

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1939

ENROLLED

SENATE BILL No. 229

(By Mr. Smith.....)

PASSED March 11th 1939

In Effect Jan..... Passage



62

ENROLLED
Senate Bill No. 229

(BY MR. SMITH, by request)

[Passed March 11, 1939 ; in effect from passage.]

AN ACT to repeal section seven, and to amend and reenact sections one, two, three, four, five, six and eight, all of article eight, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to compulsory school attendance and the establishment of continuation and evening schools.

Be it enacted by the Legislature of West Virginia:

That section seven be repealed, and that sections one, two, three, four, five, six, and eight be amended and reenacted, all of article eight, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, all to read as follows:

Section 1. Compulsory school attendance shall begin
2 with the seventh birthday and continue to the sixteenth
3 birthday. Every person who has legal or actual control of
4 a child or children not less than seven nor more than sixteen
5 years of age shall cause such child or children to attend a
6 free day school for the full school term of the county where
7 such person resides.

8 Exemption from the foregoing requirement of compulsory
9 public school attendance shall be made on behalf of any
10 child for the following causes or conditions, each such cause
11 or condition being subject to confirmation by the attendance
12 authority of the county:

13 Exemption A—*Instruction in a Private, Parochial, or Other*
14 *Approved School.* Such instruction shall be in a school ap-
15 proved by the county board of education and for a time
16 equal to the school term of the county for the year. In all
17 such schools it shall be the duty of the principal or other
18 person in control, upon the request of the county superin-
19 tendent of schools, to furnish to the county board of educa-
20 tion such information and records as may be required with

21 respect to attendance, instruction, and progress of pupils
22 enrolled between the ages of seven and sixteen years.

23 Exemption B—*Instruction in Home or Other Approved*
24 *Place*. Such instruction shall be in the home of such child or
25 children or at some other place approved by the county board
26 of education and for a time equal to the school term of the
27 county. The instruction in such cases shall be conducted
28 by a person or persons who, in the judgment of the county
29 superintendent and county board of education, are qualified
30 to give instruction in subjects required to be taught in the
31 free elementary schools of the state. It shall be the duty of
32 the person or persons giving the instruction, upon request
33 of the county superintendent, to furnish to the county board
34 of education, such information and records as may be re-
35 quired from time to time with respect to attendance, instruc-
36 tion, and progress of pupils enrolled between the ages of
37 seven and sixteen years receiving such instruction.

38 Exemption C—*Physical or Mental Incapacity*. Physical or
39 mental incapacity shall consist of incapacity for school at-
40 tendance and the performance of school work. In all cases
41 of prolonged absence from school due to incapacity of the

42 child to attend, the written statement of a licensed physician
43 or authorized school nurse shall be required under the pro-
44 visions of this article.

45 Exemption D—*Residence More Than Two Miles from School*
46 *or School Bus.* The distance of residence from a school, or
47 school bus route providing free transportation, shall be
48 reckoned by the shortest practicable road or path, which
49 contemplates travel through fields by right of permission
50 from the land holders or their agents. It shall be the duty
51 of the county board of education, subject to written consent
52 of land holders, or their agents, to provide and maintain
53 safe footbridges across streams off the public highways
54 where such are required for the safety and welfare of
55 pupils, whose mode of travel from home to school or to
56 school bus route, must necessarily be other than along the
57 public highway in order for said road or path to be not
58 over two miles from home to school or to school bus pro-
59 viding free transportation.

60 Exemption E—*Hazardous Weather.* Conditions rendering
61 school attendance impossible or hazardous to the life, health,
62 or safety of the child.

63 Exemption F—*High School Graduation.* Such exemption
64 shall consist of regular graduation from a standard senior
65 high school.

66 Exemption G—*Granting of Work Permits.* The county su-
67 perintendent may, after due investigation, grant work per-
68 mits to youths under sixteen years of age, subject to state
69 and federal labor laws and regulations. *Provided,* That a
70 work permit may not be granted on behalf of any youth of
71 normal intelligence who has not completed the eighth grade
72 of school.

73 Exemption H—*Serious Illness or Death in the Immediate*
74 *Family of the Pupil.* It is expected that the county attend-
75 ance director will ascertain the facts in all cases of such
76 absences about which information is inadequate and report
77 same to the county superintendent of schools.

78 Exemption I—*Destitution in the Home.* Exemption based
79 on a condition of extreme destitution in the home may be
80 granted only upon the written recommendation of the coun-
81 ty attendance director to the county superintendent fol-
81a lowing careful investigation of the case. A copy of the re-
82 port confirming such condition and school exemption shall

83 be placed with the county director of public assistance. This
84 enactment contemplates every reasonable effort that may
85 properly be taken on the part of both school and public as-
86 sistance authorities for the relief of home conditions officially
87 recognized as being so destitute as to deprive children of
88 the privilege of school attendance. Exemption for this
89 cause shall not be allowed when such destitution is relieved
90 through public or private means.

91 Exemption J—*Church Ordinances; Observance of Regu-*
92 *lar Church Ordinances.* The county board of education may
93 approve exemption for religious instruction upon written
94 request of the person having legal or actual charge of a
95 child or children: *Provided, however,* That such exemption
96 shall be subject to the rules and regulations prescribed by
97 the county superintendent and approved by the county
98 board of education.

99 The completion of the eighth grade shall not exempt any
100 child under sixteen years of age from the compulsory at-
101 tendance provision of this article: *Provided, however,*
102 There is a public high school or other public school of ad-
103 vanced grades or a school bus providing free transportation

104 to any such school the route of which is within two miles of the
105 child's home by the shortest practical route or path as
106 hereinbefore specified under exemption D of this sec-
107 tion.

108 Any person who, after due notice has been served upon
109 him as hereinafter provided, shall fail to cause a child or
110 children in his legal or actual charge to attend school as
111 hereinbefore provided, shall be guilty of a misdemeanor and
112 shall, upon conviction thereof, be fined not less than three
113 nor more than twenty dollars together with the costs of
114 prosecution, or confined in jail not less than five nor more
115 than twenty days. Every day a child is out of school con-
116 trary to the provision of this article shall constitute a
117 separate offense. Justices of the peace shall have jurisdic-
118 tion of offenses under this section.

119 Whenever a person accused of violating any of the pro-
120 visions of this article has been tried and acquitted, the cost
121 of prosecution shall be paid by the county board of educa-
122 tion out of the maintenance fund of the county.

Sec. 2. The county board of education of every county
2 shall, not later than August first of each year, appoint a

3 county director of school attendance and fix his salary. Such
4 person shall have the written recommendation of the county
5 superintendent for the position. Assistant attendance direc-
6 tors, if in the judgment of the board of education such are to
7 be appointed, shall be selected in like manner: *Provided, how-*
8 *ever,* That the number of assistant attendance directors and
9 the salaries fixed for them by the county board of education
10 shall be subject to the approval of the state board of school
11 finance. The county board of education may set up such
12 special or professional qualifications for attendance directors
13 as are deemed expedient and proper. Attendance directors,
14 before entering upon the duties of office, shall qualify as such
15 including the special or professional qualifications set up and
16 approved by a county board of education, and shall carry out
17 the attendance provisions of this article under the direction
18 of the county superintendent as agent for the county board of
19 education.

20 The power of removal of the county attendance director or
21 an assistant attendance director shall rest with the county
22 board of education; *Provided, however,* That reasons for con-
23 templated dismissal shall be reduced to writing, a copy of

24 which shall be furnished the director in question with oppor-
25 tunity to be heard in his own behalf by the county board of
26 education. The decision of the county board of education
27 shall be final.

28 The county attendance director shall diligently promote
29 regular school attendance. He shall ascertain reasons for in-
30 excusable absences from school of pupils of compulsory school
31 ages as defined under this act, and shall take such steps as are,
32 in his discretion, best calculated to correct attitudes of parents
33 and pupils which result in absences which investigation proves
34 were possibly avoidable even though not clearly in violation
35 of law.

36 If it is found that absence from school is in violation of law,
37 the attendance director, in the case of first offense that school
38 year, shall serve immediate written notice to the parent, guard-
39 ian, or custodian of such child that the attendance of such
40 child at school is required; and if the parent, guardian, or cus-
41 todian does not immediately comply with the provision of this
42 article, then such attendance director shall make complaint
43 against such parent, guardian, or custodian before a justice
44 of the peace of the county: *Provided*, That for a subsequent

45 offense in any school year no such notice shall be required.

46 When any doubt exists as to the age of a child absent from
47 school, the attendance director shall have authority to require
48 a properly attested birth certificate or an affidavit from the
49 parent, guardian, or custodian of such child, stating age of
50 such child. The county attendance director, or his assistant,
51 shall in the performance of his duties, as such officer, have
52 authority to visit or enter any office, factory, or business-
53 house employing children; he shall also have the authority to
54 arrest without warrant any child absent from school in vio-
55 lation of the provisions of this article, and to place such child
56 in the school in which such child is or should be enrolled.

57 The attendance directors shall be paid a monthly salary
58 from the maintenance fund; but in no case shall payment be
59 made of the monthly salary until the attendance director has
60 filed with the county superintendent and county board of
61 education by sworn statement a monthly report showing ac-
62 tivities of his office with respect to the number of truancy cases
63 investigated and the time actually spent in performing school
64 attendance duties in the county for the month. In addition
65 to the monthly salary an attendance officer may be reimbursed

66 for necessary travel expense, not to exceed five cents per mile
67 incurred in the performance of his official duties. Amounts
68 allowed for travel expense shall be paid from the maintenance
69 fund upon presentation of itemized, sworn statements counter-
70 signed and approved by county superintendent of schools.
71 An attendance director may not be paid more than twenty-five
72 dollars in any month for travel. The salary and travel ex-
73 pense of an attendance director may be paid only for those
74 months school is in session.

75 The county attendance director shall be subject to direction
76 by the county superintendent acting on behalf of the board.
77 He shall devote full time to his duties as a school official dur-
78 ing the months school is in session and shall be responsible
79 for the efficient administration of attendance in his county.
80 In addition to his duties directly relating to the administra-
81 tion of attendance, the county attendance director shall also
82 perform the following duties:

83 (a) Assist in directing the taking of the school census to
84 see that it is taken at the time and in the manner provided by
85 law.

86 (b) Provide each teacher of school at the opening of the

87 term with a copy of the school census as taken for the previous
88 year for that particular school.

89 (c) Advise with teachers on the comparison of enumera-
89a tion and enrollment for the detection of possible delinquency.

90 (d) Cooperating with existing State and Federal Agen-
91 cies charged with the enforcement of child labor laws.

92 (e) Prepare a report for submission by the county super-
93 intendent to the state superintendent of schools on enforcement
94 of compulsory attendance, and the cost thereof, at such times
95 and in such detail as may be required; also, file with the county
96 superintendent and county board of education at the close of
97 each month a report showing activities of his office and the
98 status of attendance in the county at the time.

99 (f) Promote attendance in the county by the compilation
100 of data for schools and by furnishing suggestions and recom-
101 mendations for publication through school bulletins and the
102 press, or for such purposes as the county superintendent may
103 direct.

104 (g) Participate in school functions such as Parent-
105 Teacher Associations, civic meetings, club meetings, and

106 teachers' conferences by way of encouraging attendance and
107 thereby promoting greater school efficiency.

108 (h) Assist in such other ways as the county superintend-
109 ent and/or board may direct for improving of school at-
110 tendance.

Sec. 3. It shall be the duty of all teachers of one-room
2 schools and all principals of two or more rooms to make
3 prompt reports to the county attendance director, or proper
4 assistant, of all cases of truancy arising within the commun-
5 ity served by the school. Said teachers and principals shall
6 report on the form prescribed by the state superintendent for
7 such purpose, or by telephone, or in person, the name and
8 residence of any parent, guardian or custodian of a child
9 enrolled in school between the age of seven and sixteen years
10 who is or has been absent from school, and indicate whether
11 such absence was or is without legal exemption if such in-
12 formation is in possession of the teacher or principal re-
13 porting.

14 It shall also be the duty of each said teacher and each said
15 principal to ascertain and report promptly the name of any
16 parent, guardian, or custodian of any child of compulsory

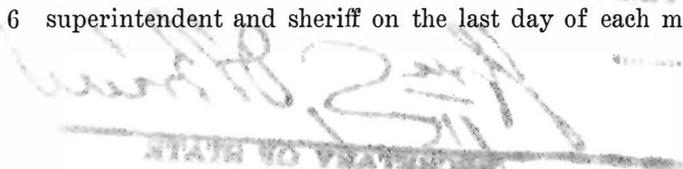
17 school age, as herein defined, who belongs to the school re-
18 porting and has not enrolled in any school that year. By
19 way of ascertaining the status of school attendance each said
20 teacher and principal shall compare the school enumeration
21 list with the school enrollment at the opening of the school
22 term, and each month thereafter, or as directed by the county
23 superintendent of schools, and report the same to the county
24 attendance director. *Provided*, That any child belonging to
25 a particular school subdistrict, but who is at the time enrolled
26 in public school or other school outside the same shall be
27 considered as belonging to the school in which enrolled and
28 will, therefore, be included only in the report of attendance
29 from the school to which said child is enrolled at the time.

Sec. 4. Any county attendance director or other person
2 upon whom a duty is imposed under provisions of this ar-
3 ticle, who refuses or neglects to perform any duty or duties
4 so imposed upon him, shall be guilty of misdemeanor, and
5 upon conviction thereof, shall be fined not less than five nor
6 more than fifty dollars, and may be imprisoned not to exceed
7 thirty days. In addition thereto, said director, having been
8 convicted of refusal or negligence in the performance of duty

9 as imposed by this article shall be subject to removal from
10 office or position at the discretion of the county board of
11 education.

Sec. 5. Any person who induces or attempts to induce any
2 child unlawfully to absent himself from school, or who har-
3 bours or employs any child of compulsory school age while
4 the school to which he belongs and which he is required to
5 attend is in session, or who employs such child within the
6 term of such school on any day such school is in session with-
7 out the written permission of the county superintendent of
8 schools, or for a larger period than such work permit may
9 specify shall be guilty of misdemeanor; and, upon conviction
10 thereof, shall be fined not less than twenty-five nor more than
11 fifty dollars and may be confined in jail not less than ten
12 nor more than thirty days.

Sec. 6. All fines collected under provisions of this article
2 shall be paid over at once by the justice, or other proper
3 official having jurisdiction in the case, to the sheriff and by
4 him immediately credited to the county maintenance fund;
5 and the county attendance director shall file with the county
6 superintendent and sheriff on the last day of each month an



STATE OF WEST VIRGINIA

7 itemized statement of all fines imposed as herein provided.

Sec. 7. This section is repealed.

Sec. 8. County boards of education shall have authority,
2 subject to the rules and regulations of the state board of edu-
3 cation and the state superintendent of free schools, to estab-
4 lish and maintain continuation and part-time schools, and
5 evening schools or classes.

6 If any part of this act for any reason is declared unconsti-
7 tutional the decision of the court shall not effect the validity
8 of any remaining portion.

9 All existing provisions of law inconsistent with this act
10 are hereby repealed.

I certify that the foregoing act,
having been presented to the Governor for
his approval, and not having been returned
by him to the House of the Legislature in
which it originated within the time pre-
scribed by the constitution of the state, has
become a law without his approval.

This the...17...day of...March...

1939

Am S. O'Brien
SECRETARY OF STATE

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

E. O. Wiseman

Chairman Senate Committee

Dell H. Walker

Chairman House Committee

Originated in the

Senate

Takes effect

From

..... passage

Sherrill Rice

Clerk of the Senate

Geo. S. Hance

Clerk of the House of Delegates

Wm. B. ...

President of the Senate

James Ray Thomas

Speaker House of Delegates

The within

..... this the

day of

....., 1939.

.....
Governor

