12 If any employer, employee, owner or other person shall
13 violate any provision of this chapter or shall fail or refuse
14 to perform any duty lawfully required within the time pre-
15 scribed by the commissioner of labor or his authorized repre-
16 sentatives, for which no penalty has been specifically pro-
17 vided, or shall fail, neglect, or refuse to obey any lawful
18 order given, made or promulgated by the commissioner of
19 labor or his authorized representatives, or shall interfere
20 with, impede, or obstruct in any manner the commissioner
21 of labor or his authorized representatives in the performance
22 of his or their official duties, he shall be guilty of a misde-

23 meanor, and upon conviction thereof shall be fined not less
24 than ten dollars nor more than fifty dollars, or shall be im-
25 prisoned for not exceeding six months, or both so fined and
26 imprisoned, for each such offense; and each day such viola-
27 tion, omission, failure, or refusal continues shall be deemed a
28 separate offense.

29 A justice of the peace shall have concurrent jurisdiction
30 with the circuit court and other courts having criminal juris-
31 diction in his county for the trial of offenses under this ar-
32 ticle. Those portions of all coal mining properties and opera-
33 tions which are under the supervision of the department of
34 mines are excepted from the operation of provisions of this
35 act.

36 In lieu of the penalties heretofore provided in this section,
37 any such penalty may be recovered in a civil action in the
38 name of the state of West Virginia.

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

Carl B. Yelburt

Chairman Senate Committee

Beck Bracke

Chairman House Committee

Originated in the.....

Takes effect.....passage.

Chas. E. Hoops

Clerk of the Senate

Geo S. Hall

Clerk of the House of Delegates

Chas. E. Hoops

President of the Senate

J. H. Thomas

Speaker House of Delegates

The within *Approved* this the *18th*

day of *March*, 1937.

James A. Toole

Governor.

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

Wm. S. O'BRIEN,
Secretary of State