

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-28-81

Time _____

70: 240

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1981



ENROLLED

SENATE BILL NO. 240

(By Mr. Hearn)



PASSED April 11, 1981

In Effect January 1, 1982 ~~Passage~~



ENROLLED
Senate Bill No. 240
(By MR. HECK)

[Passed April 11, 1981; in effect January 1, 1982.]

AN ACT to amend and reenact sections one and two, article five-c, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to increasing the minimum wage; and exempting certain legislative employees.

Be it enacted by the Legislature of West Virginia:

That sections one and two, 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-1. Definitions.

- 1 As used in this article:
- 2 (a) "Commissioner" means the commissioner of labor or
- 3 his duly authorized representatives.
- 4 (b) "Wage and hour director" means the wage and hour
- 5 director appointed by the commissioner of labor as chief of
- 6 the wage and hour division.
- 7 (c) "Wage" means compensation due an employee by
- 8 reason of his employment.
- 9 (d) "Employ" means to hire or permit to work.
- 10 (e) "Employer" includes the state of West Virginia, its
- 11 agencies, departments and all its political subdivisions, any
- 12 individual, partnership, association, public or private
- 13 corporation, or any person or group of persons acting directly
- 14 or indirectly in the interest of any employer in relation to an
- 15 employee; and who employs during any calendar week six or
- 16 more employees as herein defined in any one separate,

17 distinct and permanent location or business establishment:
18 *Provided*, That the term "employer" shall not include any
19 individual, partnership, association, corporation, person or
20 group of persons or similar unit if eighty percent of the
21 persons employed by him are subject to any federal act
22 relating to minimum wage, maximum hours and overtime
23 compensation.

24 (f) "Employee" includes any individual employed by an
25 employer but shall not include: (1) Any individual employed
26 by the United States; (2) any individual engaged in the
27 activities of an educational, charitable, religious, fraternal or
28 nonprofit organization where the employer-employee
29 relationship does not in fact exist, or where the services
30 rendered to such organizations are on a voluntary basis; (3)
31 newsboys, shoeshine boys, golf caddies, pin boys and pin
32 chasers in bowling lanes; (4) traveling salesmen and outside
33 salesmen; (5) services performed by an individual in the
34 employ of his parent, son, daughter or spouse; (6) any
35 individual employed in a bona fide professional, executive or
36 administrative capacity; (7) any person whose employment is
37 for the purpose of on-the-job training; (8) any person having a
38 physical or mental handicap so severe as to prevent his
39 employment or employment training in any training or
40 employment facility other than a nonprofit sheltered
41 workshop; (9) any individual employed in a boys or girls
42 summer camp; (10) any person sixty-two years of age or over
43 who receives old-age or survivors benefits from the social
44 security administration; (11) any individual employed in
45 agriculture as the word agriculture is defined in the Fair
46 Labor Standards Act of 1938, as amended; (12) any individual
47 employed as a fire fighter by the state or agency thereof; (13)
48 ushers in theaters; (14) any individual employed on a
49 part-time basis who is a student in any recognized school or
50 college; (15) any individual employed by a local or interurban
51 motorbus carrier; (16) so far as the maximum hours and
52 overtime compensation provisions of this article are
53 concerned, any salesman, parts man or mechanic primarily
54 engaged in selling or servicing automobiles, trailers, trucks,
55 farm implements, or aircraft if employed by a
56 nonmanufacturing establishment primarily engaged in the
57 business of selling such vehicles to ultimate purchasers; (17)
58 any employee with respect to whom the United States

59 department of transportation has statutory authority to
60 establish qualifications and maximum hours of service; or
61 (18) any person employed on a per diem basis by the Senate,
62 the House of Delegates, or the joint committee on
63 government and finance of the Legislature of West Virginia,
64 other employees of the Senate or House of Delegates
65 designated by the presiding officer thereof, and additional
66 employees of the joint committee on government and finance
67 designated by such joint committee.

68 (g) "Workweek" means a regularly recurring period of one
69 hundred sixty-eight hours in the form of seven consecutive
70 twenty-four-hour periods, need not coincide with the
71 calendar week, and may begin any day of the calendar week
72 and any hour of the day.

73 (h) "Hours worked," in determining for the purposes of
74 sections two and three of this article, the hours for which an
75 employee is employed, there shall be excluded any time
76 spent in changing clothes or washing at the beginning or end
77 of each workday, time spent in walking, riding or traveling to
78 and from the actual place of performance of the principal
79 activity or activities which such employee is employed to
80 perform and activities which are preliminary to or
81 postliminary to said principal activity or activities, subject to
82 such exceptions as the commissioner may by rules and
83 regulations define.

§21-5C-2. Minimum wages.

1 After the thirty-first day of December, one thousand nine
2 hundred eighty-one, every employer shall pay to each of his
3 employees wages at a rate not less than three dollars and five
4 cents per hour.

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

R. P. Bayler
Chairman Senate Committee

Tony E. Whitlow
Chairman House Committee

Originated in the Senate.

To take effect January 1, 1982.

Lois C. Wickes
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

Wm. R. B.
President of the Senate

Wm. H. Lee, Jr.
Speaker House of Delegates

The within *is approved* this the *20*
day of *April*, 1981.

John D. Rye
Governor

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SECY. OF STATE