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
employer directly relating to wages and hours of em-
ployment of persons employed by him; (2) questioning
or otherwise examining persons employed by the em-
ployer on the subject of wages and hours of their em-
ployment, and gratuities received or earned in such em-
ployment.
(c) The commissioner is authorized and empowered
to make investigations to determine whether there is
reasonable cause to believe that any person is an em-
ployer as defined in section one of this article, or whether
there is reasonable cause to believe that any provision
of this article is being or has been violated.
(d) The commissioner is authorized and empowered
to file criminal complaints against persons whom the
commissioner has reasonable cause to believe have com-
mitted any offense created or defined by the provisions
of this article.
(e) The commissioner is authorized and empowered
to institute civil actions seeking appropriate injunctive
relief to compel an employer subject to this article to
comply with the provisions of this article.
(f) The commissioner shall enforce and administer
the provisions of this article in accordance with chapter
twenty-nine-a of this code. The commissioner or his
authorized representatives are empowered to enter and
inspect such places, question such employees and in-
vestigate such facts, conditions, or matters as they may
deem appropriate, to determine whether any person, firm
or corporation has violated any provision of this article,
or any rule or regulation issued hereunder or which may
aid in the enforcement of the provisions of this article.
§21-5C-8. Civil remedy of employee; limitation of actions.
(a) Any employer who pays an employee less than
the applicable wage rate to which such employee is
entitled under or by virtue of this article shall be liable
to such employee for the unpaid wages; an agreement by
an employee to work for less than the applicable wage
rate is hereby declared by the Legislature of West Vir-
ginia to be against public policy and unenforceable.
(b) Any person whose wages have not been paid in
accord with this article, or the commissioner or his
designated representative, upon the request of such person, may bring any legal action necessary to collect a claim under this article. With the consent of the employee, the commissioner shall have the power to settle and adjust any claim to the same extent as might the employee.

(c) The court in any action brought under this article may, in the event that any judgment is awarded to the plaintiff or plaintiffs, assess costs of the action, including reasonable attorney fees against the defendant. Such attorney fees in the case of action brought under this section by the commissioner shall be remitted by the commissioner to the treasurer of the state. The commissioner shall not be required to pay the filing fee or other costs or fees of any nature or to file a bond or other security of any nature in connection with such action or with proceedings supplementary thereto, or as a condition precedent to the availability to the commissioner of any process in aid of such action or proceedings. The commissioner shall have power to join various claimants in one claim or lien, and in case of suit to join them in one cause of action.

(d) In any such action the amount recoverable shall be limited to such unpaid wages as should have been paid by the employer within two years next preceding the commencement of such action. Nothing in this article shall be construed to limit the right of an employee to recover upon a contract of employment.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Harris  
Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

Takes effect ninety days from passage.

J. Gilliam Jr.  
Clerk of the Senate

V.B. Bareworth  
Clerk of the House of Delegates

President of the Senate

James F. Manza  
Speaker House of Delegates

The within __________ this the __________ day of __________, 1975.

A. Sharr  
Governor
PRESENTED TO THE GOVERNOR

Date 3/20/75
Time 4:30 p.m.