WEST VIRGINIA CODE: §20-3-19

§20-3-19. Protection of forests against destructive insects and diseases; purposes and intent of section.

In order to protect and preserve forest resources of the State of West Virginia from ravages of bark beetles, defoliators, rusts, blights, wilts and other destructive forest pests and diseases, and thereby enhance the growth and maintenance of forests; promote the stability of forest-using industries and employment associated therewith; reduce the fire risk created by dying and dead trees injured or killed by insects or diseases; conserve forest cover on watersheds and protect recreational and other forest values, it shall be the policy of the State of West Virginia independently and through cooperation with adjoining states, the federal government, and private timber owners and other private organizations, to prevent, retard, control, suppress, or eradicate incipient, potential or emergency outbreaks of destructive insects and diseases on, or threatening, all forest land irrespective of ownership.

(a) Authority. -- The director is authorized either directly or in cooperation with other agencies, subject to such conditions as he may deem necessary and using such funds as have been, or may hereafter be made available for those purposes, to conduct surveys on any forest land to detect and appraise infestations of forest insect pests and tree diseases, to determine the measures which should be applied on such lands, in order to prevent, retard, control, suppress or eradicate incipient, threatening, potential or emergency outbreaks of such insects or disease pests, and to plan, organize, direct and carry out such measures as he may deem necessary to accomplish the objectives and provisions of this section: Provided, That actual control measures shall be conducted with the cooperation and consent of the quarantine and regulatory official of the Department of Agriculture.

(b) Establishing control zone; notice to landowners. -- Where an insect infestation or disease infection is believed to exist on a forest land within this state, the director shall investigate the condition. Whenever he finds that an infestation or infection exists, he shall request the quarantine officials of the state Department of Agriculture to declare the same a public nuisance. When same has been declared a public nuisance he shall establish a control zone of the forest land wherein the same is found, and shall give notice thereof by publication as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be each county in which the area or areas are located in which the control zone is established. Such notice shall also be given by mail or otherwise to forest landowners within the control zone, advising them of the nature of the infestation or infection, recommending control measures and offering technical advice on methods of carrying out the control measures.

(c) Institution of control measures. -- If, after notification by the director, any landowner fails, neglects, or is unable to carry out the control measures recommended by the director as set forth in subdivision (b), the director may, through his agents, institute and carry out such control measures.

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(d) Appeals. -- Any person damaged or aggrieved by any action of any officer or employee of the department under the provisions of this section shall have the right to appeal from such action to the director and then to the circuit court of the county in which such person resides in which he owns forest land affected by such action. The court, after hearing the evidence in the case, may make such orders as may be appropriate to protect the interests of the appellant, adjacent forest landowners, or the state.

(e) Cooperation with individuals and public agencies. -- The director is authorized to cooperate with landowners and appropriate authorities of town, city, county, adjoining state and the United States government, and other agencies having jurisdiction of state lands, concerning forest tree insect and disease investigation and control, and to accept money, gifts and donations, and to disburse the same for the purpose of carrying out the provisions of this section.

(f) Annual appropriation; forest pest control fund. -- There is hereby created in the State Treasury a special fund to be known as the forest pest control fund. Such fund shall consist of all moneys appropriated thereto by the Legislature and all moneys received and deposited with the State Treasurer under the provisions of this section. All such funds are hereby appropriated to the department of natural resources to be used to carry out the purposes of this section.

(g) Definitions. -- As used in this section, unless the context clearly requires otherwise:

(1) "Forest trees" means only those trees which are a part of and constitute a stand of potential, immature, or mature commercial timber trees: Provided, That the term "forest trees" shall be deemed to include shade trees of any species around houses, along highways and within cities and towns if the same constitute an insect or disease menace to nearby timber trees or timber stands;

(2) "Forest land" means land on which forest trees occur;

(3) "Control zone" means an area of potential or actual infestation or infection, the boundaries of which are fixed and clearly described in a manner to definitely identify the zone;

(4) "Infestation" means infestation by means of any insect in any stage of growth which is determined to be dangerously injurious to forest trees; and

(5) "Infection" means infection by any disease affecting forest trees which is determined to be dangerously injurious thereto.

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