

**WEST VIRGINIA CODE
CHAPTER 21
LABOR**

**ARTICLE 6
CHILD LABOR**

§21-6-1. Employment of children under fourteen.

Except as permitted and authorized by the provisions of this article, a child under fourteen years of age shall only be employed or permitted to work the following jobs:

- (1) Agriculture and horticulture activities which have not been declared hazardous by the secretary of the United States department of labor;
- (2) Domestic services within the residence of the employer;
- (3) Work for parents or legal guardian in their solely owned business, except those jobs set out in section two of this article;
- (4) As actors or performers in motion pictures, theatrical, radio or television productions; and
- (5) Newspaper delivery.

§21-6-2. Employment of children under eighteen in certain occupations; determination as to other occupations; appeal to supreme court.

(a) A child under eighteen years of age may not be employed, permitted or suffered to work in, about, or in connection with any of the following occupations:

- (1) Motor vehicle driver and outside helper whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivery of goods;
- (2) The manufacture, storage, handling or transportation of explosives or highly flammable substances;
- (3) Ore reduction works, smelters, hot rolling mills, furnaces, foundries, forging shops, or in any other place in which the heating, melting or heat treatment of metals is carried on;
- (4) Logging and saw milling occupations;
- (5) Power-driven woodworking machine occupations;
- (6) Occupations involving exposure to radioactive substances and ionizing radiations;
- (7) Power-driven hoisting apparatus occupations;

- (8) Power-driven metal-forming, punching, and shearing machine occupations;
- (9) Mining, including coal mining;
- (10) Occupations involving slaughtering, meat-packing, or processing or rendering;
- (11) Power-driven bakery machines;
- (12) Power-driven paper-products machine occupations;
- (13) Occupations involved in the manufacturing of brick, tile, and kindred products;
- (14) Occupations involved in the operation of power-driven circular saws, band saws, and guillotine shears;
- (15) Occupations involved in wrecking, demolition, and ship-breaking operations;
- (16) Roofing operations above ground level; and
- (17) Excavation operations.

(b) A child under eighteen years of age may not be employed or permitted to work in a bar, or be permitted, employed or suffered to sell, dispense or serve alcoholic beverages in any place or establishment where the consumption of alcoholic beverages is permitted by law.

(c) A child under eighteen years of age may not be employed or permitted to work in any occupation prohibited by law or determined by the commissioner to be dangerous or injurious: *Provided*, That a child between the ages of sixteen and eighteen years who is enrolled in, participating in, or has completed the minimum training requirements of the West Virginia State Fire Commission, West Virginia Department of Education Public Service Training, or West Virginia University fire service extension, or equivalent approved program, and who has the written consent of his or her parents or guardian may be employed by or elected as a member of a volunteer fire department to perform fire-fighting functions: *Provided, however*, That no child may be permitted to operate any fire-fighting vehicles, enter a burning building in the course of his or her employment or work or enter into any area determined by the fire chief or fireman in charge at the scene of a fire or other emergency to be an area of danger exposing the child to physical harm by reason of impending collapse of a building or explosion, unless the child is under the immediate supervision of a fire line officer.

§21-6-3. Issuance of work permit.

(a) A child fourteen or fifteen years of age may be employed or permitted to work in any gainful occupation, except as provided in section two of this article, when the person, firm or corporation by whom the child is employed or permitted to work, obtains and keeps on file and accessible to officers charged with the enforcement of this article, a work permit issued by the superintendent of schools of the county in which the child resides, or by some person authorized by him or her in writing. Whenever a work permit has been issued, or wherever an age certificate has been issued under the provisions of

section five of this article, it shall be conclusive as to the age of the child on whose behalf the work permit or age certificate was issued.

(b) The superintendent of schools, or person authorized by him or her in writing, shall issue the work permit only upon receipt of the following documents:

(1) A written statement, signed by the person for whom the child expects to work, that he or she intends legally to employ the child;

(2) A brief written description of the job the child is expected to perform;

(3) A birth certificate, or attested transcript thereof, issued by the registrar of vital statistics or other officer charged with the duty of recording births;

(4) A certificate signed by the principal or registrar of the school attended showing that the child is attending school; and

(5) The written consent of the parent or parents, guardian or custodian of the child.

(c) The superintendent of schools may not require a physical examination to be included in the application for a work permit.

(d) The superintendent of schools is not required to certify that the minor personally appeared before him or her prior to the issuance, modification, or rejection of a work permit.

§21-6-4. Contents of work permit; forms; filing; records; revocation.

(a) A work permit issued under this article shall set forth the full name and the date and place of birth of the child, with the name and address of his or her parents or parent, guardian or custodian. It shall certify that the child has appeared before the officer issuing the permit and submitted proofs of age, school attendance, prospective employment, brief description of job and parental or other consent required in section three.

(b) The state commissioner of labor shall prepare printed forms for work permits and furnish them to the superintendents of schools in the counties of the state. A copy of each permit issued shall be forwarded to the state commissioner of labor within four days after its issuance. A record of all permits granted and of all applications denied as well as all certificates of age, and documents evidencing school attendance, prospective employment, brief description of job and parental or other consent submitted by the applicants for permits shall be kept in the office of the issuing officer.

(c) The state commissioner of labor may at any time revoke a permit if in his or her judgment it was improperly issued, and for this purpose he or she is authorized to investigate the true age of any child employed, to hear evidence, and to require the production of relevant books and documents. If a permit is revoked, the issuing officer shall be notified of the action, and the child may not thereafter be employed or permitted to labor until a new permit has been legally obtained or until the child is to be outside the operation of this article.

§21-6-5. Age certificate for employers; inquiry as to age; revocation of certificate; supervision by state superintendent of schools.

(a) Upon request of any employer who is desirous of employing a child who represents his or her age to be sixteen years or over, the officer charged with the issuance of work permits shall require of the child the proof of age specified in section three of this article, and, upon receipt thereof, if it be found that the child is actually sixteen years of age or over, shall issue to the employer a certificate showing the age and date and place of birth of the child. The age certificate, when filed in the office of the employer, must be accepted by an officer charged with the enforcement of this article as evidence of the age of the child in whose name it was issued.

(b) Any officer charged with the enforcement of this article may inquire into the true age of a child apparently under the age of sixteen years who is employed or permitted to work in any gainful occupation and for whom no work permit or age certificate is on file; and if the age of the child is found to be actually under sixteen years, the employment of the child shall be considered a violation of the provisions of this article.

(c) The state commissioner of labor may at any time revoke any age certificate if in his or her judgment it was improperly issued, and for this purpose he or she is authorized to investigate the true age of any child employed as in the case of work permits.

(d) The issuance of work permits and of age certificates shall be under the supervision of the state superintendent of schools.

§21-6-6. Repealed. Acts, 2002 Reg. Sess., Ch. 49.

§21-6-7. Hours and days of labor by minors.

(a) No child under the age of sixteen who is employed or permitted to work in accordance with the provisions of this article shall work:

- (1) During school hours, except as provided in work experience and career exploration programs approved by the United States Secretary of Labor;
- (2) Before seven o'clock antemeridian or after seven o'clock postmeridian: *Provided*, that a child under the age of sixteen may work until nine o'clock postmeridian from the first day of June through Labor Day;
- (3) More than three hours per day, on days in which public schools are in session;
- (4) More than eighteen hours per week, in weeks in which public schools are in session;
- (5) More than eight hours, on days in which public schools are not in session;
- (6) More than forty hours per week, in weeks in which public schools are not in session; or

(7) More than five hours continuously without an interval of at least thirty minutes for a lunch period.

(b) The provisions of subsection (a) of this section do not apply to children under sixteen performing the jobs set out in section one of this article.

§21-6-8. Supervision permits.

(a) The commissioner is authorized to prescribe and issue supervision permits to meet special circumstances, and to prescribe the terms and conditions thereof.

(b) The provisions of sections two, three and seven of this article do not apply to a child's employment under a supervision permit issued by the commissioner under this section. The commissioner shall issue a supervision permit only if he or she finds, after careful investigation, as follows:

(1) That the child, in performance of the work contemplated, will be supervised by a responsible party;

(2) That the employer for whom the child will be employed is not subject to federal regulation regarding child labor; and

(3) That the issuance of the supervision permit will promote the best interests of the child. A supervision permit is valid only so long as the employment is in compliance with the terms and conditions prescribed by the commissioner and contained therein.

§21-6-8a. Blanket work permits.

(a) Blanket work permits are authorized when twenty-five or more minors are to be employed for a period of ninety days or less by an employer.

The employer, or person authorized by him or her in writing, shall forward to the commissioner of labor the following information:

(1) A letter from the employer stating that he or she is familiar with the child labor law of West Virginia and will abide by the law.

(2) A list containing the names, birthdates, ages, and job classifications of each minor.

(b) The minors to be covered by the blanket work permit may not be employed until the employer receives the permit from the commissioner of labor.

The commissioner of labor shall acknowledge the receipt of the information with a letter which shall be retained on file by the employer for the duration of the minors' employment. The commissioner of labor, after making proper inquiry, may issue a blanket work permit for an employer for a period not to exceed ninety days.

§21-6-9. Enforcement of article.

It is the duty of the state commissioner of labor, and of his or her authorized representatives within the division of labor, to enforce the provisions of this article. To aid in enforcement, the commissioner and his or her representatives are authorized to enter and inspect any place or establishment covered by this article, and to have access to all files and records of employers the inspection of which is pertinent to the objects and purposes of this article. School officials, including truancy officers, shall lend to the commissioner all possible assistance toward effectuating such objects and purposes.

§21-6-10. Offenses; penalties.

(a) Any person who violates a provision of this article, or any parent, guardian or custodian of a child, who permits the child to work in violation of the provisions of this article, or any school official who illegally issues a work permit, or any person who furnishes false evidence in reference to the age, birthplace, job description, consent or educational qualifications of a child under this article, shall be guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined not less than fifty nor more than two hundred dollars.

(b) For the second or subsequent offense, a person convicted of violating a provision of this article shall be fined not less than two hundred nor more than one thousand dollars, or confined in the county or regional jail for not more than six months, or both fined and imprisoned.

§21-6-11. Rules.

The commissioner of the division of labor may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, to effectuate the provisions of this article. The rules may include provisions prohibiting the employment of children in occupations determined to be dangerous or injurious.