WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1939

ENROLLED

HOUSE BILL No. 234

(By Mr. Flint)

PASSED March 8, 1939

In Effect ninety days from Passage
AN ACT to amend and reenact sections one to nine, inclusive, article six, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to child labor.

Be it enacted by the Legislature of West Virginia:

That sections one to nine, inclusive, article six, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:


Section 1. Minimum Age. Except as permitted and authorized by the provisions of this article, no child under sixteen years of age shall be employed, permitted or suffered to work in, about, or in connection with any gainful occupation other than agriculture, horticulture or domestic service in a private home.
Sec. 2. Prohibited Occupations. No child under eighteen years of age shall be employed, permitted or suffered to work in any mine, quarry or tunnel; or in, about, or in connection with any of the following:

1. Stone cutting or polishing;
2. The manufacture or transportation of explosives or highly inflammable substances;
3. 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;
4. Machinery used in the cold rolling of heavy metal stock, metal plate bending machines, or power-driven metal planing machines:

No child under eighteen years of age shall be employed or permitted to work in a public bowling alley, pool room or billiard room, or be permitted, employed or suffered to sell, dispense or serve beer, in any place or establishment where beer is served, sold or dispensed, if dancing is permitted or allowed in the same room in which such beer is served, sold or dispensed, or in any indecent, obscene or immoral exhibition or practice; nor shall a child under eighteen years of
age be apprenticed, given away, let out or otherwise disposed
of to any person or company to engage in the occupation or
service of rope or wire walker, gymnast, contortionist, circus
rider, acrobat or clown.

The state commissioner of labor, the state commissioner of
health, and the state superintendent of free schools may,
from time to time, after hearing duly had, determine whether
or not any particular trade, process of manufacturing, or
occupation in which the employment of children under
eighteen years of age is not already forbidden by law, or any
particular method of carrying on such trade, process of
manufacture, or occupation, is sufficiently dangerous to the
lives or limbs, or injurious to the health or morals of chil-
dren under eighteen years of age to justify their exclusion
therefrom. No child under eighteen years of age shall be em-
ployed or permitted to work in any occupation thus de-
termined to be dangerous or injurious to such children. There
shall be a right of appeal to the supreme court of appeals
from any such determination.

Sec. 3. Work Permits. No child under sixteen years of
age shall be employed or permitted to work in any gainful
occupation, unless the person, firm or corporation by whom such child is employed or permitted to work, obtains and keeps on file and accessible to officers charged with the enforcement of this article, a work permit issued by the superintendent of schools of the county in which such child resides, or by some person authorized by him in writing. Before any such work permit has been issued, it shall be necessary to obtain in writing the consent of the parent or parents, guardian or custodian of such child. Whenever such work permit has been issued, or wherever an age certificate has been issued under the provisions of section five of this article, it shall be conclusive as to the age of the child on whose behalf such work permit or age certificate was issued.

The superintendent of schools, or person authorized by him in writing, shall issue such work permit only upon receipt of the following documents:

(1) A written statement, signed by the person for whom the child expects to work, that he intends legally to employ such child and agrees to return the work permit to the issuing officer within two days after the termination of such child's employment.
(2) (a) A birth certificate, or attested transcript thereof, issued by the registrar of vital statistics or other officer charged with the duty of recording births; or

(b) A record of baptism, or a certificate or attested transcript thereof, showing the date of birth and place of baptism of the child; or

(c) A bona fide contemporary record of the date and place of the child's birth kept in the Bible in which the records of the births of the family of the child are preserved, or other documentary evidence approved by the state commissioner of labor, such as a passport showing the age of the child, a certificate of arrival in the United States issued by the United States immigration officers and showing the age of the child, or a life insurance policy: Provided, That such other satisfactory documentary evidence shall have been in existence at least one year prior to the time it is offered in evidence: Provided further, That a school record or parent's, guardian's or custodian's affidavit, certificate or other written statement of age alone shall not be accepted;

(d) A certificate signed by the public health physician or a public school physician specifying what in the opinion of
such physician is the physical age of the child. Such certificate shall show the height and weight of the child and other facts concerning its physical development revealed by examination and upon which the opinion of the physician as to the physical age of the child is based. In determining such physical age the physician shall require that the school record or the school census record showing the child’s age be submitted as supplementary evidence.

The issuing officer shall require first the proof of age specified in subdivision a and shall not accept the proof of age designated in a subsequent subdivision until he shall be convinced that the proof specified in the preceding subdivision cannot be obtained.

(3) A certificate signed by the principal of the school last attended showing that the child can read and write correctly simple sentences in the English language, and that he has satisfactorily completed the studies covered in the first eight yearly grades of the public schools or their equivalent. In case such certificate cannot be obtained, then the officer issuing the work permit shall examine such child to determine whether he can meet the educational standard
specified, and shall file in his office a statement setting forth
the result of such examination: Provided, That the Super-
intendent of Schools, or person authorized by him in writing,
shall have authority and is hereby empowered to issue a
vacation work permit to a child sixteen years of age or over
without requiring a statement that the child has completed
the eighth grade course of study or its equivalent, as herein-
before provided. Such vacation work permit shall be different
in form and color from the regular work permit and shall
be valid only during the time when the public schools of the
district in which the child resides are not in session. Every
vacation work permit shall be null and void on the day such
public schools open for regular session: Provided further,
That the superintendent of schools or person authorized by
him in writing shall have authority and is hereby empowered
to issue a special work permit to any boy fourteen years of
age or over to work in non-factory employment outside of
school hours without requiring a statement that he has com-
pleted any school grade whatsoever,
4. A certificate signed by a medical inspector of schools
or public health officer stating that the child has been ex-
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87 amined by him and in his opinion has reached the normal 
88 development of a child of its age, and is in sound health 
89 and physically able to be employed in the occupation in which 
90 the child intends to engage.

Sec. 4. Contents of Work Permit: Forms, Filing; Revocation. A work permit issued under this article shall set forth 
2 the full name and the date and place of birth of the child, 
3 with the name and address of his parents or parent, guardian 
4 or custodian. It shall certify that the child has appeared 
5 before the officer issuing the permit and submitted the proofs 
6 of age, physical fitness, schooling and prospective employment 
7 required in section three.

9 Printed forms for such permits and certificates shall be 
10 prepared and furnished by the state commissioner of labor 
11 to the superintendents of schools in the counties of the state. 
12 A copy of each permit issued shall be forwarded to the state 
13 commissioner of labor within four days after its issuance, 
14 and there shall be kept in the office of the issuing officer a 
15 record of all permits granted and of all applications denied 
16 as well as all certificates of age, schooling, physical fitness
and prospective employment submitted by the applicants for permits.

The state commissioner of labor may at any time revoke a permit if in his judgment it was improperly issued, and for this purpose he 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 a permit is revoked, the issuing officer shall be notified of such action, and the child shall not thereafter be employed or permitted to labor until a new permit has been legally obtained or until he is of such age as to be outside the operation of this article.

Sec. 5. Age Certificate for Employer; Revocation; Supervision. Upon request of any employer who is desirous of employing a child who represents his or her age to be sixteen years or over, the officer charged with the issuance of work permits shall require of such child the proof of age specified in section three of this article, and, upon receipt thereof, if it be found that the child is actually sixteen years of age or over, shall issue to such employer a certificate showing the age and date and place of birth of such child. Such age certificate, when filed in the office of the employer, shall 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. Any officer charged with the enforcement of this
article may inquire into the true age of a child apparently
under the age of sixteen years who is employed or permitted
to work in any gainful occupation and for whom no work
permit or age certificate is on file; and if the age of such child
be found to be actually under sixteen years, the employment
of such child in such occupation shall be deemed a violation
of the provisions of this article.

The state commissioner of labor may at any time revoke
any such age certificate if in his judgment it was improperly
issued, and for this purpose he is authorized to investigate
the true age of any child employed as in the case of work
permits.

The issuance of work permits and of age certificates shall
be under the supervision of the state superintendent of free
schools, who shall seek at all times to standardize this work.

See 6. Children in State Institutions. It shall be unlawful
for superintendents or other persons in whose custody chil-
dren of state-operated industrial schools and homes are placed,
to permit such children to be employed in factories or work-
shops outside (but not within) such institutions without first
securing for them the permit required by this article.

Sec. 7. Hours of Labor; Posting of Notice. No child under
the age of sixteen years shall be employed or permitted to
work in, about, or in connection with any gainful occupation,
except agriculture, horticulture or domestic service in a pri-
ivate home, for more than six days in any one week, nor more
than forty hours in any one week, nor more than eight hours
in any one day; nor between the hours of eight o'clock in the
evening and five o'clock in the morning of any day: Provided,
That a child under sixteen years of age may be employed in a
concert or in a theatrical performance up to the hour of
eleven o'clock p. m.

No child under the age of sixteen years shall be employed
or permitted to work for more than five hours continuously
without an interval of at least thirty minutes for a lunch
period, and no period of less than thirty minutes shall, for
the purposes of this section, be deemed to interrupt a con-
tinuous period of work.

Every employer shall post and keep posted in a conspicuous
place in every room or place where any child under sixteen years of age is employed or permitted to work, a printed notice setting forth the maximum number of hours such child may be required or permitted to work each week and each day of the week, the hours beginning and ending work each day, and the time allowed for meals. The printed form of such notice shall be furnished by the state commissioner of labor, and the employment of such child for a longer time in any week or day than so stated, or at any time other than as stated in such printed notice, shall be deemed a violation of the provisions of this section.

Sec. 8. Exceptions; Supervision Permits. The commissioner shall have authority to prescribe and issue supervision permits to meet special circumstances, and to prescribe the terms and conditions thereof.

The provisions of sections two, three and seven of this article shall 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 finds, after careful investigation, that the child, in his performance of the work contemplated, will be super-
11 vised by a responsible party, and that the issuance of the
12 supervision permit will promote the best interests of the child.
13 A supervision permit shall be valid only so long as the
14 terms and conditions prescribed by the commissioner and
15 contained therein are complied with.

Sec. 9. Enforcement. It shall be the duty of the state com-
2 missioner of labor, and of his authorized representatives
3 within the department of labor, to enforce the provisions
4 of this article. To aid in such enforcement, the commissioner
5 and his authorized representatives shall have authority to
6 enter and inspect any place or establishment covered by this
7 article, and to have access to all files and records of employers
8 the inspection of which is pertinent to the objects and pur-
9 poses of this article. School officials, including truancy officers,
10 shall lend to the commissioner all possible assistance toward
11 effectuating such objects and purposes: Provided, however,
12 That the provision relating to the employment of children
13 in mines shall be enforced by the state department of mines,
14 said department to make complaint against any person, firm
15 or corporation violating any provision of this article and to
16 prosecute the same before any court of competent jurisdiction.
Sec. 10. Penalties. Any person who violates a provision of this article, or any parent, guardian or custodian of a child, who permits such child to work in violation of the provisions of this article, or any school official who allegedly issues a work permit, or any person who furnished false evidence in reference to the age, birthplace or educational qualifications of a child, under this article, shall be guilty of a misdemeanor, and upon conviction thereof, shall for a first offense be fined not less than twenty nor more than fifty dollars; for a second or subsequent offense shall be fined not less than fifty nor more than two hundred dollars, or imprisoned for not more than thirty days, or both such fine and imprisonment in the discretion of the court.
The Joint Committee on Enrolled Bills hereby certifies that the
foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the House of Delegates

Takes effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

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

day of........................................, 1933.

[Signature]
Governor.

Filed in the office of the Secretary of State
of West Virginia................................

Wm. S. O'Brien,
Secretary of State