WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1951

ENROLLED

HOUSE BILL No. 33

(By Mr. White [of Cabell])

PASSED March 10, 1951

In Effect ninety days from Passage
ENROLLED

House Bill No. 331
(By Mr. White, of Cabell)

[Passed March 10, 1951: in effect ninety days from passage.]

AN ACT to amend and reenact article eight, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to compulsory school attendance.

Be it enacted by the Legislature of West Virginia:

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

Article 8. Compulsory School Attendance.

Section 1. Compulsory School Attendance; Exceptions.

2 —Compulsory school attendance shall begin with the seventh birthday and continue to the sixteenth birthday.

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

Exemption A—Instruction in a Private, Parochial or
Other Approved School. Such instruction shall be in a
school approved by the county board of education and
for a time equal to the school term of the county for the
year. In all such schools it shall be the duty of the
principal or other person in control, upon the request of
the county superintendent of schools, to furnish to the
county board of education such information and records
as may be required with respect to attendance, instruction,
and progress of pupils enrolled between the ages of seven
and sixteen years;

Exemption B—Instruction in Home or Other Approved
Place. Such instruction shall be in the home of such child
or children or at some other place approved by the county
board of education and for a time equal to the school term
of the county. The instruction in such cases shall be con-
ducted by a person or persons who, in the judgment of
the county superintendent and county board of education,
are qualified to give instruction in subjects required to be
taught in the free elementary schools of the state. It shall
be the duty of the person or persons giving the instruc-
tion, upon request of the county superintendent, to furnish
to the county board of education, such information and
records as may be required from time to time with respect
to attendance, instruction, and progress of pupils enrolled
between the ages of seven and sixteen years receiving
such instruction;

Exemption C—Physical or Mental Incapacity.—Physical
or mental incapacity shall consist of incapacity for school
attendance and the performance of school work. In all
cases of prolonged absence from school due to incapacity
of the child to attend, the written statement of a licensed
physician or authorized school nurse shall be required
under the provisions of this article;

Exemption D—Residence More Than Two Miles from
School or School Bus Route. The distance of residence
from a school, or school bus route providing free trans-
portation, shall be reckoned by the shortest practicable
road or path, which contemplates travel through fields by
right of permission from the landholders or their agents.
It shall be the duty of the county board of education, subject to written consent of landholders, or their agents, to provide and maintain safe footbridges across streams off the public highways where such are required for the safety and welfare of pupils, whose mode of travel from home to school or to school bus route, must necessarily be other than along the public highway in order for said road or path to be not over two miles from home to school or to school bus providing free transportation;

Exemption E—Hazardous Conditions. Conditions rendering school attendance impossible or hazardous to the life, health, or safety of the child;

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

Exemption G—Granting Work Permits. The county superintendent may, after due investigation, grant work permits to youths under sixteen years of age, subject to state and federal labor laws and regulations: Provided, That a work permit may not be granted on behalf of any
youth of normal intelligence who has not completed the

eighth grade of school;

Exemption H—Serious Illness or Death in the Imme-
diate Family of the Pupil. It is expected that the county
attendance director will ascertain the facts in all cases
of such absences about which information is inadequate
and report same to the county superintendent of schools;

Exemption I—Destitution in the Home. Exemption
based on a condition of extreme destitution in the home
may be granted only upon the written recommendation
of the county attendance director to the county superin-
tendent following careful investigation of the case. A copy
of the report confirming such condition and school exemp-
tion shall be placed with the county director of public
assistance. This enactment contemplates every reasonable
effort that may properly be taken on the part of both
school and public assistance authorities for the relief of
home conditions officially recognized as being so destitute
as to deprive children of the privilege of school attend-
ance. Exemption for this cause shall not be allowed when
such destitution is relieved through public or private means;

Exemption J—Church Ordinances; Observances of Regular Church Ordinances. The county board of education may approve exemption for religious instruction upon written request of the person having legal or actual charge of a child or children: Provided, however, That such exemption shall be subject to the rules and regulations prescribed by the county superintendent and approved by the county board of education.

The completion of the eighth grade shall not exempt any child under sixteen years of age from the compulsory attendance provision of this article: Provided, That there is a public high school or other public school of advanced grades or a school bus providing free transportation to any such school the route of which is within two miles of the child's home by the shortest practical route or path as hereinbefore specified under exemption D of this section.

Sec. 2. Offenses; Penalties.—Any person who, after due notice has been served upon him as hereinafter provided, shall fail to cause a child or children in his legal or actual
charge to attend school as hereinbefore provided, shall be
of, be fined not less than three nor more than twenty
dollars together with the costs of prosecution, or confined
in jail not less than five nor more than twenty days. Every
day a child is out of school contrary to the provisions of
this article shall constitute a separate offense. Justices
of the peace shall have jurisdiction of offenses under this
section.
Whenever a person accused of violating any of the pro-
visions of this article has been tried and acquitted, the
cost of prosecution shall be paid by the county board of
education out of the maintenance fund of the county.

Sec. 3. County Director of School Attendance; Appointment; Assistants; Qualification; Removal; Powers; Salary and Traveling Expenses.—The county board of education of every county shall, not later than August first of each year, appoint a county director of school attendance and such assistant attendance directors, as deemed necessary. Such persons shall have the written recommendation of the county superintendent.
The county board of education may set up such special and professional qualifications for attendance directors and assistants as are deemed expedient and proper and are consistent with regulations of the state board of education relating thereto: Provided, That those persons who served as attendance directors or assistant directors during the school year (one thousand nine hundred fifty and fifty-one) or who had previously served at least one year as such shall be eligible for employment.

The attendance director or assistant director shall be paid a monthly salary as fixed by the county board. Before receiving his monthly salary the attendance director or assistant director shall file with the county superintendent a certified statement showing the activities of his office in school attendance service for the month and the number of days actually spent in the performance of such duties. The county board of education shall have the authority to reimburse such employees for their necessary traveling expenses upon presentation of a monthly, itemized, sworn statement approved by the county superintendent.

The power of removal of the county attendance director
or an assistant attendance director shall rest with the county board of education: Provided, however, That reasons for contemplated dismissal shall be reduced to writing, a copy of which shall be furnished the director in question with opportunity to be heard in his own behalf by the county board of education. The decision of the county board of education shall be final.

Sec. 4. Duties of Attendance Director; Assistant Directors of Attendance.—The county attendance director and his assistants shall diligently promote regular school attendance. They shall ascertain reasons for inexcusable absences from school of pupils of compulsory school age as defined under this act, and shall take such steps as are, in their discretion, best calculated to correct attitudes of parents and pupils which result in absences from school even though not clearly in violation of law.

If it is found that absence from school is in violation of law, the attendance director or assistant, in the case of first offense that school year, shall serve written notice to the parent, guardian, or custodian of such child that the attendance of such child at school is required; and if
the parent, guardian, or custodian does not comply with the provisions of this article, then the attendance director shall make complaint against such parent, guardian or custodian before a justice of the peace of the county:

Provided, That for a subsequent offense in any school year no such notice shall be required.

When any doubt exists as to the age of a child absent from school, the attendance director shall have authority to require a properly attested birth certificate or an affidavit from the parent, guardian or custodian of such child, stating age of such child. The county attendance director or assistant, shall in the performance of his duties, have authority to take without warrant any child absent from school in violation of the provisions of this article and to place such child in the school in which such child is or should be enrolled.

The county attendance director shall devote full time to his duties as a school official and shall be responsible under direction of the county superintendent for the efficient administration of school attendance in his county.

In addition to those duties directly relating to the ad-
ministration of attendance, the county attendance director
and assistant directors shall also perform the following
duties:

(a) Assist in directing the taking of the school census
to see that it is taken at the time and in the manner pro-
vided by law;

(b) Advise with principals and teachers on the com-
parison of school census and enrollment for the detection
of possible non-enrollees;

(c) Cooperate with existing state and federal agencies
charged with enforcement of child labor laws;

(d) Prepare a report for submission by the county
superintendent to the state superintendent of schools on
school attendance, at such times and in such detail as may
be required; also, file with the county superintendent and
county board of education at the close of each month a
report showing activities of the school attendance office
and the status of attendance in the county at the time;

(e) Promote attendance in the county by the compila-
tion of data for schools and by furnishing suggestions and
recommendations for publication through school bulletins
and the press, or for such purposes as the county superintendent may direct;

(f) Participate in school functions such as parent-teacher associations, civic meetings, club meetings, and teachers' conferences;

(g) Assist in such other ways as the county superintendent may direct for improving school attendance.

Sec. 5. Duties of Principals and Teachers.—It shall be the duty of all teachers of one-room schools and all principals of two or more rooms to make prompt reports to the county attendance director, or proper assistant, of all cases of unexcused absences arising within the community served by the school, which in the judgment of the school requires the services of an attendance worker. Said teachers and principals shall report on the form prescribed for such purpose, or by telephone, or in person, giving essential information about the child and the name and residence of any parent, guardian or custodian of a child.

It shall also be the duty of each said teacher and each said principal to ascertain and report promptly the name of any parent, guardian or custodian of any child of com-
pulsory school age, as herein defined, who belongs to the
school reporting and has not enrolled in any school that
year. By way of ascertaining the status of school attend-
ance each said teacher and principal shall compare the
school census with the school enrollment at the opening
of the school term, and each month thereafter, or as
directed by the county superintendent of schools, and re-
port the same to the county attendance director: Provided,
That any child belonging to a particular school subdistrict,
but who is at the time enrolled in another public school or
other school outside the same shall be considered as be-
longing to the school in which enrolled and will, therefore,
be included only in the report of attendance from the
school in which he is enrolled at the time.

Sec. 6. Failure by County Attendance Director and Other
Persons to Perform Duties; Penalty.—Any county attend-
ance director or other person upon whom a duty is imposed
under provisions of this article, who refuses or neglects
to perform any duty or duties so imposed upon him, shall
be guilty of a misdemeanor, and upon conviction thereof,
shall be fined not less than five nor more than fifty dollars,
and may be imprisoned not to exceed thirty days. In addition thereto, said director or person having been convicted of refusal or negligence in the performance of duty as imposed by this article shall be subject to removal from office or position at the discretion of the county board of education.

Sec. 7. Aiding or Abetting Violations of Compulsory Attendance; Penalty.—Any person who induces or attempts to induce any child unlawfully to absent himself from school, or who harbors or employs any child of compulsory school age while the school to which he belongs and which he is required to attend is in session, or who employs such child within the term of such school on any day such school is in session without the written permission of the county superintendent of schools, or for a longer period than such work permit may specify shall be guilty of a misdemeanor; and, upon conviction thereof, shall be fined not less than twenty-five nor more than fifty dollars and may be confined in jail not less than ten nor more than thirty days.

Sec. 8. Child Suspended from School for Failure to Com-
2 *ploy with Requirements and Regulations Treated as Unlawfully Absent.*—If a child be suspended from school because of improper conduct or refusal of such child to comply with the requirements of the school, the school shall immediately notify the county superintendent of such suspension, and specify the time or conditions of such suspension. Further admission of the child to school may be refused until such requirements and regulations be complied with. Any such child shall be treated by the school as being unlawfully absent from the school during the time he refuses to comply with such requirements and regulations, and any person having legal or actual control of such child shall be liable to prosecution under the provisions of this article for the absence of such child from school: *Provided, That the county board of education does not exclude or expel the suspended child from school.*

Sec. 9. *Report and Disposition of Fines Collected.*—All fines collected under provisions of this article shall be paid on or before the last day of each calendar month by the justice, or other proper official having jurisdiction in the case, to the sheriff and by him credited to the county...
school fund; and the justice shall file with the county
superintendent on the last day of each month an itemized
statement of all fines paid over to the sheriff.

Sec. 10. Compulsory Education of Deaf and Blind; Off-
fenses; Penalties; Enumeration of Deaf and Blind.—Every
parent, guardian or other person having control of any
mentally normal minor over six years of age, who is de-
fective in sight or hearing to the extent that he cannot
be benefitted by instruction in the public schools, shall
be required to send such minor to the West Virginia schools
for the deaf and the blind at Romney. Such minor shall
continue to attend such schools for a term of at least
thirty-six weeks each year until he has completed the
course of instruction prescribed for such schools by the
state board of education, or has been discharged by the
superintendent of said school: Provided, however, That
minors of the Negro race who come under the require-
ments of this section shall be placed in the West Virginia
school for the colored deaf and blind.

Any such deaf or blind minor shall be exempt from at-
tendance at said schools for any of the following reasons:
(a) Instruction by a private tutor or in another school approved by the state board of education for a time equal to that required by the first paragraph of this section; (b) physical incapacity for school work; (c) any other reason deemed good and sufficient by the superintendent of such schools, with the approval of the state board of education.

Any parent, guardian or other persons in charge of such minor or minors who fails or refuses to comply with the requirements of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten nor more than thirty dollars for each offense. Failure for the period of one week within the school year to send such minor to school shall constitute an offense: Provided, That the time necessary for such minor to travel from his home to the school shall not be counted as time absent from school.

Any person who induces or attempts to induce such blind or deaf minor to absent himself from school, or who employs or harbors such minor unlawfully, while said school is in session, shall be guilty of a misdemeanor, and,
upon conviction thereof, shall be fined not less than twenty
nor more than fifty dollars for each offense.

It shall be the duty of school attendance directors and
assistants, prosecuting attorneys, and any special attend-
ance directors appointed by said school for the deaf and
the blind to enforce the provisions of this section.

It shall be the duty of the public school teachers of each
county to furnish to the county superintendent of schools
of their county the names of deaf or blind persons in their
subdistricts between the ages of six and twenty-five years,
together with information as to the age, sex and race of
such deaf and blind person. The county superintendent
of schools shall certify the names of all such white per-
sons, with the names and addresses of their parents and
guardians, to the superintendent of the West Virginia
schools for the deaf and the blind, and the names of all
such persons of the Negro race, with the names and ad-
dresses of their parents or guardians, to the superintend-
ent of the West Virginia school for the colored deaf and
blind.

It shall be the duty of the state superintendent of schools
to provide suitable blanks for the enumeration of such
deaf and blind persons to each county superintendent for
distribution among teachers and others responsible for
taking the school enumerations. The enumeration of such
deaf and blind persons shall be taken at the time the
regular school enumeration is taken, and shall be reported
to the superintendents of the schools for the deaf and the
blind at the time that the regular school enumeration is
reported to the state superintendent of schools.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Robert C. Byrd

Chairman Senate Committee

James W. Loop

Chairman House Committee

Originated in the House of Delegates

Takes effect ninety days from passage.

Thomas Hegar

Clerk of the Senate

J.R. Eliff

Clerk of the House of Delegates

M. Darlington

President of the Senate


Speaker House of Delegates

The within approved this the 16th day of March, 1951.

Owen L. Patterson

Governor

at the office of the Governor of West Virginia MAR 16, 1951

D. Pitt O'Brien,
Secretary of State