

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1939

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## ENROLLED

HOUSE BILL No. 234

(By Mr. F. Linf)

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PASSED March 8, 1939

In Effect ninety days from Passage

103

**ENROLLED**

**House Bill No. 234**

(BY MR. FLINT)

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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:

**Article 6. Child Labor.**

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

2 years of age shall be employed, permitted or suffered to work  
3 in any mine, quarry or tunnel; or in, about, or in connection  
4 with any of the following:

5 (1) Stone cutting or polishing;

6 (2) The manufacture or transportation of explosives or  
7 highly inflammable substances;

8 (3) Ore reduction works, smelters, hot rolling mills, furn-  
9 aces, foundries, forging shops, or in any other place in which  
10 the heating, melting or heat treatment of metals is carried on;

11 (4) Machinery used in the cold rolling of heavy metal  
12 stock, metal plate bending machines, or power-driven metal  
13 planing machines:

14 No child under eighteen years of age shall be employed  
15 or permitted to work in a public bowling alley, pool room or  
16 billiard room, or be permitted, employed or suffered to sell,  
17 dispense or serve beer, in any place or establishment where  
18 beer is served, sold or dispensed, if dancing is permitted or  
19 allowed in the same room in which such beer is served, sold or  
20 dispensed, or in any indecent, obscene or immoral exhibi-  
21 tion or practice; nor shall a child under eighteen years of

22 age be apprenticed, given away, let out or otherwise disposed  
23 of to any person or company to engage in the occupation or  
24 service of rope or wire walker, gymnast, contortionist, circus  
25 rider, acrobat or clown.

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

Sec. 3. *Work Permits.* No child under sixteen years of  
2 age shall be employed or permitted to work in any gainful

3 occupation, unless the person, firm or corporation by whom  
4 such child is employed or permitted to work, obtains and  
5 keeps on file and accessible to officers charged with the en-  
6 forcement of this article, a work permit issued by the super-  
7 intendent of schools of the county in which such child re-  
8 sides, or by some person authorized by him in writing. Be-  
9 fore any such work permit has been issued, it shall be neces-  
10 sary to obtain in writing the consent of the parent or parents,  
11 guardian or custodian of such child. Whenever such work  
12 permit has been issued, or wherever an age certificate has been  
13 issued under the provisions of section five of this article, it  
14 shall be conclusive as to the age of the child on whose behalf  
15 such work permit or age certificate was issued.

16 The superintendent of schools, or person authorized by  
17 him in writing, shall issue such work permit only upon re-  
18 ceipt of the following documents:

19 (1) A written statement, signed by the person for whom  
20 the child expects to work, that he intends legally to employ  
21 such child and agrees to return the work permit to the issu-  
22 ing officer within two days after the termination of such  
23 child's employment.

24 (2) (a) A birth certificate, or attested transcript thereof,  
25 issued by the registrar of vital statistics or other officer  
26 charged with the duty of recording births; or

27 (b) A record of baptism, or a certificate or attested tran-  
28 script thereof, showing the date of birth and place of bap-  
29 tism of the child; or

30 (c) A bona fide contemporary record of the date and  
31 place of the child's birth kept in the Bible in which the rec-  
32 ords of the births of the family of the child are preserved,  
33 or other documentary evidence approved by the state com-  
34 missioner of labor, such as a passport showing the age of the  
35 child, a certificate of arrival in the United States issued by  
36 the United States immigration officers and showing the age  
37 of the child, or a life insurance policy: *Provided*, That such  
38 other satisfactory documentary evidence shall have been in  
39 existence at least one year prior to the time it is offered in  
40 evidence: *Provided further*, That a school record or parent's,  
41 guardian's or custodian's affidavit, certificate or other writ-  
42 ten statement of age alone shall not be accepted;

43 (d) A certificate signed by the public health physician or  
44 a public school physician specifying what in the opinion of

45 such physician is the physical age of the child. Such certifi-  
46 cate shall show the height and weight of the child and other  
47 facts concerning its physical development revealed by exam-  
48 ination and upon which the opinion of the physician as to  
49 the physical age of the child is based. In determining such  
50 physical age the physician shall require that the school rec-  
51 ord or the school census record showing the child's age be  
52 submitted as supplementary evidence.

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

58 (3) A certificate signed by the principal of the school  
59 last attended showing that the child can read and write  
60 correctly simple sentences in the English language, and that  
61 he has satisfactorily completed the studies covered in the  
62 first eight yearly grades of the public schools or their equiva-  
63 lent. In case such certificate cannot be obtained, then the  
64 officer issuing the work permit shall examine such child to  
65 determine whether he can meet the educational standard

66 specified, and shall file in his office a statement setting forth  
67 the result of such examination: *Provided*, That the Super-  
68 intendent of Schools, or person authorized by him in writing,  
69 shall have authority and is hereby empowered to issue a  
70 vacation work permit to a child sixteen years of age or over  
71 without requiring a statement that the child has completed  
72 the eighth grade course of study or its equivalent, as herein-  
73 before provided. Such vacation work permit shall be different  
74 in form and color from the regular work permit and shall  
75 be valid only during the time when the public schools of the  
76 district in which the child resides are not in session. Every  
77 vacation work permit shall be null and void on the day such  
78 public schools open for regular session: *Provided further*,  
79 That the superintendent of schools or person authorized by  
80 him in writing shall have authority and is hereby empowered  
81 to issue a special work permit to any boy fourteen years of  
82 age or over to work in non-factory employment outside of  
83 school hours without requiring a statement that he has com-  
84 pleted any school grade whatsoever,

85 4. A certificate signed by a medical inspector of schools  
86 or public health officer stating that the child has been ex-



87 ained 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; Revoca-*  
2 *tion.* A work permit issued under this article shall set forth  
3 the full name and the date and place of birth of the child,  
4 with the name and address of his parents or parent, guardian  
5 or custodian. It shall certify that the child has appeared  
6 before the officer issuing the permit and submitted the proofs  
7 of age, physical fitness, schooling and prospective employment  
8 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

17 and prospective employment submitted by the applicants  
18 for permits.

19 The state commissioner of labor may at any time revoke  
20 a permit if in his judgment it was improperly issued, and  
21 for this purpose he is authorized to investigate the true age  
22 of any child employed, to hear evidence, and to require the  
23 production of relevant books and documents. If a permit  
24 is revoked, the issuing officer shall be notified of such action,  
25 and the child shall not thereafter be employed or permitted  
26 to labor until a new permit has been legally obtained or until  
27 he is of such age as to be outside the operation of this article.

Sec. 5. *Age Certificate for Employer; Revocation; Super-*

2 *vision.* Upon request of any employer who is desirous of  
3 employing a child who represents his or her age to be sixteen  
4 years or over, the officer charged with the issuance of work  
5 permits shall require of such child the proof of age specified  
6 in section three of this article, and, upon receipt thereof,  
7 if it be found that the child is actually sixteen years of age  
8 or over, shall issue to such employer a certificate showing the  
9 age and date and place of birth of such child. Such age  
10 certificate, when filed in the office of the employer, shall be

11 accepted by an officer charged with the enforcement of this  
12 article as evidence of the age of the child in whose name it  
13 was issued. Any officer charged with the enforcement of this  
14 article may inquire into the true age of a child apparently  
15 under the age of sixteen years who is employed or permitted  
16 to work in any gainful occupation and for whom no work  
17 permit or age certificate is on file; and if the age of such child  
18 be found to be actually under sixteen years, the employment  
19 of such child in such occupation shall be deemed a violation  
20 of the provisions of this article.

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

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

Sec. 6. *Children in State Institutions.* It shall be unlawful  
2 for superintendents or other persons in whose custody chil-  
3 dren of state-operated industrial schools and homes are placed,

4 to permit such children to be employed in factories or work-  
5 shops outside (but not within) such institutions without first  
6 securing for them the permit required by this article.

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

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

18 Every employer shall post and keep posted in a conspicuous

19 place in every room or place where any child under sixteen  
20 years of age is employed or permitted to work, a printed  
21 notice setting forth the maximum number of hours such  
22 child may be required or permitted to work each week and  
23 each day of the week, the hours beginning and ending work  
24 each day, and the time allowed for meals. The printed form  
25 of such notice shall be furnished by the state commissioner  
26 of labor, and the employment of such child for a longer time  
27 in any week or day than so stated, or at any time other than  
28 as stated in such printed notice, shall be deemed a violation  
29 of the provisions of this section.

Sec. 8. *Exceptions; Supervision Permits.* The commissioner  
2 shall have authority to prescribe and issue supervision per-  
3 mits to meet special circumstances, and to prescribe the terms  
4 and conditions thereof.

5 The provisions of sections two, three and seven of this  
6 article shall not apply to a child's employment under a  
7 supervision permit issued by the commissioner under this  
8 section. The commissioner shall issue a supervision permit  
9 only if he finds, after careful investigation, that the child,  
10 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.

16 Sec. 9. *Enforcement.* It shall be the duty of the state com-  
missioner of labor, and of his authorized representatives  
within the department of labor, to enforce the provisions  
of this article. To aid in such enforcement, the commissioner  
and his authorized representatives shall have authority to  
enter and inspect any place or establishment covered by this  
article, and to have access to all files and records of employers  
the inspection of which is pertinent to the objects and pur-  
poses of this article. School officials, including truancy officers,  
shall lend to the commissioner all possible assistance toward  
effectuating such objects and purposes: *Provided, however,*  
That the provision relating to the employment of children  
in mines shall be enforced by the state department of mines,  
said department to make complaint against any person, firm  
or corporation violating any provision of this article and to  
prosecute the same before any court of competent jurisdiction.

Sec. 10. *Penalties.* Any person who violates a provision  
2 of this article, or any parent, guardian or custodian of a  
3 child, who permits such child to work in violation of the pro-  
4 visions of this article, or any school official who illegally issues  
5 a work permit, or any person who furnished false evidence  
6 in reference to the age, birthplace or educational qualifica-  
7 tions of a child, under this article, shall be guilty of a mis-  
8 demeanor, and upon conviction thereof, shall for a first offense  
9 be fined not less than twenty nor more than fifty dollars; for  
10 a second or subsequent offense shall be fined not less than  
11 fifty nor more than two hundred dollars, or imprisoned for  
12 not more than thirty days, or both such fine and imprisonment  
13 in the discretion of the court.

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

*E. O. Wiseman*

Chairman Senate Committee

*Dee B. Hester*

Chairman House Committee

Originated in the *House of Delegates*

Takes effect *ninety days from* passage.

*Shagorin*

Clerk of the Senate

*Joe A. Hall*

Clerk of the House of Delegates

*Wm. S. O'Brien*

President of the Senate

*James Tay Thomas*

Speaker House of Delegates

The within *approved* this the *16<sup>th</sup>*

day of *March*, 1933.

*Sam A. Lee*

Governor.



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

**MAR 17 1933**  
Wm. S. O'BRIEN,  
Secretary of State