

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955

ENROLLED

HOUSE BILL No. 357

(By Mr. Chenaveth)

PASSED Mar 9 1955

In Effect 90 days from Passage

Filed In the Office of the Secretary of
of West Virginia MAR 15 1955
D. PITT O'BRIEN
SECRETARY OF STATE

ENROLLED
House Bill No. 357
(By MR. MCCOY, of Pendleton)

[Passed March 9, 1955; in effect ninety days from passage.]

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 section 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
2 Insects and Diseases; Purposes and Intent of the Section.—
3 In order to protect and preserve forest resources of the
4 state of West Virginia from ravages of bark beetles,
5 defoliators, rusts, blights, wilts, and other destructive

6 forest pests and diseases, and thereby enhance the growth
7 and maintenance of forests, promote the stability of forest-
8 using industries and employment associated therewith;
9 reduce the fire risk created by dying and dead trees injured
10 or killed by insects or diseases; conserve forest cover on
11 watersheds and protect recreational and other forest
12 values; it shall be the policy of the state of West Virginia
13 independently and through cooperation with adjoining
14 states, the federal government, and private timber owners
15 and other private organizations, to prevent, retard, con-
16 trol, suppress, or eradicate incipient, potential or emer-
17 gency outbreaks of destructive insects and diseases on, or
18 threatening, all forest land irrespective of ownership.

19 (a) *Authority.*—The director of the conservation com-
20 mission of West Virginia, is authorized either directly or
21 in cooperation with other agencies, subject to such con-
22 ditions as he may deem necessary and using such funds
23 as have been, or may hereafter be made available for
24 those purposes, to conduct surveys on any forest land to
25 detect and appraise infestations of forest insect pests and
26 tree diseases, to determine the measures which should be

27 applied on such lands, in order to prevent, retard, control,
28 suppress, or eradicate incipient, threatening, potential, or
29 emergency outbreaks of such insect or disease pests, and
30 to plan, organize, direct, and carry out such measures as
31 he may deem necessary to accomplish the objectives and
32 provisions of this article: *Provided*, That actual control
33 measures shall be conducted with the cooperation and
34 consent of the quarantine and regulatory official of the
35 department of agriculture.

36 (b) *Establishing Control Zone; Notice to Landowners.*

37 —Where an insect infestation or disease infection is be-
38 lieved to exist on a forest land within this state, the
39 director shall investigate the condition. Whenever he
40 finds that an infestation or infection exists, he shall request
41 the quarantine officials of the state department of agri-
42 culture to declare the same a public nuisance. When same
43 has been declared a public nuisance he shall establish a
44 control zone of the forest land wherein the same is found,
45 and shall give notice in writing by at least two publica-
46 tions in a newspaper of general circulation in the area or
47 areas where the control zone is established, by mail or

48 otherwise to forest landowners within the control zone,
49 advising them of the nature of the infestation or infection,
50 recommending control measures and offering technical
51 advice on methods of carrying out the control measures.

52 (c) *Institution of Control Measures*.—If, after notifica-
53 tion by the director, any landowner fails, neglects, or is
54 unable to carry out the control measures recommended by
55 the director as set forth in subsection nine-b, the director
56 may, through his agents, institute and carry out such con-
57 trol measures.

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

67 (e) *Cooperation with Individuals and Public Agencies*.
68 —The director is authorized to cooperate with landowners

69 and appropriate authorities of town, city, county, adjoin-
70 ing state, and the United States government, and other
71 agencies having jurisdiction of state lands, concerning
72 forest tree insect and disease investigation and control, and
73 to accept money, gifts, and donations and to disburse the
74 same for the purpose of carrying out the provisions of this
75 article.

76 (f) *Annual Appropriation—Forest Pest Control Fund.*—

77 There is hereby created in the state treasury a special fund
78 to be known as the forest pest control fund. Such fund shall
79 consist of all moneys appropriated thereto by the Legisla-
80 ture, all moneys deposited with the state treasurer under
81 the provisions of this article. All such funds are hereby
82 appropriated to the conservation commission of West Vir-
83 ginia to be used to carry out the purposes of this article.

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

86 (1) "Forest trees" mean only those trees which are
87 a part of and constitute a stand of potential, immature,
88 or mature commercial timber trees: *Provided*, That the
89 term "forest trees" shall be deemed to include shade trees

90 of any species around houses, along highways and within
91 cities and towns if the same constitute an insect or disease
92 menace to nearby timber trees or timber stands.

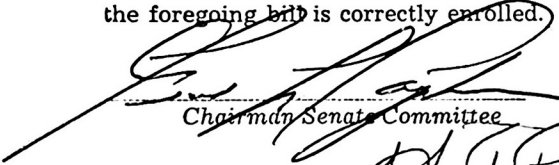
93 (2) "Forest land" means land on which forest trees
94 occur.


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

99 (4) "Infestation" means infestation by means of any
100 insect in any stage of growth which is determined to be
101 dangerously injurious to forest trees.

102 (5) "Infection" means infection by any disease affecting
103 forest trees which is determined to be dangerously injuri-
104 ous thereto.

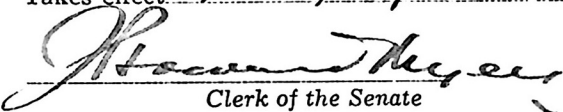
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

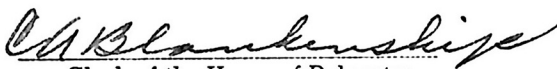

Chairman Senate Committee

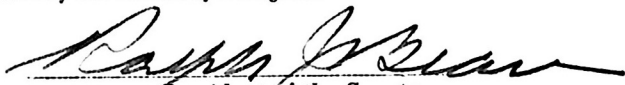

Chairman House Committee

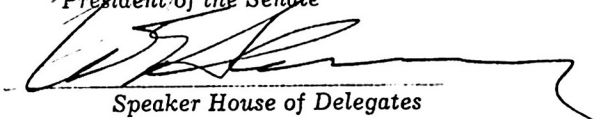
Originated in the House of Delegates

Takes effect 90 days from passage.

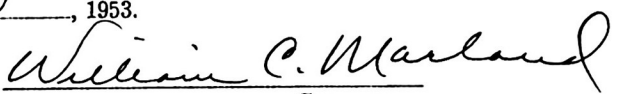

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within approved this the 14
day of March, 1953.


Governor

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of West Virginia MAR 15 1955

D. PITT O'BRIEN
SECRETARY OF STATE