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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1975

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ENROLLED

Committee Substitute
FOR

SENATE BILL NO. 541

(By Mr. Rogerson, original sponsor)

—•—

PASSED March 8, 1975

In Effect ninety days from Passage



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 541

(By MR. ROGERSON, *original sponsor*)

[Passed March 8, 1975; in effect ninety days from passage.]

AN ACT to amend and reenact sections six and eight, article five-c, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to duties and powers of commissioner of labor and civil remedy of employee; limitation of actions.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5C. MINIMUM WAGE AND MAXIMUM HOURS STANDARDS FOR EMPLOYEES.

§21-5C-6. Duties and powers of commissioner of labor.

1 (a) It shall be the duty of the commissioner to enforce
2 and administer the provisions of this article, and to
3 promulgate such rules and regulations, in accordance
4 with chapter twenty-nine-a of the code of West Virginia,
5 one thousand nine hundred thirty-one, as amended, as
6 shall be needful to give effect to the provisions of this
7 article.

8 (b) The commissioner is authorized at reasonable
9 times to enter the place of business of an employer sub-
10 ject to the provisions of this article, for purposes of:
11 (1) Inspecting and examining, and copying, photograph-
12 ing or otherwise reproducing all payroll records of the

13 employer directly relating to wages and hours of em-
14 ployment of persons employed by him; (2) questioning
15 or otherwise examining persons employed by the em-
16 ployer on the subject of wages and hours of their em-
17 ployment, and gratuities received or earned in such em-
18 ployment.

19 (c) The commissioner is authorized and empowered
20 to make investigations to determine whether there is
21 reasonable cause to believe that any person is an em-
22 ployer as defined in section one of this article, or whether
23 there is reasonable cause to believe that any provision
24 of this article is being or has been violated.

25 (d) The commissioner is authorized and empowered
26 to file criminal complaints against persons whom the
27 commissioner has reasonable cause to believe have com-
28 mitted any offense created or defined by the provisions
29 of this article.

30 (e) The commissioner is authorized and empowered
31 to institute civil actions seeking appropriate injunctive
32 relief to compel an employer subject to this article to
33 comply with the provisions of this article.

34 (f) The commissioner shall enforce and administer
35 the provisions of this article in accordance with chapter
36 twenty-nine-a of this code. The commissioner or his
37 authorized representatives are empowered to enter and
38 inspect such places, question such employees and in-
39 vestigate such facts, conditions, or matters as they may
40 deem appropriate, to determine whether any person, firm
41 or corporation has violated any provision of this article,
42 or any rule or regulation issued hereunder or which may
43 aid in the enforcement of the provisions of this article.

§21-5C-8. Civil remedy of employee; limitation of actions.

1 (a) Any employer who pays an employee less than
2 the applicable wage rate to which such employee is
3 entitled under or by virtue of this article shall be liable
4 to such employee for the unpaid wages; an agreement by
5 an employee to work for less than the applicable wage
6 rate is hereby declared by the Legislature of West Vir-
7 ginia to be against public policy and unenforceable.

8 (b) Any person whose wages have not been paid in
9 accord with this article, or the commissioner or his

10 designated representative, upon the request of such per-
11 son, may bring any legal action necessary to collect a
12 claim under this article. With the consent of the em-
13 ployee, the commissioner shall have the power to settle
14 and adjust any claim to the same extent as might the
15 employee.

16 (c) The court in any action brought under this article
17 may, in the event that any judgment is awarded to the
18 plaintiff or plaintiffs, assess costs of the action, includ-
19 ing reasonable attorney fees against the defendant. Such
20 attorney fees in the case of action brought under this
21 section by the commissioner shall be remitted by the
22 commissioner to the treasurer of the state. The com-
23 missioner shall not be required to pay the filing fee or
24 other costs or fees of any nature or to file a bond or
25 other security of any nature in connection with such
26 action or with proceedings supplementary thereto, or
27 as a condition precedent to the availability to the com-
28 missioner of any process in aid of such action or pro-
29 ceedings. The commissioner shall have power to join
30 various claimants in one claim or lien, and in case of
31 suit to join them in one cause of action.

32 (d) In any such action the amount recoverable shall
33 be limited to such unpaid wages as should have been
34 paid by the employer within two years next preceding
35 the commencement of such action. Nothing in this article
36 shall be construed to limit the right of an employee to
37 recover upon a contract of employment.

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

James L. Davis
Chairman Senate Committee

Lawrence C. Christian Jr.
Chairman House Committee

Originated in the Senate.

Takes effect ninety days from passage.

J. C. Dillon Jr.
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

J. B. Thurston
President of the Senate

Louis D. Williams
Speaker House of Delegates

The within approved this the 25th
day of March, 1975.

Arthur A. Shreve Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/20/75

Time 4:30 P.M.