

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1951



ENROLLED

HOUSE BILL No. 331

(By Mr. White (of Cabell))



PASSED March 10, 1951

In Effect ninety days from Passage



1331

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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
3 seventh birthday and continue to the sixteenth birthday.

4 Exemption from the foregoing requirements of com-
5 pulsory public school attendance shall be made on behalf
6 of any child for the following causes or conditions, each

7 such cause or condition being subject to confirmation by
8 the attendance authority of the county:

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

20 Exemption B—*Instruction in Home or Other Approved*
21 *Place.* Such instruction shall be in the home of such child
22 or children or at some other place approved by the county
23 board of education and for a time equal to the school term
24 of the county. The instruction in such cases shall be con-
25 ducted by a person or persons who, in the judgment of
26 the county superintendent and county board of education,
27 are qualified to give instruction in subjects required to be

28 taught in the free elementary schools of the state. It shall
29 be the duty of the person or persons giving the instruc-
30 tion, upon request of the county superintendent, to furnish
31 to the county board of education, such information and
32 records as may be required from time to time with respect
33 to attendance, instruction, and progress of pupils enrolled
34 between the ages of seven and sixteen years receiving
35 such instruction;

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

43 Exemption D—*Residence More Than Two Miles from*
44 *School or School Bus Route*. The distance of residence
45 from a school, or school bus route providing free trans-
46 portation, shall be reckoned by the shortest practicable
47 road or path, which contemplates travel through fields by
48 right of permission from the landholders or their agents.

49 It shall be the duty of the county board of education,
50 subject to written consent of landholders, or their agents,
51 to provide and maintain safe footbridges across streams
52 off the public highways where such are required for the
53 safety and welfare of pupils, whose mode of travel from
54 home to school or to school bus route, must necessarily
55 be other than along the public highway in order for said
56 road or path to be not over two miles from home to school
57 or to school bus providing free transportation;

58 Exemption E—*Hazardous Conditions*. Conditions ren-
59 dering school attendance impossible or hazardous to the
60 life, health, or safety of the child;

61 Exemption F—*High School Graduation*. Such exemp-
62 tion shall consist of regular graduation from a standard
63 senior high school;

64 Exemption G—*Granting Work Permits*. The county
65 superintendent may, after due investigation, grant work
66 permits to youths under sixteen years of age, subject to
67 state and federal labor laws and regulations: *Provided*,
68 That a work permit may not be granted on behalf of any

69 youth of normal intelligence who has not completed the
70 eighth grade of school;

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

76 Exemption I—*Destitution in the Home.* Exemption
77 based on a condition of extreme destitution in the home
78 may be granted only upon the written recommendation
79 of the county attendance director to the county superin-
80 tendent following careful investigation of the case. A copy
81 of the report confirming such condition and school exemp-
82 tion shall be placed with the county director of public
83 assistance. This enactment contemplates every reasonable
84 effort that may properly be taken on the part of both
85 school and public assistance authorities for the relief of
86 home conditions officially recognized as being so destitute
87 as to deprive children of the privilege of school attend-
88 ance. Exemption for this cause shall not be allowed when

89 such destitution is relieved through public or private
90 means;

91 **Exemption J—Church Ordinances; Observances of Reg-**
92 **ular Church Ordinances.** The county board of education
93 may approve exemption for religious instruction upon
94 written request of the person having legal or actual charge
95 of a child or children: *Provided, however,* That such ex-
96 emption shall be subject to the rules and regulations pre-
97 scribed by the county superintendent and approved by the
98 county 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,* That there
102 is a public high school or other public school of advanced
103 grades or a school bus providing free transportation to any
104 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 section.

Sec. 2. Offenses; Penalties.—Any person who, after due
2 notice has been served upon him as hereinafter provided,
3 shall fail to cause a child or children in his legal or actual

4 charge to attend school as hereinbefore provided, shall be
5 guilty of a misdemeanor, and shall, upon conviction there-
6 of, be fined not less than three nor more than twenty
7 dollars together with the costs of prosecution, or confined
8 in jail not less than five nor more than twenty days. Every
9 day a child is out of school contrary to the provisions of
10 this article shall constitute a separate offense. Justices
11 of the peace shall have jurisdiction of offenses under this
12 section.

13 Whenever a person accused of violating any of the pro-
14 visions of this article has been tried and acquitted, the
15 cost of prosecution shall be paid by the county board of
16 education out of the maintenance fund of the county.

*Sec. 3. County Director of School Attendance; Appoint-
2 ment; Assistants; Qualification; Removal; Powers; Salary
3 and Traveling Expenses.*—The county board of education
4 of every county shall, not later than August first of each
5 year, appoint a county director of school attendance and
6 such assistant attendance directors, as deemed necessary.
7 Such persons shall have the written recommendation of
8 the county superintendent.

9 The county board of education may set up such special
10 and professional qualifications for attendance directors
11 and assistants as are deemed expedient and proper and
12 are consistent with regulations of the state board of educa-
13 tion relating thereto: *Provided*, That those persons who
14 served as attendance directors or assistant directors dur-
15 ing the school year (one thousand nine hundred fifty and
16 fifty-one) or who had previously served at least one year
17 as such shall be eligible for employment.

18 The attendance director or assistant director shall be
19 paid a monthly salary as fixed by the county board. Before
20 receiving his monthly salary the attendance director or
21 assistant director shall file with the county superintendent
22 a certified statement showing the activities of his office
23 in school attendance service for the month and the number
24 of days actually spent in the performance of such duties.

25 The county board of education shall have the authority
26 to reimburse such employees for their necessary traveling
27 expenses upon presentation of a monthly, itemized, sworn
28 statement approved by the county superintendent.

29 The power of removal of the county attendance director

30 or an assistant attendance director shall rest with the
31 county board of education: *Provided, however,* That rea-
32 sons for contemplated dismissal shall be reduced to writ-
33 ing, a copy of which shall be furnished the director in
34 question with opportunity to be heard in his own behalf
35 by the county board of education. The decision of the
36 county board of education shall be final.

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

10 If it is found that absence from school is in violation of
11 law, the attendance director or assistant, in the case of
12 first offense that school year, shall serve written notice
13 to the parent, guardian, or custodian of such child that
14 the attendance of such child at school is required; and if

15 the parent, guardian, or custodian does not comply with
16 the provisions of this article, then the attendance director
17 shall make complaint against such parent, guardian or
18 custodian before a justice of the peace of the county:
19 *Provided*, That for a subsequent offense in any school
20 year no such notice shall be required.

21 When any doubt exists as to the age of a child absent
22 from school, the attendance director shall have authority
23 to require a properly attested birth certificate or an affi-
24 davit from the parent, guardian or custodian of such child,
25 stating age of such child. The county attendance direc-
26 tor or assistant, shall in the performance of his duties,
27 have authority to take without warrant any child absent
28 from school in violation of the provisions of this article
29 and to place such child in the school in which such child
30 is or should be enrolled.

31 The county attendance director shall devote full time
32 to his duties as a school official and shall be responsible
33 under direction of the county superintendent for the effi-
34 cient administration of school attendance in his county.

35 In addition to those duties directly relating to the ad-

36 ministration of attendance, the county attendance director
37 and assistant directors shall also perform the following
38 duties:

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

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

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

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

54 (e) Promote attendance in the county by the compila-
55 tion of data for schools and by furnishing suggestions and
56 recommendations for publication through school bulletins

57 and the press, or for such purposes as the county superin-
58 tendant may direct;

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

62 (g) Assist in such other ways as the county superin-
63 tendent may direct for improving school attendance.

Sec. 5. *Duties of Principals and Teachers.*—It shall be
2 the duty of all teachers of one-room schools and all prin-
3 cipals of two or more rooms to make prompt reports to
4 the county attendance director, or proper assistant, of all
5 cases of unexcused absences arising within the community
6 served by the school, which in the judgment of the school
7 requires the services of an attendance worker. Said teach-
8 ers and principals shall report on the form prescribed for
9 such purpose, or by telephone, or in person, giving essen-
10 tial information about the child and the name and resi-
11 dence of any parent, guardian or custodian of a child.

12 It shall also be the duty of each said teacher and each
13 said principal to ascertain and report promptly the name
14 of any parent, guardian or custodian of any child of com-

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

Sec. 6. *Failure by County Attendance Director and Other*
2 *Persons to Perform Duties; Penalty.*—Any county attend-
3 ance director or other person upon whom a duty is imposed
4 under provisions of this article, who refuses or neglects
5 to perform any duty or duties so imposed upon him, shall
6 be guilty of a misdemeanor, and upon conviction thereof,
7 shall be fined not less than five nor more than fifty dollars,

8 and may be imprisoned not to exceed thirty days. In addi-
9 tion thereto, said director or person having been convicted
10 of refusal or negligence in the performance of duty as
11 imposed by this article shall be subject to removal from
12 office or position at the discretion of the county board of
13 education.

Sec. 7. *Aiding or Abetting Violations of Compulsory*
2 *Attendance; Penalty.*—Any person who induces or at-
3 tempts to induce any child unlawfully to absent himself
4 from school, or who harbors or employs any child of com-
5 pulsory school age while the school to which he belongs
6 and which he is required to attend is in session, or who
7 employs such child within the term of such school on any
8 day such school is in session without the written permis-
9 sion of the county superintendent of schools, or for a
10 longer period than such work permit may specify shall
11 be guilty of a misdemeanor; and, upon conviction thereof,
12 shall be fined not less than twenty-five nor more than fifty
13 dollars and may be confined in jail not less than ten nor
14 more than thirty days.

Sec. 8. *Child Suspended from School for Failure to Com-*

2 *ply with Requirements and Regulations Treated as Un-*
3 *lawfully Absent.*—If a child be suspended from school
4 because of improper conduct or refusal of such child to
5 comply with the requirements of the school, the school
6 shall immediately notify the county superintendent of
7 such suspension, and specify the time or conditions of such
8 suspension. Further admission of the child to school may
9 be refused until such requirements and regulations be
10 complied with. Any such child shall be treated by the
11 school as being unlawfully absent from the school during
12 the time he refuses to comply with such requirements and
13 regulations, and any person having legal or actual control
14 of such child shall be liable to prosecution under the pro-
15 visions of this article for the absence of such child from
16 school: *Provided*, That the county board of education does
17 not exclude or expel the suspended child from school.

Sec. 9. *Report and Disposition of Fines Collected.*—All
2 fines collected under provisions of this article shall be
3 paid on or before the last day of each calendar month by
4 the justice, or other proper official having jurisdiction
5 in the case, to the sheriff and by him credited to the county

6 school fund; and the justice shall file with the county
7 superintendent on the last day of each month an itemized
8 statement of all fines paid over to the sheriff.

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

17 Any such deaf or blind minor shall be exempt from at-
18 tendance at said schools for any of the following reasons:

19 (a) Instruction by a private tutor or in another school
20 approved by the state board of education for a time equal
21 to that required by the first paragraph of this section;
22 (b) physical incapacity for school work; (c) any other
23 reason deemed good and sufficient by the superintendent
24 of such schools, with the approval of the state board of
25 education.

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

36 Any person who induces or attempts to induce such
37 blind or deaf minor to absent himself from school, or who
38 employs or harbors such minor unlawfully, while said
39 school is in session, shall be guilty of a misdemeanor, and,

40 upon conviction thereof, shall be fined not less than twenty
41 nor more than fifty dollars for each offense.

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

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

60 It shall be the duty of the state superintendent of schools

61 to provide suitable blanks for the enumeration of such
62 deaf and blind persons to each county superintendent for
63 distribution among teachers and others responsible for
64 taking the school enumerations. The enumeration of such
65 deaf and blind persons shall be taken at the time the
66 regular school enumeration is taken, and shall be reported
67 to the superintendents of the schools for the deaf and the
68 blind at the time that the regular school enumeration is
69 reported to the state superintendent of schools.

[Faint handwritten signatures and text, including a large circular mark]

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.

Howard Keyes

Clerk of the Senate

J.R. Cliff

Clerk of the House of Delegates

W. Brantley Houston

President of the Senate

W.E. Ramo

Speaker House of Delegates

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

Chas. L. Patton

Governor

AT THE OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA
MAR 16 1951
D. PITT O'BRIEN,
SECRETARY OF STATE