

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1939



ENROLLED

HOUSE BILL No. 201

(By Mr. Speaker, Mr. Thomas)



PASSED March 10, 1939

In Effect from Passage

201

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House Bill No. 201

(BY MR. SPEAKER, MR. THOMAS)

[Passed March 10, 1939; in effect from passage.]

AN ACT to amend and reenact section one, article two, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to employers and employees subject to the workmen's compensation law.

Be it enacted by the Legislature of West Virginia:

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

Article 2. Employers and Employees Subject to Chapter; Premiums.

Section 1. *Employers and Employees, Including State and its Agencies Subject to Chapter.* The state of West Virginia and all governmental agencies or departments created by it are hereby required to subscribe to, and pay premiums into,

5 the workmen's compensation fund for the protection of their
6 employees, and shall be subject to all requirements of this
7 chapter, and all rules and regulations prescribed by the com-
8 missioner with reference to rates, classifications and premium
9 payments.

10 All persons, firms, associations and corporations regularly
11 employing other persons for the purpose of carrying on any
12 form of industry or business in this state, including county
13 courts, boards of education, municipalities and other political
14 subdivisions of the state, are employers within the meaning
15 of this chapter and subject to its provisions: *Provided, how-*
16 *ever,* That the provisions of section eight, article two of this
17 chapter shall not apply to such county courts, boards of
18 education, municipalities, or other political subdivisions of
19 the state: *And further provided,* That the failure of such
20 county courts, boards of education, municipalities or other
21 political subdivisions of the state to elect to subscribe to, and
22 pay premiums into, said workmen's compensation fund, shall
23 not impose any liability upon them, or either of them, other
24 than such liability as would exist notwithstanding the pro-
25 visions of this chapter. All persons in the service of em-

26 ployers as herein defined, and employed by them for the
27 purpose of carrying on the industry, business or work in
28 which they are engaged, and check-weighmen employed ac-
29 cording to law, and all members of rescue teams assisting in
30 mine accidents with the consent of the owner who, in such
31 case, shall be deemed the employer, or at the direction of
32 the chief of the department of mines, are employees within
33 the meaning of this chapter and subject to its provisions:

34 *Provided*, That the chapter shall not apply to employers of
35 employees in domestic or agricultural service, persons pro-
36 hibited by law from being employed, nor to employees of any
37 employer while employed without the state; nor shall a
38 member of a firm of employers, or any officer of an associa-
39 tion or of a corporation employer, including managers, or
40 any elective or appointive official of the state, county, county
41 court, board of education, municipality or other political sub-
42 division of the state, whose term of office is definitely fixed by
43 law, be deemed an employee within the meaning of this
44 chapter.

45 The premium and actual expenses in connection with gov-
46 ernmental agencies and departments of the state of West

47 Virginia, shall be paid out of the state treasury from appro-
48 priations made for such agencies and departments, in the
49 same manner as other disbursements are made by such agen-
50 cies and departments.

51 County courts, boards of education, municipalities and
52 other political subdivisions of the state who shall elect to
53 become subscribers to the workmen's compensation fund shall
54 provide for the funds to pay their prescribed premiums into
55 the fund, and such premiums, and premiums of state agen-
56 cies and departments, shall be paid into the fund in the same
57 manner as herein provided for other employers subject to this
58 chapter.

59 Any employer whose employment in this state is to be for
60 a definite or limited period, which could not be considered
61 "regularly employing" within the meaning of this section,
62 may elect to pay into the workmen's compensation fund the
63 premiums herein provided for, and at the time of making ap-
64 plication to the commissioner such employer shall furnish a
65 statement under oath showing the probable length of time
66 the employment will continue in this state, the character of
67 the work, an estimate of the monthly payroll, and any other

68 information which may be required by the commissioner. At
69 the time of making application such employer shall deposit
70 with the state compensation commissioner to the credit of
71 the workmen's compensation fund the amount required by
72 section five of this article, which amount shall be returned
73 to such employer, if his application be rejected by the com-
74 missioner. Upon notice to such employer of the acceptance
75 of his application by the commissioner, he shall be an em-
76 ployer within the meaning of this chapter and subject to all
77 of its provisions.

78 Any foreign corporation employer electing to comply with
79 the provisions of this chapter and to receive the benefits
80 hereunder, shall, at the time of making application to the com-
81 missioner, in addition to other requirements of this chapter,
82 furnish such commissioner with a certificate from the secre-
83 tary of state showing that it has complied with all the re-
84 quirements necessary to enable it legally to do business in
85 this state, and no application of such foreign corporation em-
86 ployer shall be accepted by the commissioner until such cer-
87 tificate is filed.

88 For the purpose of this chapter, a mine shall be adjudged

89 within this state when the main opening, drift, shaft or slope
90 is located wholly within this state.

91 Any employee within the meaning of this chapter whose
92 employment necessitates his temporary absence from this
93 state in connection with such employment, and such absence
94 is directly incidental to carrying on an industry in this state,
95 who shall have received injury during such absence in the
96 course of and resulting from his employment, shall not be
97 denied the right to participate in the workmen's compen-
98 sation fund.

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

E. O. Roseman
.....
Chairman Senate Committee

John D. Baer
.....
Chairman House Committee

Originated in the..... *House of Delegates*

Takes effect..... *from* passage.

Charles H. ...
.....
Clerk of the Senate

Geo. H. Hall
.....
Clerk of the House of Delegates

Wm. ...
.....
President of the Senate

James Kay Thomas
.....
Speaker House of Delegates

The within..... *approved* this the..... *16th*

day of..... *March* , 1933.

James ...
.....
Governor.



Filed in the office of the Secretary of State
of West Virginia. **MAR 17 1933** **MAR 17 1939**
Wm. S. O'BRIEN,
Secretary of State