WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1937

ENROLLED
Com. Sub. for
HOUSE BILL No. 361

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

Sec. 3. Right of Entry; Employers to Furnish Information; Keep Records. The commissioner of labor and his 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 authorized repre-
sentative when they so seek admission to his place of employment, public building or place of public assembly.

The commissioner or his 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 inspection.

Every employer and owner shall furnish to the department of labor all information which the commissioner of labor or his representative is authorized to require, and shall make true and specific answers to all questions submitted by the department of labor, orally or in writing as required by the said department. Every employer shall keep a true and accurate record of the name, address, and occupation of each person employed by him, 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.
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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
Provided, That, as used in this section, the terms "safe" or "safety" as applied to any employment, place of employment, place of public assembly or public building, shall include, without being restricted hereby, conditions and methods of sanitation and hygiene reasonably necessary for the protection of the life, health, safety, or welfare of employees or the public.

Every employer and every owner of a place of employment, place of public assembly, or a public building, now or hereafter constructed, shall so construct, repair and maintain the same as to render it reasonably safe.

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

To carry out the provisions of this chapter the commissioner of labor shall have the power to investigate and prescribe that reasonable safety devices, safeguards, or other
means of protection be adopted for the prevention of accidents in every employment or place of employment, and to make, modify, repeal, and enforce reasonable general orders, applicable to either employers or employees, or both, for the prevention of accidents.

All orders of the commissioner of labor shall be prima facie lawful and reasonable, and shall not be held invalid because of any technical omission, provided there is substantial compliance with the provisions of this act.

Sec. 7. Regulations on Operation of Steam Boilers. Any person owning or operating a steam boiler of more than three horse power (except boilers on railroad locomotives subject to inspection under federal laws, portable boilers used for agricultural purposes, boilers on automobiles, boilers of steam fire engines brought into the state for temporary use in times of emergency for the purpose of checking conflagrations, boilers carrying pressure of less than fifteen pounds per square inch, which are equipped with safety devices approved by the commissioner of labor, and boilers under the jurisdiction of the United States) in this state shall first obtain a permit to operate a steam boiler from the commis-
Applications for permits to operate a steam boiler must be accompanied by a sworn statement made by the owner or operator of such boiler, setting forth the condition of the boiler and its appurtenances, at which time, if the facts disclosed by such statement meet the safety requirements established under this article, the commissioner of labor shall issue a temporary permit, which shall be valid until such boiler has been inspected by a boiler inspector authorized by the state commissioner of labor; thereupon, if the boiler meets the safety requirements established under this article, the commissioner of labor shall issue an annual permit to operate such steam boiler: Provided, however, That boilers which are insured by an insurance company operating in this state and which are inspected by such insurance company's boiler inspector, then such boiler will not be subject to inspection by the state department of labor for so long a period as is covered by a copy of the insurance company's boiler inspector's sworn report when such report is filed annually with the state department of labor, or as often as such boiler inspection is
made by the insurance company’s boiler inspector.

The commissioner of labor or state boiler inspector shall have the authority to inspect steam boilers in this state. To carry out the provisions of this section, the commissioner of labor shall prescribe rules and regulations under which boilers may be constructed and operated, according to their class. The commissioner of labor shall be authorized to revoke any permit to operate a steam boiler of the rules prescribed by the commissioner of labor, or his authorized representative, are violated, or if a condition shall prevail which is hazardous to the life and health of persons operating or employed at or around the boiler. Any person or corporation who shall operate a steam boiler for which a permit is necessary under the provisions of this section, without first obtaining such permit to operate a steam boiler, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars. Each day a steam boiler requiring a permit to operate is operated without such permit shall be considered a separate offense.

Sec. 14. Power of Commissioner as to Witness. The com-
missioner of labor or any authorized representative of the department of labor in the performance of any duty or the execution of any power prescribed by law shall have the power to administer oaths, certify to official acts, take and cause to be taken depositions of witnesses.

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

If any employer, employee, owner or other person shall violate any provision of this chapter or shall fail or refuse to perform any duty lawfully required within the time prescribed by the commissioner of labor or his authorized representatives, for which no penalty has been specifically provided, or shall fail, neglect, or refuse to obey any lawful order given, made or promulgated by the commissioner of labor or his authorized representatives, or shall interfere with, impede, or obstruct in any manner the commissioner of labor or his authorized representatives in the performance of his or their official duties, he shall be guilty of a misde-
meanor, and upon conviction thereof shall be fined not less
than ten dollars nor more than fifty dollars, or shall be im-
prisoned for not exceeding six months, or both so fined and
imprisoned, for each such offense; and each day such viola-
tion, omission, failure, or refusal continues shall be deemed a
separate offense.

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

In lieu of the penalties heretofore provided in this section,
any such penalty may be recovered in a civil action in the
name of the state of West Virginia.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the

Takes effect

passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within 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