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BUREAU OF LABOR
FACTORY INSPECTION
CHILD LABOR

LAWS
OF
West Virginia

ISSUED BY
STATE BUREAU OF LABOR
CHARLESTON



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BUREAU OF LABOR

§ 1. **Bureau of labor: creation**—There be and hereby is created a state bureau of labor, to be under the control and management of a commissioner to be known as the state commissioner of labor, who is to be appointed as hereinafter provided.

§ 2. **Same: commissioner of labor**—The governor shall, with the advice and consent of the senate, appoint a competent person, who is identified with the labor interests of the state, to be state commissioner of labor, who shall hold his office for a term of four years and until his successor is appointed and qualified. In case of a vacancy in the office of the commissioner of labor, caused by death, resignation, removal or otherwise, the governor shall appoint a commissioner of labor for the unexpired term in the manner above provided.

§ 3. **Same: duties of commissioner**—It shall be the duty of the commissioner of labor to collect, compile and present to the governor an annual report, statistical details relating to all departments of labor and the industrial interests of the state, especially in relation to the financial, social, educational and sanitary condition of the laboring classes and all statistical information that may tend to increase the prosperity of the productive industries of the state. He shall, once at least in every year, visit and inspect the principal factories and workshops of the state; and shall, upon complaint and request of any three or more reputable citizens, visit and inspect any place where labor is employed and make true report of the result of his inspection.

§ 4. **Same: work of inspection**—The commissioner of labor shall have power, in the discharge of his duties, to enter and inspect any public institution of the state and any factory, workshop or other place where labor is

employed. He may furnish a written or printed list of interrogatories asking information essential to a proper discharge of his duties, to any person, company or corporation employing labor, and require full and complete answers thereto. And if any person, or the officers of any company or corporation shall neglect or refuse to answer, within a reasonable time, any proper question propounded to him by the commissioner of labor, or if any person or the officers of any company or corporation to whom a list of interrogatories has been furnished, shall neglect or refuse to fully and truthfully answer and return the same, such person or such officer of such company or corporation shall be deemed guilty of a misdemeanor. The commissioner of labor shall report to the prosecuting attorney of the proper county all such violations of this act; whereupon said prosecuting attorney shall proceed against the guilty persons thereof, as in any other cases of misdemeanor; and any person, or any officer, or any company or corporation, convicted in such proceedings shall be fined not less than ten dollars, nor more than fifty dollars, or shall be confined in the county jail not less than ten nor more than ninety days, or shall be both fined and imprisoned within the above limits.

§ 5. Same: labor statistics—All state, county, district and city officers shall furnish the commissioner of labor, upon request, all statistical information relating to labor which may be in their possession as such officers. The commissioner of labor shall report to the governor, on or before the first day of December in each year, all the statistics he has collected and compiled, with such suggestions as he may deem advisable as to legislation tending to promote and increase the prosperity of the industrial establishments of the state, and to protect the lives and health and to promote the prosperity of the persons employed therein.

§ 6. Protection of employees—All rooms, buildings and places in this state where labor is employed, or shall hereafter be employed, in any factories, mercantile establishments, mills or workshops shall be so constructed, equipped and arranged, operated and conducted, in all respects, as to provide reasonable and adequate protection for the life, health, safety and morals of all persons employed therein. For the carrying into effect of this pro-

vision, and the provisions of all the laws of this state, the enforcement of which is now or shall hereafter be intrusted to or imposed upon the bureau of labor, the commissioner of labor shall appoint not more than four factory inspectors who shall be under the supervision of the commissioner of labor. The commissioner of labor may at any time divide the state into inspection districts as to him may seem advisable, and assign the inspectors to the districts as the good of the service requires.

FACTORY INSPECTION

§ 1. Protection from machinery—All power driven machinery, including all saws, planers, wood shapers, jointers, sandpaper machines, iron mangles, emery wheels, ovens, furnaces, forges and rollers of metal; all projecting set screws or moving parts; all drums, cogs, gearing, belting, shafting, fly wheels and flying shuttles; all laundry machinery, mill gearing and machinery of every description; all vats or pans and all receptacles containing molten metal or hot or corrosive fluids in any factory, mercantile establishment, mill or workshop, shall be so located, whenever possible, as not to be dangerous to employees, or where possible, be properly enclosed, fenced or otherwise protected. All dangerous places, in or about mercantile establishments, factories, mills or workshops, near to which any employee is obliged to pass or to be employed, shall, where practicable, be properly enclosed, fenced or otherwise guarded. No machine in any factory, mercantile establishment, mill or workshop, shall be used when the same is known to be dangerously defective, and no repairs shall be made to the active mechanism or operative part of any machine, when the machine is in motion.

§ 2. Same, safety devices—No person shall remove or make ineffective, any safeguard required by this act, during the active use or operation of the guarded machine or device, except for the purpose of immediately making repairs thereto, and all such safeguards so removed shall be promptly replaced. In every factory, mercantile establishment, mill or workshop, effective means shall be provided for immediately disconnecting the power, so that in case of need or accident, any particular machine,

group of machines, room or department, can be promptly and effectively shut down. Where machines are required to be started and stopped frequently, they shall, wherever practicable, be provided with tight and loose pulleys, clutch or other effective disengaging device. When provided with tight and loose pulleys, the shifting of the belt shall be accomplished by the use of a belt shifter, placed within easy reach of the operator. When a clutch, or other disengaging device is used, an effective means for throwing such device into or out of engagement shall be provided, and shall be placed within easy reach of the operator. Where machines are directly connected with the prime mover (electric motor, steam, gas or gasoline engine, or other source of power), a switch, throttle, or other power controlling device shall be furnished and shall be placed within easy reach of the operator or his co-worker. Where machines are arranged in groups, rooms, or departments, and power is supplied by a prime mover, located within the confines of such group, room or department, a switch, throttle, or other controlling device shall be furnished, and shall be placed within easy reach of the operators affected, so that all shafting, transmitting machinery and machines of such group, room or department, can be simultaneously shut down. Where machines are arranged in groups, rooms or departments, and are supplied by power through the use of main or line shafts, receiving power from some prime mover, located without the group, room or department, the power receiving wheel or such main or line shaft, shall, wherever possible, be provided with a friction clutch, or other effective power disengaging device, with suitable means for operating the clutch, or power disengaging device, and these means shall be placed within the confines of such group, room or department, and within easy reach of employees or operatives affected, so that all machines, shafting and other transmission machinery within such group, room or department, can be simultaneously shut down. In addition to such safeguard, communication, consisting of speaking tubes, electric bells, electric colored lights, or other approved and effective means, shall be provided in all cases covered by this paragraph between each such group, room or department, and the room in which the engineer, or prime mover, is located, so that in case of

need or accident, the motive power of such group, room or department can be promptly stopped or controlled.

§ 3. **Hatchways, elevators and electrical apparatus**—All hoistways, hatchways, elevator wells and wheel holes in factories, mercantile establishments, mills or workshops, shall be securely fenced, enclosed or otherwise safely protected, and due diligence shall be used to keep all such means of protection closed, except when it is necessary to have the same open, in order that the said hatchways, elevators or hoisting apparatus may be used. All elevator cabs or cars, whether used for freight or passengers, shall be provided with some device, whereby the car or cab may be held in the event of accident, to the skipper rope or hoisting machinery or controlling apparatus. If any elevator, machine, electrical apparatus or system of wiring, or any part or parts thereof, in any factory, mercantile establishments, mill or workshop, are in an unsafe condition, or are not properly guarded, where reasonable to guard the same, the owner or lessee or his agent, superintendent or other person in charge thereof, shall, upon notice from the commissioner of labor or factory inspector, remedy such unsafe condition within a reasonable time after receiving such notice.

§ 4. **Taking meals in factory**.—No employee shall take or be allowed to take food into any room or apartment in any factory, mercantile establishment, mill or workshop, where white lead, arsenic, or other poisonous substances, or injurious or noxious fumes, dusts or gases under harmful conditions are present, as the result of the business conducted by such factories, mercantile establishments, mills or workshops, and notice to this effect shall be posted in each room or apartment. Employees shall not remain in any such room or apartment during the time allowed for meals, and suitable provisions shall be made and maintained by the employer, when practicable, for enabling the employees to take their meals elsewhere in such establishment.

§ 5. **Seats for female employees**.—Every person, firm or corporation employing females in any factory, mercantile establishment, mill or workshop, in this state, shall provide a reasonable number of suitable seats for the use of such female employees, and shall permit the use of such seats by them when they are not necessarily

engaged in active duties for which they are employed, and shall permit the use of such seats at all times when such use would not actually and necessarily interfere with the proper discharge of the duties of such employees, and where practicable, such seats shall be made a permanent fixture and may be so constructed or adjusted that when seats are not in use, they will not obstruct such female employee when engaged in the performance of her duties.

§ 6. Fire escapes.—In all factories, mercantile establishments, mills or workshops, sufficient and reasonable means of escape in case of fire shall be provided, and such means of escape shall at all times be kept free from any obstruction and shall be kept in good repair and ready for use, and shall be plainly marked as such. The commissioner of labor or factory inspector may order fire escapes erected on the outside of buildings used as factories, mercantile establishments, mills or workshops which are two or more stories in height, whenever deemed by the commissioner of labor or factory inspector to be necessary.

§ 7. Stairways and hallways; overloading floors.—In all factories, mercantile establishments, mills or workshops, proper and substantial hand rails shall be provided on all stairways, and the treads thereon shall be so constructed as to furnish a firm and safe foothold. A proper light shall be kept burning by the owner or lessee in all main passageways, main hallways, at all main stairs main stair landings and shafts, and in front of all passenger or freight elevators, upon the entrance floors, and upon other floors, on every workday of the year, from the time that the building is open for use until the time when it is closed, except at times when the influx of natural light shall make artificial light unnecessary. No floor space or any workroom in any factory, mercantile establishment, mill or workshop, shall be overloaded with machinery or other material as thereby to cause serious risk or to endanger the life or limb of any employee, nor shall there be permitted in any such establishment, a load in excess of the safe sustaining power of the floors and walls thereof, machines must not be placed so closely together as to be a serious menace to those that have to pass between them. Passageways must be of ample width, well lighted and free from obstruction.

§ 8. Water closets.—Every factory, mercantile establishment, mill or workshop, shall be provided with a sufficient number of water closets, and whenever both male and female persons are employed, said water closets shall be provided separate and apart for the use of each sex, and plainly marked by which sex they are to be used; and no person or persons shall be allowed to use the closets assigned to the opposite sex; and such water closets shall be constructed in an approved manner and properly enclosed, and at all times kept in a clean and sanitary condition. The closets, where practicable, shall be located so that they shall have direct ventilation with the outside air; where it is impracticable to locate the closets so as to have direct ventilation with the outside air, they shall be placed in an inclosure, and every such closet shall be properly and effectively disinfected and separately ventilated, and shall be properly lighted by artificial light, except with the influx of natural light makes artificial light unnecessary.

§ 9. Washing facilities and dressing rooms.—In all factories, mercantile establishments, mills or workshops, adequate washing facilities shall be provided for the employees, where necessary. When the labor performed by the employees is of such a character as to make customary or necessary a change of clothing by the employees, there shall be provided sanitary and suitable dressing room or rooms, and both such dressing rooms and washing facilities shall be separately maintained for each sex.

§ 10. Smoking; steam boilers.—Every person who shall light a pipe, cigar or cigarette in, or who shall enter with a lighted pipe, cigar or cigarette, any factory, mercantile establishment, mill or workshop, in which is posted in a conspicuous place over and near each principal entrance a notice in plain English letters, stating that no smoking is allowed in such building, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty dollars nor more than one hundred dollars for each separate offense. The commissioner of labor or factory inspector shall have authority to inspect steam boilers in this state and any person owning or operating steam boilers shall provide the same with steam gauge, safety valve and water gauge and keep the same in good order. Any person neglecting so to do, shall be

guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty nor more than one hundred dollars.

§ 11. Rights as to wages.—Whenever any employer of labor shall hereafter discharge his or its employees without first paying them the amount of any wages or salary then due them in cash, lawful money of the United States, or its equivalent or by check, or draft, within seventy-two hours after demand, or shall fail or refuse to pay them in like money, or its equivalent or by check or draft, the amount of any wages or salary at the time the same becomes due and owing to them under their contract of employment, whether employed by the hour, day, week or month, each of his or its employees discharged may charge and collect wages in the sum agreed upon in the contract of employment for each day his employer is in default, until he is paid in full, without rendering any service therefor; provided, however, he shall cease to draw such wages or salary thirty days after such default. Every employee shall have such lien and all other rights and remedies for the protection and enforcement of such salary or wages, as he would have been entitled to had he rendered service therefor in manner as last employed. This section shall not apply in case of bankruptcy, assignment or other legal disability of the employer to pay for any wages so due and owing, or in case of shut down or other cessation of operations.

§ 12. Offenses under act.—Any person, firm or corporation who shall, or any agent, manager or superintendent of any person, firm or corporation, who, for himself or for such person, firm or corporation, shall violate any of the provisions of this act, or who omits or fails to comply with any of the foregoing requirements of this act, or who disregards any notice of the commissioner of labor or state factory inspector, when said notice is given, in accordance with the provisions of this act; or who obstructs or interferes with any examination or investigation being made by the commissioner of labor or a state factory inspector, under this act, or any employee in any such factory, mercantile establishment, mill or workshop, who shall remove or interfere with any guard or protective or sanitary device, required by the provisions of this act, except as hereinbefore provided, or who shall violate any

of the other provisions of this act, where penalties are not otherwise provided, shall be punished for the first offense by a fine of not less than ten dollars, nor more than fifty dollars; and upon conviction of the second or subsequent offense, shall be fined not less than twenty-five dollars, nor more than two hundred dollars. A justice of the peace shall have concurrent jurisdiction with the circuit court and other courts having criminal jurisdiction in his county for the trial of offenses under this act. Those portions of all coal mining properties and operations now under the supervision of the department of mines are excepted from the provisions of this act.

CHILD LABOR

§ 1. When employment of children unlawful.— No child under fourteen years of age shall be employed, permitted or suffered to work in, about, or in connection with any gainful occupation except agriculture or domestic service; provided that boys twelve years of age or over may be employed in mercantile establishments and business offices outside of school hours provided that they obtain a special work permit from the school authorities as hereinafter provided.

It shall be unlawful for any person, firm or corporation to employ, permit, or suffer any child under fourteen years of age to work in any business or service whatever during any of the hours when the public schools of the school district in which the child resides are in session.

§ 2. Same; dangerous or injurious occupations.— No child under the age of sixteen years shall be employed, permitted, or suffered to work in any occupation dangerous to the life or limb, or injurious to the health or morals of such child. The state commissioner of labor, the state commissioner of health, and the state superintendent of free schools may from time to time, after hearing duly had, determine whether or not any particular trade, process of manufacture, or occupation in which the employment of children under the age of sixteen years is not already forbidden by law, or any particular method of carrying on such trade, process of manufacture, or occupation, is sufficiently dangerous to the lives or limbs or injurious to the health or morals of children under sixteen years of

age to justify their exclusion therefrom. No child under sixteen years of age shall be employed, permitted or suffered to work in occupations thus determined to be dangerous or injurious to such children. There shall be a right of appeal to the supreme court of appeals from any such determination.

No child under the age of sixteen years shall be employed, permitted or suffered to work in any mine, quarry, tunnel or excavation. No child under the age of sixteen years shall be apprenticed, given away, let out, or otherwise disposed of to any person or company to engage in the occupation or service of rope or wire walker, gymnast, contortionist, circus rider, acrobat clown, nor in any indecent, obscene, or immoral exhibition or practice; and it shall be unlawful for any person, firm or corporation, to take, receive or employ such child for any of the purposes or occupations mentioned in this paragraph.

§ 3. Work permits.—No child between the ages of fourteen and sixteen years shall be employed, permitted, or suffered to work in any gainful occupation, unless the person, firm or corporation by whom such child is employed, permitted, or suffered to work, obtains and keeps on file and accessible to officers charged with the enforcement of this act, a work permit issued by the superintendent of schools of the city or county in which such child resides, or person authorized by him in writing. The superintendent of schools or person authorized by him in writing shall issue such work permit only upon receipt of the following documents:

Proof of Prospective Employment

A written statement signed by the person for whom the child expects to work, that he intends legally to employ such child and agrees to return the work permit to the issuing officer within two days of the termination of such child's employment.

Proof of Age

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

(b) Or a record of baptism or a certificate or attested transcript thereof showing the date of birth and place of baptism of the child.

(c) Or a *bona fide* contemporary record of the date and place of the child's birth kept in the Bible in which the records of the births of the family of the child are preserved, or other documentary evidence approved by the state commissioner of labor, such as a passport showing the age of the child, a certificate of arrival in the United States issued by the United States immigration officers and showing the age of the child, or a life insurance policy; provided, that such other satisfactory documentary evidence has been in existence at least one year prior to the time it is offered in evidence; and provided, further, that a school record or parent's, guardian's or custodian's affidavit, certificate, or other written statement of age alone shall not be accepted.

(d) A certificate signed by the public health physician or a public school physician specifying what in the opinion of such physician is the physical age of the child; such certificate shall show the height and weight of the child and other facts concerning its physical development revealed by examination and upon which the opinion of the physician as to the physical age of the child is based. In determining such physical age the physician shall require that the school record or the school census record showing the child's age be submitted as supplementary evidence.

The issuing officer shall require first the proof specified in subdivision (a) and shall not accept the proof designated in any subsequent sub-division until he shall have been convinced that the proof specified in the preceding subdivision cannot be obtained.

Proof of Schooling

A certificate signed by the principal of the school last attended showing that the child can read and write correctly simple sentences in the English language and that he has satisfactorily completed the studies covered in the first six yearly grades of the elementary public schools, or their equivalent; in case such certificate cannot be obtained, then the officer issuing the work permit shall examine such child to determine whether he can meet the

educational standard specified and shall file in his office a statement setting forth the result of such examination.

Proof of Physical Fitness

A certificate signed by a medical inspector of schools or public health officer stating that the child has been examined by him and in his opinion has reached the normal development of a child of its age, and is in sound health and physically able to be employed in the occupation in which the child intends to engage.

Provided, That the superintendent of schools, or person authorized by him in writing shall have authority and is hereby empowered to issue a vacation work permit to children fourteen years of age or over without requiring a statement that the child has completed the sixth grade of the elementary course of study, or its equivalent, as hereinbefore provided. Such vacation work permit shall be different in form and color from the regular work permit and shall be valid only during the time when the public schools of the district in which the child resides are not in session. Every vacation work permit shall be null and void on the day the public schools open for regular session. Provided, further, that the superintendent of schools or person authorized by him in writing, shall have authority and is hereby empowered to issue a special work permit to any boy twelve years of age or over to work in business offices and mercantile establishments outside of school hours without requiring a statement that he has completed any school grade whatsoever.

§ 4. Contents of permit; filing; revocation.— The work permit mentioned in the foregoing section shall set forth the full name, the date and place of birth of the child with the name and address of his parent, guardian, or custodian and shall certify that the child has appeared before the officer issuing the permit and submitted the proofs of age, physical fitness, schooling and prospective employment required in the foregoing section. Printed forms for these permits and certificates shall be prepared and furnished by the state commissioner of labor to the superintendent of schools in the cities and counties of the state. A copy of each permit issued shall be forwarded to the state commissioner of labor within

four days of its issuance and there shall be kept in the office of the issuing officer a record of all permits granted and of all applications denied as well as all certificates of age, physical fitness and prospective employment submitted by the applicants for permits. The state commissioner of labor may at any time revoke a permit if in his judgment it was improperly issued and for this purpose he is authorized to investigate into the true age of any child employed to hear evidence and to require the production of relevant books or documents; if the permit be revoked the issuing officer and the person employing the child at the time shall be notified of such action, and the child shall not thereafter be employed or permitted to labor until a new permit has been legally obtained.

§ 5. Age certificate.—Upon the request of any employer who is desirous of employing a child who represents his or her age to be sixteen years or over, the local officer charged with the issuance of work permits shall require of such child the proof of age specified in section three of this act and upon receipt thereof if it be found that the child is actually sixteen years of age or over, shall issue to such employer a certificate showing the age and date and place of birth of such child. Such age certificate when filed in the office of the employer shall be accepted by the officer charged with the enforcement of this act as evidence of the age of the child in whose name it was issued. Any officer charged with the enforcement of this act may inquire into the true age of a child apparently under the age of sixteen years who is employed, permitted or suffered to work in any gainful occupation and for whom no work permit or age certificate is on file and if the age of such child be found to be actually under sixteen years the presence of such child in such establishment shall be deemed a violation of the provisions of this act. The state commissioner of labor may at any time revoke any such age certificate if in his judgment it was improperly issued and for this purpose he is authorized to investigate into the true age of any child employed as in the case of work permits. The issuance of work permits and of age certificates shall be under the supervision of the state superintendent of free schools, who shall seek at all times to standardize this work.

§ 6. Days and hours of labor.—No child under the age of sixteen years shall be employed, permitted or suffered to work in, about or in connection with any gainful occupation except agriculture or domestic service for more than six days in any one week, nor more than forty-eight hours in any week, nor more than eight hours in any one day; nor before the hour of six o'clock in the morning nor after the hour of seven o'clock in the evening of any day. Every employer shall post and keep posted in a conspicuous place in every room where any child between the ages of fourteen and sixteen years is employed, permitted or suffered to work, a printed notice setting forth the maximum number of hours such person may be required or permitted to work each day of the week, the hours beginning and ending work each day and the time allowed for meals; the printed form of such notice shall be furnished by the state commissioner of labor and the employment of such child for a longer time in any day than so stated or at any time other than as stated in said printed notice, shall be deemed a violation of the provisions of this section.

§ 7. Enforcement of act.—It shall be the duty of the state commissioner of labor, his assistants, factory inspectors, school truancy officers and accredited agent of the humane society, to enforce the provisions of this act; provided, however, that the provisions relating to the employment of children in mines shall be enforced by the state department of mines, said department to make complaint against any person, firm or corporation, violating any of the provisions of this act, and to prosecute the same before any magistrate or court of competent jurisdiction.

§ 8. Offenses.—Any person or agent or representative of any firm or corporation, who violates any of the provisions of this act, or any parent, guardian, or custodian of any child who permits or suffers such child to work in violation of any of the provisions of this act, or any superintendent of county or city schools who illegally issues a work permit to a child, or any person who furnishes false evidence in reference to the age or birthplace or educational qualifications of a child, shall for a first offense be punished by a fine of not less than twenty dollars or more than fifty dollars; for a second offense by a fine of not

less than fifty dollars or more than two hundred dollars, or by imprisonment for not more than thirty days or by both such fine or imprisonment; for a third or subsequent offense by a fine of not less than two hundred dollars or by imprisonment for not more than sixty days or by both such fine and imprisonment.



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