WEST VIRGINIA CODE: §20-3-4

§20-3-4. Authority and duties of director of the division of forestry and others as to forest fires; expenditures for forest fire control; limited liability of certain persons fighting forest fires.

Upon receiving notice of any fire which is injuring or endangering forest land within the state, the director of the Division of Forestry or his or her duly authorized representatives shall employ all necessary means to confine, extinguish or suppress the fire. For these purposes, any temporary or permanent employee of the Division of Forestry or any other agency of the state and any volunteer shall, under the general supervision of the director of the Division of Forestry, have the right and authority to enter upon public or private lands, to destroy fences thereon, to plow such lands, and in case of extreme emergency, to set backfires thereon. No person performing or reasonably attempting to perform any of the activities authorized by the preceding sentence under the general supervision of the director of the Division of Forestry, whether as a temporary or permanent employee of the Division of Forestry or any other agency of the state or as a volunteer, shall be liable in damages for the death of or injury to any person or for damage to any property as a result of his or her performance of such activities to an extent greater than the applicable limits of any liability insurance coverage available to such person under any liability insurance policy or policies issued to the Division of Forestry, any other agency of the state involved in suppressing the forest fire, any volunteer fire department of which such person was a member and which volunteer fire department was responding to the forest fire at the time of the incident alleged to have caused such death, personal injury or property damage, or any combination thereof. The limitation of liability established by the preceding sentence shall not apply if the death, personal injury or property damage alleged was caused by such person's willful or criminal misconduct, gross negligence or reckless misconduct, or by a conscious, flagrant indifference to the rights or safety of any person harmed by such conduct. The director of the Division of Forestry and any duly authorized representative may employ persons to detect fires which may injure or endanger forest land and may likewise summon or employ persons to assist in extinguishing such fires, who shall be paid for the actual time so employed, at a rate per hour to be determined by the director of the Division of Forestry: Provided, That the rate per hour shall not exceed the rate per hour paid for any comparable labor or skills by the Division of Forestry. Any person so summoned who shall fail or refuse to assist in extinguishing any such fire shall, unless such failure or refusal to assist is due to physical inability, be guilty of a misdemeanor.

Expenditures for detecting, confining, extinguishing or suppressing fires described in this section shall be charged against the state. The director of the Division of Forestry or his or her representative shall prepare, as soon as practicable, a sworn statement with the names of all persons who were summoned or employed to assist in fighting such fires, the time so spent by each, as well as the names of persons who furnished equipment, subsistence or supplies, or transportation therefor, and the amount of money due each for such services,

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subsistence, supplies or transportation. Requisitions shall be issued and payment of the sums due shall be made in the same manner as is provided for the making of other expenditures by the director of the Division of Forestry.

WV Legislature