WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955

ENROLLED

HOUSE BILL No. 357

(By Mr.)

PASSED

Mar. 9, 1955

In Effect: 30 Days from Passage

Filed In the Office of the Secretary of West Virginia
MAR 15 1955

D. PITT O'BRIEN
SECRETARY OF STATE
AN ACT to amend article nine, chapter twenty of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended, by adding thereto a new section, designated sec­
tion twenty, relating to the protection of forests against
destructive insects and diseases.

Be it enacted by the Legislature of West Virginia:
That article nine, chapter twenty of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, be amended
by adding thereto a new section, designated section twenty, to
read as follows:

Section 20. Protection of Forests Against Destructive
Insects and Diseases; Purposes and Intent of the 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 of the conservation commission of West Virginia, 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 insect 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 article: 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 be-
lieved 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 agri-
culture 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 in writing by at least two publica-
tions in a newspaper of general circulation in the area or
areas where the control zone is established, 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 subsection nine-b, the director may, through his agents, institute and carry out such control measures.

(d) **Appeals.**—Any person damaged or aggrieved by any action of any officer or employee of the department under the provisions of this article 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 or 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 article.

(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, all moneys deposited with the state treasurer under the provisions of this article. All such funds are hereby appropriated to the conservation commission of West Virginia to be used to carry out the purposes of this article.

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

(1) "Forest trees" mean 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.

(5) "Infection" means infection by any disease affecting
forest trees which is determined to be dangerously injuri-
ous thereto.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect 90 days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 1st day of March, 1953.

Governor

Filed in the Office of the Secretary of State of West Virginia

Secretary of State