WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1961

ENROLLED

SENATE BILL NO. 23

(By Mr. McCarrick and Mr. Carrigan)

PASSED March 8th, 1961

In Effect July 1st, 1961
ENROLLED

Senate Bill No. 23
(By Mr. McCourt and Mr. Carrigan)

[Passed March 8, 1961; in effect July 1, 1961.]

AN ACT to repeal article eleven, chapter sixteen; section thirteen-b, article nineteen, chapter seventeen; chapter twenty; chapter twenty-a; and sections four, five, six, seven, eight and nine, article two-a, chapter twenty-two, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to repeal chapter fifty-four, acts of the legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three; and to enact in lieu thereof a new chapter twenty of said code, relating to the establishment and administration of a comprehensive natural resources department in the state gov-
Be it enacted by the Legislature of West Virginia:

That article eleven, chapter sixteen; section thirteen-b, article nineteen, chapter seventeen; chapter twenty; chapter twenty-a; and sections four, five, six, seven, eight and nine, article two-a, chapter twenty-two, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and chapter fifty-four, acts of the legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be repealed; and that a new article twenty of said code be enacted to read as follows:

CHAPTER 20

NATURAL RESOURCES

Article 1. Organization and Administration.

Section 1. Purposes and Objects.—This chapter is enacted to provide a comprehensive program for the exploration, conservation, development, protection, enjoyment and use of the natural resources of the state of West Virginia and may be cited as the state natural resources law.
Sec. 2. Definitions.—As used in this chapter, unless the context clearly requires a different meaning:

“Agency” means any branch, department or unit of the state government, however designated or constituted.

“Alien” means any person not a citizen of the United States.

“Bag limit” or “creel limit” means the maximum number of wildlife which may be taken, caught, killed or possessed by any licensee.

“Board” means the water resources board of the department of natural resources.

“Citizen” means any native born citizen of the United States, and foreign born persons who have procured their final naturalization papers.

“Closed season” means the time or period during which it shall be unlawful to take any wildlife as specified and limited by the provisions of this chapter.

“Commission” means the natural resources commission.

“Commissioner” means a member of the advisory commission of the natural resources commission.
“Director” means the director of the department of natural resources.

“Fishing” or “to fish” means the taking, by any means, of fish, minnows, frogs, or other amphibians, aquatic turtles, and other forms of aquatic life used as fish bait.

“Fur-bearing animals” shall include (a) the mink, (b) the weasel, (c) the muskrat, (d) the beaver, (e) the opossum, (f) the skunk, and civet cat, commonly called polecat, (g) the otter, (h) the red fox, (i) the gray fox, (j) the wildcat, bobcat or bay lynx, and (k) the raccoon.

“Game” means game animals, game birds and game fish as herein defined.

“Game animals” shall include (a) the elk, (b) the deer, (c) the cottontail rabbits and hares, (d) the fox squirrels, commonly called the red squirrel, gray squirrels and red squirrels, commonly called fairydiddle, and all their color phases — red, gray, black or albino, and (e) the raccoon.

“Game birds” shall include (a) the anatidae, commonly known as swans, geese, brants and river and sea ducks,
(b) the rallidae, commonly known as rails, sora, coots, mudhens, and gallinales, (c) the limicolae, commonly known as shorebirds, plover, snipe, woodcock, sandpipers, yellowlegs, and curlews, (d) the galli, commonly known as wild turkey, grouse, pheasants, quails and partridges (both native and foreign species), (e) the columbidae, commonly known as doves and the icteridae, commonly known as blackbirds, redwings and grackle.

"Game fish" shall include (a) Brook trout, (b) brown trout, (c) rainbow trout, (d) Kokanee salmon, (e) large-mouth bass, (f) small-mouth bass, (g) Kentucky or spotted bass, (h) pickerel, (i) muskellunge, (j) walleyed pike, or pike perch, (k) rock bass, (l) white bass, (m) white and black crappie, (n) blue-gill sun-fish and (o) other bream.

"Hunt" means to pursue, chase, catch or take any wild birds or wild animals.

"Lands" means land, waters, and all other appurtenances connected therewith.

"Migratory birds" means any migratory game or non-game birds included in the terms of conventions between
the United States and Great Britain and between the United States and United Mexican States, known as the "Migratory Bird Treaty Act", for the protection of migratory birds and game mammals concluded, respectively, August sixteen, one thousand nine hundred sixteen, and February seven, one thousand nine hundred thirty-six.

"Nonresident" means any person who is a citizen of the United States and who has not resided continuously in the state of West Virginia for a period of six months immediately prior to the date of his application for a license or permit.

"Open season" means the time during which the various species of wildlife may be legally caught, taken, killed or chased in a specified manner, and shall include both the first and the last day of the season or period designated by the director.

"Person", except as otherwise defined elsewhere in this chapter, means the plural "persons", and shall include individuals, partnerships, corporations, or other legal entity.
"Preserve" means all duly licensed private game farm lands, or private plants, ponds or areas, where hunting or fishing is permitted under special licenses or seasons other than the regular public hunting or fishing seasons.

"Protected birds" means all wild birds not included within the definition of "game birds" and "unprotected birds".

"Resident" means any person who is a citizen of the United States and who has resided continuously in the state of West Virginia for a period of six months or more immediately prior to the date of his application for a license or permit: Provided, however, That a member of the armed forces of the United States who is stationed beyond the territorial limits of this state, but who was a resident of this state at the time of his entry into such service, shall be considered a resident under the provisions of this chapter.

"Roadside menagerie" means any place of business, other than a commercial game farm, commercial fish preserve, place or pond, where any wild bird, game bird, un-
protected bird, game animal or fur-bearing animal is kept in confinement for the attraction and amusement of the people for commercial purposes.

"Take" means to hunt, shoot, pursue, lure, kill, destroy, catch, capture, keep in captivity, gig, spear, trap, ensnare, wound or injure any wildlife, or attempt to do so.

"Unprotected birds" shall include (a) the English sparrow, (b) the European starling, (c) the sharp-shinned hawk, (d) the Cooper's hawk, (e) the goshawk, (f) the cowbird, and (g) the crow.

"Wild animals" means all mammals native to the state of West Virginia occurring either in a natural state or in captivity, except house mice and rats.

"Wild birds" shall include all birds other than (a) domestic poultry—chickens, ducks, geese, guinea fowl, peafowls and turkeys, (b) psittacidae, commonly called parrots and parakeets, and (c) other foreign cage birds such as the common canary, exotic finches and ring dove. All wild birds, either (a) those occurring in a natural state in West Virginia, or (b) those imported foreign game
birds, such as waterfowl, pheasants, partridges, quail and
grouse, regardless of how long raised or held in captivity,
shall remain wild birds under the meaning of this chapter.

“Wildlife” means wild birds, wild animals, game and
fur-bearing animals, fish (including minnows), frogs and
other amphibians, aquatic turtles and all forms of aquatic
life used as fish bait, whether dead or alive.

“Wildlife refuge” means any land set aside by action of
the director as an inviolate refuge or sanctuary for the
protection of designated forms of wildlife.

Sec. 3. Department, Office of Director and Commission

Established.—A department of natural resources, the of-
office of director of the department of natural resources,
and a natural resources commission are hereby created
and established in the state government with jurisdiction,
powers, functions, services and enforcement processes as
provided in this chapter and elsewhere by law.

Sec. 4. Office, Functions, Appointment, Term and Quali-
fications of Director.—The director shall be the chief
executive officer of the department. Subject to provisions
of law, he shall organize the department into such offices,
divisions, agencies and other units of activity as may be
found by him necessary and desirable in the orderly, ef-
ficient and economical administration of the department
for the accomplishment of its objects and purposes.

The director shall be appointed by the governor, by
and with the advice and consent of the senate, and shall
continue to serve until his successor is appointed and
qualified as provided. On or before the first day of July,
one thousand nine hundred sixty-one, the governor shall
appoint the director for a term ending on the thirty-first
day of December, one thousand nine hundred sixty-two.

Upon the expiration of such term the governor shall ap-
point the director for a term of four years commencing
on the first day of January, one thousand nine hundred
sixty-three, and, upon the expiration thereof, for succes-
sive terms of four years each next thereafter. A vacancy
occurring in the office during any term thereof shall be
filled by appointment as herein provided for the remainder
of such term.

The director may be removed from office by the gov-
ernor for cause as provided in the constitution. At the
time of his initial appointment, he shall be at least thirty
years old and shall be selected with special reference and
consideration given to his training, experience, capacity
and interest in the natural resources program as herein
embraced. He shall not be a candidate for or hold any
other public office, shall not be a member of any political
party committee, and shall immediately forfeit and vacate
his office as director in the event he becomes a candidate
for or accepts appointment to any other public office or
political party committee.

Sec. 5. Salary, Expenses, Oath and Bond of Director.—
The director shall receive an annual salary of twelve
thousand dollars, payable in equal monthly installments,
and shall be allowed and paid necessary expenses incident
to the performance of his official duties. Prior to the as-
sumption of the duties of his office, he shall take and sub-
scribe to the oath required of public officers by the con-
stitution of West Virginia and shall execute a bond, with
surety approved by the governor, in the penal sum of ten
thousand dollars, which executed oath and bond shall be
11 filed in the office of the secretary of state. Premiums on
12 the bond shall be paid from department funds.

Sec. 6. Offices and Office Hours.—The director shall
2 arrange with the general services division of the depart-
3 ment of finance and administration for adequate office
4 space, accommodations and facilities for the department
5 of natural resources in the state capitol offices. The de-
6 partment of finance and administration shall make such
7 office accommodations and facilities available and shall
8 provide for orderly servicing and maintenance thereof.
9 The offices of the director and of the department shall be
10 opened and staffed for business transactions and services
11 during regular hours as prescribed by the state board of
12 public works.

Sec. 7. Additional Powers, Duties and Services of Di-
2 rector.—In addition to all other powers, duties and re-
3 sponsibilities granted and assigned to the director in this
4 chapter and elsewhere by law, the director is hereby
5 authorized and empowered to:
6 (1) With the advice of the commission, prepare and
7 administer, through the various divisions created by this
chapter, a long-range comprehensive program for the
conservation of the natural resources of the state which
best effectuates the purpose of this chapter and which
makes adequate provisions for the natural resources laws
of the state;
(2) Sign and execute in the name of the state by the
"Department of Natural Resources" any contract or agree-
ment with the federal government or its departments or
agencies, subdivisions of the state, corporations, associa-
tions, partnerships or individuals;
(3) Conduct research in improved conservation meth-
ods and disseminate information matters to the residents
of the state;
(4) Conduct a continuous study and investigation of
the habits of wildlife, and for purposes of control and pro-
tection to classify by regulation the various species into
such categories as may be established as necessary;
(5) Prescribe the locality in which and the manner
and method by which the various species of wildlife may
be taken, or chased, unless otherwise specified by this
chapter;
(6) Fix by regulation the open seasons and the bag, creel, size, age, weight and sex limits with respect to wild-
life in this state;

(7) Hold at least six meetings each year at such times and at such points within the state, as in the discretion of
the director may appear to be necessary and proper for the purpose of giving interested persons in the various
sections of the state an opportunity to be heard concerning open seasons for their respective areas, before such
seasons and bag limits are fixed;

(8) Suspend open hunting seasons upon any or all wildlife in any or all counties of the state with the prior
approval of the governor in case of an emergency such as a drought, forest fire hazard or epizootic of disease
among wildlife. The suspension shall continue during the existence of the emergency and until rescinded by the
director. Suspension, or reopening after such suspension, of open seasons may be made upon twenty-four hours’
notice by delivery of a copy of the order of suspension or reopening to the wire press agencies at the state capitol;
(9) Supervise the fiscal affairs and responsibilities of the department;

(10) Designate such localities as he shall determine to be necessary and desirable for the perpetuation of any species of wildlife;

(11) Enter private lands to make surveys or inspections for conservation purposes, to investigate for violations of provisions of this chapter, to serve and execute warrants and processes, to make arrests and to otherwise effectively enforce the provisions of this chapter;

(12) Acquire for the state in the name of the "Department of Natural Resources" by purchase, condemnation, lease or agreement, or accept or reject for the state, in the name of the department of natural resources, gifts, donations, contributions, bequests or devise of money, security or property, both real and personal, and any interest in such property, including lands and waters, which he deems suitable for the following purposes:

(a) For state forests for the purpose of growing timber, demonstrating forestry, furnishing or protecting watersheds or providing public recreation;
(b) For state parks or recreation areas for the purpose of preserving scenic, esthetic, scientific, cultural, archaeological or historical values or natural wonders, or providing public recreation;

(c) For public hunting, trapping, or fishing grounds or waters for the purpose of providing areas in which the public may hunt, trap or fish, as permitted by the provisions of this chapter, and the rules and regulations issued hereunder;

(d) For fish hatcheries, game farms, wildlife research areas and feeding stations;

(e) For the extension and consolidation of lands or waters suitable for the above purposes by exchange of other lands or waters under his supervision;

(f) For such other purposes as may be necessary to carry out the provisions of this chapter;

(13) Capture, propagate, transport, sell or exchange any species of wildlife as may be necessary to carry out the provisions of this chapter;

(14) Exercise the powers granted by this chapter for the protection of forests, and regulate fires and smoking
in the woods or in their proximity at such times and in such localities as may be necessary to reduce the danger of forest fires;

(15) Cooperate with departments and agencies of state, local, and federal governments in the conservation of natural resources and the beautification of the state;

(16) Report to the governor each year all information relative to the operation and functions of his department and shall make such other reports and recommendations as may be required by the governor, including an annual financial report covering all receipts and disbursements of the department for each fiscal year and shall deliver such report to the governor on or before the first day of December next after the end of the fiscal year so covered. A copy of such report shall be delivered to each house of the legislature when convened in January next following.

(17) Keep a complete and accurate record of all proceedings, record and file all bonds and contracts taken or entered into, and assume responsibility for the custody and preservation of all papers and documents pertaining to his office, except as otherwise provided by law;
Offer and pay, in his discretion, rewards for information respecting the violation, or for the apprehension and conviction of any violators of any of the provisions of this chapter;

Require such reports as he may deem to be necessary from any person issued a license or permit under the provisions of this chapter;

Purchase as provided by law all equipment necessary for the conduct of his department;

Conduct and encourage research designed to further new and more extensive uses of the natural resources of this state and to publicize the findings of such research;

Encourage and cooperate with other public and private organizations or groups in their efforts to publicize the attractions of the state;

Accept and expend, without the necessity of appropriation by the legislature, any gift or grant of money made to the department for any and all purposes specified in this chapter, and shall account for and report on all such receipts and expenditures to the governor;

Cooperate with the state historian and other ap-
appropriate state agencies in conducting research with reference to the establishment of state parks and monuments of historic, scenic and recreational value, and to take such steps as may be necessary in establishing such monuments or parks as he deems advisable;

(25) Maintain in his office at all times, properly indexed by subject matter, and also in chronological sequence, all rules and regulations made or issued under the authority of this chapter. Such records shall be available for public inspection on all business days during the business hours, of working days as prescribed by the state board of public works;

(26) Act promptly and effectively, whenever in the sole discretion of the director the ends of justice and the interests of the state so require, through appropriate court proceedings for citations and for injunctive, remedial, coercive and other means and methods of relief, in the prevention, abatement and correction of the pollution of streams and other water areas prior and supplemental to the effective operation of the procedures and processes of
the water resources board under provisions of article five
of this chapter;

(27) Delegate the powers and duties of his office, ex-
cept the power to execute contracts, to appointees and
employees of the department, who shall act under the di-
rection and supervision of the director and for whose acts
he shall be responsible;

(28) Conduct schools, institutes and other educational
programs, apart from or in cooperation with other govern-
mental agencies, for instruction and training in all phases
of the natural resources program of the state; and

(29) Promulgate rules and regulations to implement
and make effective the powers and duties vested in him
by provisions of this chapter and take such other steps as
may be necessary in his discretion for the proper and ef-
effective enforcement of the provisions of this chapter.

Sec. 8. Personnel Management.—A merit system of
personnel management shall be established and main-
tained for all personnel of the department in order to in-
sure and provide for impartial selection of competent and
qualified personnel and to accord to all department em-
ployees rights of tenure and advancement during satisfactory discharge of their duties. Employees of any agency or activity absorbed in or transferred to the department by provisions of this chapter or elsewhere by law, who then have and enjoy state merit system status, shall maintain their merit system status for all purposes as employees of the department, but employees of any such agency or activity not so having and enjoying merit system status shall be retained in department employ for a period of time not exceeding twelve months unless during such period of time they qualify for and attain merit system status according to their merit system tenure and advancement rights as other employees of the department.

In lieu of establishment of a merit system of personnel management for the department, the director may resort to and rely upon the state merit system council for personnel and personnel services of the department and for this purpose may contribute from department funds a fair share of the merit system council's expenses.

The director may select a personal secretary and a deputy director of the department to serve at the director's
The director shall select and designate a competent and qualified person as department personnel officer who shall be responsible for personnel management, personnel records and general personnel services. The personnel officer, under supervision of the director and subject to merit system rules, regulations and requirements, shall prescribe qualifications, classifications and salary scales for department personnel. He shall furnish to the director information and data relating to qualified personnel available for the various offices, positions and places of employment and may make recommendations concerning
Sec. 9. Fiscal Management.—Subject to any controlling rules and regulations of the department of finance and administration relating to state fiscal management policies and practices, the director shall establish in the department an adequate budget, finance and accounting system which will currently and accurately reflect the fiscal operations and conditions of the department at all times. The department's accounting and auditing services shall be on the fiscal year basis.

The director shall select and designate a competent and qualified person as department fiscal officer who, under the supervision of the director, shall be responsible for all budget, finance and accounting services of the department. All moneys received by the department shall be recorded and shall be paid as general revenue into the state fund, as provided in section two, article two, chapter twelve of this code, except in cases wherein certain receipts of the department are by specific provisions of this chapter required to be paid into some special fund or funds.
Sec. 10. 

Property Management.—The department shall maintain at all times an accurate record of all of its lands, interests in lands, buildings, structures, equipment and other tangible properties and assets. Such record shall reflect the location, utility, condition and estimated value of all such properties and assets. The department shall provide for the maintenance, preservation and custody of all such properties and assets, and when any item or items thereof become obsolete or are no longer needed, the department shall report thereon to the department of finance and administration for disposition thereof.

The director shall select and designate a competent and qualified person as department property officer who shall be responsible for the department’s records relating to its properties and assets and for the maintenance, preservation, custody and disposition of all such properties and assets as herein provided.

Sec. 11. Public Relations.—The department shall collect, organize and from time to time distribute to the public, through news media or otherwise, interesting facts, information and data concerning the natural resources
of the state and the functions and services of the department. The director may organize and promote lectures, demonstrations, symposiums, schools and other educational programs relating to the state's natural resources. Motion pictures, slide films and other photographic services may be provided for instruction on natural resources for schools, other governmental agencies, and civic organizations under such rules and regulations and may be prescribed by the director.

The director shall select and designate a competent and qualified person as department public relations officer who shall be responsible for the organization and management of the department's public relations program. He may prepare and distribute from time to time pamphlet materials and other compilations and publications of the department and may cooperate with other governmental agencies in the publication and distribution of such materials.

Sec. 12. Surveys and Planning.—As departmental projects or in cooperation with other governmental or private agencies, the director may organize and promote surveys
and explorations relating to the state's natural resources, their utility, development and protection. The state geological and economic survey commission, the department of mines, the department of agriculture, the economic development agency and other governmental agencies and activities shall cooperate, whenever and wherever practicable to do so, with the department in its survey and exploration work.

The director shall select and designate a competent and qualified person as department surveys officer who shall be responsible for the organization, promotion and correlation of the surveys and explorations as herein provided. He shall work closely with other offices and divisions of the department in order to effect maximum development, utilization, protection and enjoyment of the state's natural resources.

Sec. 13. *Law Enforcement and Legal Services.*—The director shall select and designate a competent and qualified person to be department law enforcement officer who shall have the title of chief conservation officer and who shall be responsible for the prompt, orderly and effective
enforcement of all of the provisions of this chapter. Under
the supervision of the director and subject to personnel
qualifications and requirements otherwise prescribed in
this chapter, the chief conservation officer shall be re-
ponsible for the selection, training, assignment, distribu-
tion and discipline of conservation officers and the effec-
tive discharge of their duties in carrying out the law en-
forcement policies, practices and programs of the depart-
ment in compliance with the provisions of article seven
of this chapter and other controlling laws and regulations.
Except as otherwise provided in this chapter, he and his
conservation officers are hereby authorized to enter into
and upon private lands and waters to investigate com-
plaints and reports of conditions, conduct, practices and
activities considered to be adverse to and violative of the
provisions of this chapter and to execute writs and war-
rants and make arrests thereupon.
The attorney general and his assistants and the prose-
cuting attorneys of the several counties shall render to
the director, without additional compensation, such legal
services as the director may require of them in the dis-
charge of his duties and the execution of his powers under
and his enforcement of the provisions of this chapter. The
director, in an emergency and with prior approval of the
attorney general, may employ an attorney to act in pro-
ceedings wherein criminal charges are brought against
personnel of the department because of action in line of
duty. For such attorney services, a reasonable sum, not
exceeding five hundred dollars, may be expended by the
director in any one case.

The director, if he deems such action necessary, may
request the attorney general to appoint an assistant at-
torney general, who shall perform, under the supervision
and direction of the attorney general, such duties as may
be required of him by the director. The attorney general,
in pursuance of such request, may select and appoint an
assistant attorney general to serve during the will and
pleasure of the attorney general, and such assistant shall
receive a salary to be paid out of any funds made avail-
able for that purpose by the legislature to the department.

Sec. 14. Divisions.—Divisions of game and fish, of for-
estry, of parks and recreation, of water resources, and of
reclamation are hereby created and established within
the department. Subject to provisions of law, the director
shall allocate the functions and services of the department
to the divisions, offices and activities thereof and may
from time to time establish and abolish other divisions,
offices and activities within the department in order to
carry out fully and in an orderly manner the powers,
duties and responsibilities of his office as director. The
director shall select and designate a competent and quali-
ified person to be chief of each division. The chief shall be
the principal administrative officer of his division and
shall be accountable and responsible for the orderly and
efficient performance of the duties, functions and services
thereof.

Sec. 15. Public Land Corporation.—The public land cor-
poration of West Virginia, heretofore created and estab-
lished, shall be continued as an activity of the department
of natural resources. The corporation may sue and be
sued, contract and be contracted with, plead and be im-
plicated and have and use a common seal. It shall be a
public benefit corporation composed of the governor as
chairman, the director of the department of natural re-
resources as secretary, the commissioner of agriculture, the
attorney general, and the director of the engineering ex-
periment station at West Virginia university, none of
whom shall receive additional compensation as members
of the corporation.

The corporation shall be vested with the title of the
state in public lands, the title to which now is or may here-
after become absolutely vested in the state of West Vir-
ginia by reason of any law governing the title of lands
within the state, except such public lands of the state as
may be by law specifically allocated to and used by other
state agencies, institutions and departments.

The corporation is hereby authorized and empowered to:

(1) Acquire from any persons or the state commis-
sioner of forfeited lands, by purchase, lease or other agree-
ment, any lands necessary and required for public use;

(2) Acquire by purchase, condemnation, lease or
agreement, receive by gifts and devises, or exchange
rights of way, easements, waters and minerals suitable
for public use;
(3) Sell, purchase or exchange lands or stumpage for the purpose of consolidating lands under state or federal government administration;

(4) Negotiate and effect loans from the government of the United States or any agency thereof for acquisition and development of such lands as may be authorized by law to be acquired for public use; and

(5) Expend the income from the use and development of public lands for the purpose of liquidating obligations incurred in the acquisition, development and administration of such lands, until all such obligations have been fully discharged, and thereafter pay such income into the state fund for general revenue purposes and uses.

The corporation shall have the authority to designate lands to which it has title for development and administration for the public use including forestation, recreation, wildlife, stock grazing, agricultural rehabilitation homesteading or other conservation activities and may contract or lease for the proper development of oil, gas, mineral, except that no contract or lease may be entered into for the extraction and removal by stripping or auger mining
of coal, and water rights within or upon the lands or property under its control. It shall convey, assign, or allot lands to the title or custody of proper departments or other agencies of state government for administration and control within the functions of such departments or other agencies as provided by law. The corporation shall make proper lands available for the purpose of cooperating with the government of the United States in the relief of unemployment and hardship. The corporation shall report biennially to odd-year sessions of the legislature on its public land holdings, its financial condition and its operations and shall make such recommendations to the legislature as deemed proper concerning the acquisition, development, disposition and use of public lands.

Sec. 16. Natural Resources Commission.—The natural resources commission, created and established by provisions of section three of this article, shall be a public benefit corporation and as such may sue and be sued, plead and be impleaded, contract and be contracted with and have and use a common seal. It shall be a commission advisory to the director and to the department of natural
resources. The commission shall be composed of seven members, known as commissioners, one from each congressional district and the remainder from the state at large, appointed by the governor by and with the advice and consent of the senate. Their terms of office shall begin on the first day of July and shall be for a period of seven years, except that the governor in making the initial appointments shall designate and define their respective terms of office so that the term of one member of the commission will expire each year. As initial appointments expire, all subsequent appointments shall be for terms of seven years or for the unexpired term of a member who may have died, resigned or become disqualified.

The members of the commission shall be citizens and residents of the state, selected with special reference to their training and experience in relation to the principal activities required of the commission, and for their ability and fitness to perform their duties within the purposes of this chapter. No member of the commission shall be a candidate for or hold any public office other than that of member of the commission; nor shall he be a member of
any committee of a political party. In case a member becomes a candidate for or accepts appointment to any public office or political party committee, his office as member of the commission shall be immediately vacated.

Sec. 17. Commission Organization and Services.—Members of the natural resources commission shall take and subscribe to the public officer's oath prescribed by the constitution before entering upon the duties of their office. All such executed oaths shall be filed in the office of the secretary of state. Members of the commission shall receive no compensation as such but each shall be reimbursed for his actual and necessary traveling expenses incurred in the performance of his official duties.

The director of the department shall be ex officio a member of the commission and its presiding officer. A majority of the commission shall constitute a quorum for transaction of business. Four regular meetings of the commission shall be held each year commencing on the first Monday in the months of July, October, January and April. Special meetings may be convened by the governor, the director or by a majority of the commission.
The meetings of the commission shall be regularly held at the office of the director but may be held at other points within the state when need therefor exists as explained in the call setting forth the time and place of the meeting.

The director shall furnish all articles and supplies required by the commission in the performance of its duties and shall provide necessary stenographic, secretarial and clerical assistance therefor. All such materials and services shall be paid for from department funds.

The director, at any regular or special meeting of the commission, may submit to the commission any program or policy matters on which he wishes to obtain the advice, counsel and opinion of the commission and may consult with members of the commission on functions, services, policies and practices of the department at any time. The commission shall serve as a body advisory to the director and as such shall have the following powers and duties:

(1) To consider and study the entire field of legislation and administrative methods concerning the forests and their maintenance and development, the protection of fish and game, the beautification of the state and its highways,
and the development of lands, minerals, waters and other natural resources;

(2) To advise with the director concerning the conservation problems of particular localities or districts of the state;

(3) To recommend policies and practices to the director relative to any duties imposed upon him by law;

(4) To investigate the work of the director, and for this purpose to have access at reasonable times to all official books, papers, documents and records;

(5) To advise or make recommendations to the governor relative to natural resources of the state; and

(6) To keep minutes of the transactions of each session, regular or special, which shall be public records and filed with the director.

Sec. 18. Government Cooperation; Projects; Finances; Properties.—In addition to all other powers and authority vested in the director, he is hereby authorized and empowered to represent and advance the interests of the state of West Virginia under provisions of acts of congress now in force or hereafter enacted providing for coopera-
tion between the governments of the United States and
of the several states in the exploration, development,
conservation, use and enjoyment of natural resources. He
may acquire by purchase or lease, as in this chapter pro-
vided, such lands, interests in lands, forests, parks, recre-
ational facilities, wildlife and water areas and such other
properties within this state as may be required in co-
operative programs with any other government or gov-
ernments and, with the approval of the governor, may
negotiate and effect self-liquidating loans with the gov-
ernment of the United States or any agency or agencies
thereof for the procurement, development and use of all
such properties. All such projects shall be in the interest
and for the benefit of the state and may be geared and
timed to relieve economic hardship and unemployment.
In order to consolidate forest tracts under either state
or federal administration, the director may sell, purchase
or exchange stumpage or lands within or adjacent to any
national forest purchase area.
The director shall study the land and water boundary
areas of the state and, where practicable, cooperate with
Article 2. Game and Fish.

Section 1. Game and Fish Division Organization and Administration.—The chief of the division of game and fish shall be primarily responsible for the execution and administration of the provisions of this article as an integral part of the natural resources program of the state as defined and constituted in this chapter. He shall organize the division and select competent and qualified personnel therefor so as to effect an orderly, efficient and economical division organization.

Sec. 2. Violations; Punishment and Penalties.—When no specific punishment or penalty is otherwise provided for violations of the provisions of this article, any person violating any provision hereof shall be guilty of a misdemeanor offense and, upon conviction thereof, shall be subject to the punishment and penalties prescribed in section nine, article seven of this chapter.

PART I. WILDLIFE MANAGEMENT

Sec. 3. State Ownership of Wildlife.—The ownership of
and title to all wild animals, wild birds, both migratory and resident, and all fish, amphibians, and all forms of aquatic life in the state of West Virginia is hereby declared to be in the state, as trustee for the people. No such wildlife shall be taken or hunted in any manner, or at any time, unless the person so taking or hunting the same shall consent that the title thereto shall be and remain in the state of West Virginia for the purpose of regulating the taking, hunting, using and disposing of the same. The taking or hunting of wildlife at any time or in any manner by any person shall be deemed such consent: Provided, however, That all fish, frogs and other aquatic life in privately owned ponds are, and shall remain, the private property of the owner or owners of such privately owned ponds, and that such fish, frogs, and other aquatic life in such privately owned ponds may be caught, taken or killed by such owner or owners at any time.

Sec. 4. Possession of Wildlife.—Except as otherwise provided by law, no person shall have in his possession during closed seasons any wildlife. Wildlife which may be lawfully taken may be had in possession during the
5 open season therefor, and for sixty days thereafter: Pro-
6 vided, however, That any person upon application to the
director may be issued a permit authorizing the possession
7 of the flesh of such wildlife as the director may determine
8 for an additional period not to exceed four months.
9
10 Wildlife lawfully taken outside of this state shall be
11 subject to the same laws and regulations as that taken
12 within this state, but may be possessed for a period of
13 sixty days after the date such wildlife was legally brought
14 into this state, and for an additional period thereafter, not
15 to exceed four months, by securing a permit from the
16 director.
17
18 Migratory wild birds shall be possessed only in accord-
19 ance with the “Migratory Bird Treaty Act” and regula-
20 tions thereunder.
21
22 Possession of any wildlife, or any part thereof, except
23 during their respective open seasons and for sixty days
24 thereafter, shall be presumptive evidence that the same
25 was taken unlawfully by the possessor, unless such per-
26 son has been issued a permit as authorized by this section.
27
28 The restrictions in this section do not apply to the di-
rector or his duly authorized agents, who may, in any manner, take or maintain in captivity at any time any wildlife for the purpose of carrying out the provisions of this chapter.

Sec. 5. Unlawful Methods of Hunting and Fishing.—

Except as authorized by the director, it shall be unlawful at any time for any person to:

1. Shoot at or to shoot any wild bird or animal unless it is plainly visible to him;
2. Dig out, cut out, or smoke out, or in any manner take or attempt to take any live wild animal or wild bird out of its den or place of refuge, except as may be authorized by regulations promulgated by the director or by law;
3. Make use of, or take advantage of, any artificial light in hunting for, or taking any wild animals or wild birds, except that artificial lights such as are ordinarily carried in the hand or on the person may be used for the purpose of taking raccoon, opossum or skunk; or to throw or cast the rays of a spotlight, headlight, or other artificial light, from any vehicle, on any animal or game bird, or attempt to do so, while having in his or their possession
or under their control, or in any vehicle or conveyance in which they may be traveling, a cased or uncased firearm or other implement whereby any wild animal or wild bird could be killed, even though such animal be not shot at, injured or killed. The provisions of this paragraph shall not apply if it shall be proven that the headlights of a motor vehicle while traveling on a highway in the usual way, cast a light upon such animal, on, or adjacent to such highway, and there was no attempt or intent to locate such animal;

(4) Hunt for, take, kill, wound or shoot at wild animals or wild birds from an airplane, or other airborne conveyance, an automobile, or other land conveyance, or from a motor driven water conveyance, except as may be authorized by regulations promulgated by the director;

(5) Take any beaver or muskrat by any means other than by trap;

(6) Catch, capture, take or kill by seine, net, bait, trap or snare or like device of any kind, any wild turkey, ruffed grouse, pheasant or quail;

(7) Destroy or attempt to destroy needlessly or wil-
fully the nest or eggs of any wild bird or have in his pos-
session such nest or eggs unless authorized to do so under
regulations or under a permit by the director;

(8) Except as provided in section six of this article,
carry an uncased or loaded gun in any of the woods of this
state except during the open firearms hunting season for
game animals and non-migratory game birds within any
county of the state, unless he has in his possession a per-
mit in writing issued to him by the director: Provided,
however, That this section shall not prohibit hunting or
taking of unprotected species of wild animals and wild
birds and migratory game birds, during the open season,
in the open fields, open waters and open marshes of the
state;

(9) Except as provided in section six of this article,
carry an uncased or loaded gun on Sunday in any woods
or on any highway, railroad right of way, public road,
field or stream of this state except at a regularly used
rifle, pistol, skeet, target or trap shooting ground or range;

(10) To have in his possession a loaded firearm or a
firearm from the magazine of which all shells and cart-
ridges have not been removed, in or on any vehicle or conveyance, or its attachments, within the state, except as may otherwise be provided by law or regulation. Except as hereinafter provided, between five o'clock postmeridian of one day and seven o'clock antemeridian, eastern standard time of the day following, any unloaded firearm, being lawfully carried in accordance with the foregoing provisions, shall be so carried only when in a case or taken apart and securely wrapped. During the period from July first to September thirtieth, inclusive, of each year, the foregoing requirements relative to carrying certain unloaded firearms shall be permissible only from eight thirty o'clock postmeridian to five o'clock antemeridian, eastern standard time;

(11) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement by which wildlife may be taken on Sunday any wild animals or wild birds: Provided, however, That traps previously and legally set may be tended on Sunday, if the person so doing shall not have firearms or long bow of any description in his possession;
(12) Hunt with firearms or long bow while under the influence of intoxicating liquor;

(13) Possess a ferret;

(14) Buy raw furs, pelts or skins of fur-bearing animals unless licensed to do so;

(15) Have in his possession or about his premises, without the written permission of the director, any hunting or fishing paraphernalia which cannot be used lawfully in this state for hunting or fishing, and any conservation officer shall remove and destroy such hunting and fishing paraphernalia, whenever found in this state, and the person or persons claiming ownership shall have no recourse at law against such confiscation and destruction;

(16) Catch, take, kill, or attempt to catch, take or kill any fish at any time by any means other than by rod, line, and hooks with natural or artificial lures unless otherwise authorized by law or regulation issued by the director:

Provided, however, That snaring of any species of suckers, carp, fallfish and creek chubs through the ice shall at all times be lawful;

(17) Employ or hire, or induce or persuade, by the use
of money or other things of value, or by any means, any
person to hunt, take, catch or kill, any wild animal or wild
bird except those species on which there is no closed
season, or to fish for, catch, take or kill any fish, amphibian
or aquatic life which is protected by the provisions of this
chapter or regulations of the director, or the sale of which
is prohibited;
(18) Hunt, catch, take, kill, capture, pursue, transport,
possess or use any migratory game or non-game birds in-
cluded in the terms of conventions between the United
States and Great Britain and between the United States
and United Mexican States for the protection of migratory
birds and game mammals concluded, respectively, August
sixteen, one thousand nine hundred sixteen, and February
seven, one thousand nine hundred thirty-six, except dur-
ing the time and in the manner and numbers prescribed
by the federal migratory bird treaty act and regulations
made thereunder;
(19) Kill, take, catch, or have in his possession living
or dead, any wild bird, other than a game bird; or expose
for sale, or transport within or without the state any such
bird, except as aforesaid. No part of the plumage, skin or body of any protected bird shall be sold or had in possession for sale, except mounted or stuffed plumage, skin, bodies or heads of such birds legally taken and stuffed or mounted, irrespective of whether such bird was captured within or without this state, except the English or European sparrow (Passer domesticus), starling (Sturnus vulgaris), sharp-shinned hawk (Accipiter striatus), Cooper's hawk (Accipiter cooperii), goshawk (Accipiter gentilis), crow, (Corvus brachyrhynchos), and cowbird (Molothrus ater), which shall not be protected and the killing thereof at any time is lawful;

(20) Use dynamite or any like explosives or poisonous mixture placed in any waters of the state for the purpose of killing or taking fish. Any person violating the provisions of this subsection shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned for not less than six months nor more than three years, and, in the discretion of the court, may be fined not more than five hundred dollars;
(21) Have both a bow and a gun in the field or woods at the same time;
(22) Have a crossbow in the woods or fields or use a crossbow to hunt for, take or attempt to take any wildlife;
(23) Take or attempt to take turkey, bear, elk or deer with any arrow unless the same is equipped with a point having at least two sharp cutting edges measuring in excess of three-fourths of an inch wide;
(24) Take or attempt to take any wildlife with an arrow having an explosive head or shaft;
(25) Shoot an arrow across any public highway or from aircraft, motor-driven watercraft, motor vehicle or other land conveyance; and
(26) Permit any dog owned by him or under his control to chase, pursue or follow upon the track of any game animal or game bird, either day or night, between the first day of May and the fifteenth day of August next following: Provided, however, That dogs may be trained on game animals and game birds except deer and wild turkeys, during the closed season on such game animals and game birds (the period from May first to August fifteenth, ex-
cepted); provided the person training said dogs does not
have firearms or other implements in his possession where-
by game animals or game birds could be taken or killed.

Sec. 6. Carrying Gun on Landowner's Land.—Notwith-
standing any other provisions of this chapter, it shall be
lawful for a bona fide resident landowner of this state,
any member of said landowner's family and any bona fide
tenant of said landowner, to carry an uncased gun at any
time, whether accompanied by or without a dog, in their
regular pursuits in caring for and looking after such land-
owner's livestock or poultry on his land and on any lands
leased or rented by him for livestock or poultry husbandry
purposes.

Sec. 7. Hunting, Trapping, Fishing on Lands of An-
other; Damages and Compensation.—It shall be unlawful
for any person to shoot, hunt, fish or trap upon the fenced,
enclosed or posted grounds or lands of another person or
to peel trees or timber, build fires or do any other act or
thing thereon in connection with or auxiliary to shooting,
hunting, fishing or trapping on such lands without per-
mission in writing from the owner, tenant or agent of such
owner, and every person hunting, fishing, shooting or
fowling upon such lands shall have in his possession such
written permission when so doing.

Any person who, for the purpose of, or while hunting,
trapping or fishing, shall, without the permission of the
owner, tenant or agent of the owner, enter upon the land
of another and while thereon shall kill or injure any do-

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mestic animal or fowl, or shall cut, destroy or damage
any bars, gates or fence, or any part thereof, or shall leave
open any bars or gates thereon resulting in damage to
owner or occupant thereof, shall be guilty of a misde-
meanor, and in addition shall be liable to the owner or
person suffering such damage for all costs and damages
resulting therefrom. The officers charged with the en-
forcement of the provisions of this chapter shall have the
duty to enforce the provisions of this section if requested
to do so by such owner, lessee, person or agent, but not
otherwise.

Sec. 8. Posting Unenclosed Lands.—The owner, lessee
or other person entitled to possession of unenclosed lands
may have erected and maintained signs or placards legibly
printed, easily discernible, conspicuously posted and reasonably spaced, so as to indicate the territory in which hunting, trapping or fishing is prohibited.

Any person who enters upon the unenclosed lands of another which have been lawfully posted, for the purpose of hunting, trapping or fishing shall be guilty of a misdemeanor. The officers charged with the enforcement of the provisions of this chapter shall have the duty to enforce the provisions of this section if requested to do so by such owner, lessee, person or agent, but not otherwise.

Sec. 9. Unlawful Posting of Lands.—It shall be unlawful and shall constitute a misdemeanor offense for any person or his agent or employee wilfully to post any notice or warning or wilfully to ward, drive or attempt to drive any person off, or prevent his hunting or fishing on any land not owned or lawfully occupied by such person, his agent, or employee, unless such land is a lawfully established game or fish preserve.

Sec. 10. Unlawful to Deface Signs.—It shall be unlawful and shall constitute a misdemeanor offense for any person to destroy, tear down, shoot at, deface or erase any
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4 printed matter or signs placed or posted by or under the
5 authority of this chapter: Provided, however, That this
6 section shall not apply to the owner, his agents, tenants
7 or lessees, of the lands on which such signs or printed
8 matter are posted. Each such sign so destroyed, torn
9 down, shot at, defaced or erased shall be considered a
10 separate offense under this section.

Sec. 11. Sale of Wildlife; Transportation of Same.—No
2 person, except those legally licensed to operate private
3 game preserves for the purpose of propagating game for
4 commercial purposes, and those legally licensed to propa-
5 gate or sell fish, amphibians, and other forms of aquatic
6 life, shall purchase or offer to purchase, sell or offer to
7 sell, expose for sale, or have in his possession for the pur-
8 pose of sale any wildlife, or part thereof, which has been
9 designated as game animals, fur-bearing animals, game
10 birds, game fish or amphibians, or any of the song or in-
11 sectivorous birds of the state, or any other species of wild-
12 life which the director may designate: Provided, however,
13 That raccoon pelts taken during the legal season may be
14 sold: Provided further, That hide, head, antlers and feet
of a legally killed deer and the hide, head, skull and feet
of a legally killed black bear may be sold.

No person, including a common carrier, shall transport,
carry or convey, or receive for such purposes any wildlife,
the sale of which is prohibited, if such person knows or
has reason to believe that such wildlife has been or is to
be sold in violation of this section.

The selling or exposing for sale, having in possession for
sale, transporting or carrying in violation of this section
shall each constitute a separate misdemeanor offense.
Notwithstanding the provisions of this or any other sec-
tion of this chapter, any game birds or game bird meats
sold by licensed retailers may be served at any hotel, res-
taurant or other licensed eating place in this state.

Sec. 12. Transportation of Wildlife Out of State.—No
person shall at any time transport or have in his posses-
sion with the intention of transporting beyond the limits
of the state, any species of wildlife or any part thereof
killed, taken, captured or caught within this state: Pro-
vided, however, That a nonresident legally entitled to
hunt and fish in this state may take with him personally,
8 when leaving the state, any wildlife that he has lawfully
taken or killed, not exceeding, during the open season, the
number that any person may lawfully take or kill in any
two days. This section shall not apply to persons legally
ettitled to propagate and sell wild animals, wild birds,
fish, amphibians and other forms of aquatic life.

Sec. 13. Importation and Liberation of Wildlife.—No
person shall transport into or have in his possession with-
in this state for purposes of liberation, or liberate within
this state, any live wildlife from without the state, except
as authorized by permit from the director. The director
may issue such permit at his discretion, fix the terms
thereof and revoke it at his pleasure.

Sec. 14. Propagation of Wildlife for Commercial Pur-
poses.—No person shall propagate wildlife for commercial
purposes except when licensed to do so as provided in
section forty-seven of this article.

Sec. 15. Permit to Kill Deer Causing Damage to Cul-
tivated Crops, Fruit Trees or Commercial Nurseries.—
Whenever it shall be found that deer are causing damage
to cultivated crops, fruit trees or commercial nurseries,
the owner or lessee of the lands on which such damage is
done may report such finding to the conservation officer
of the county in which such lands are located or to the di-
rector. The director shall then investigate the reported
damage and if found substantial may issue a permit to the
owner or lessee to kill one or more deer in the manner
prescribed by the director. No such permit may be issued
to an owner or lessee when such lands are posted against
public hunting of deer.

The first deer killed under such permit may be retained
by the permitee for food. He shall, however, within forty-
eight hours after such kill, notify the director or the con-
servation officer for the county in which such kill was
made.

The permitee, upon killing any additional deer under
this permit, shall immediately dress the carcass by re-
moving the entrails and shall remove the deer killed to
his residence or other specified place of safekeeping.
Within twenty-four hours after the kill, he shall give
notice thereof to the director or a conservation officer for
the county in which such kill was made and thereupon
the director or such conservation officer shall see that the carcass is removed.

Sec. 16. Dogs Chasing Deer; Confiscation and Disposition; Destruction.—No person shall permit his dogs to hunt or chase deer. A conservation officer shall take into possession any dog known to have hunted or chased deer and the director shall advertise in a newspaper of general circulation in the county that such dog is in his possession, giving a description of the dog and stating the circumstances under which it was taken. He shall hold the dog for a period of ten days. If, within ten days, the owner does not claim the dog, the director shall destroy it. In this event the cost of keeping and advertising shall be paid by the director. If, within ten days, the owner claims the dog, he may repossess it on the payment of costs of advertising and the cost of keep, not exceeding fifty cents per day. A conservation officer, or any officer or employee of the director authorized to enforce the provisions of this section, after a bona fide but unsuccessful effort to capture dogs detected chasing or pursuing deer, may kill such dogs.
Sec. 17. *Hunting Fur-Bearing Animals; Possession of Fur; Disturbing Traps of Another.*—No person shall hunt, capture, trap, take or kill fur-bearing animals except as authorized by regulation of the director. Except as authorized by the director, no person shall have in his possession the fresh skin, or part thereof, of any fur-bearing animal, except beaver, within the period beginning ten days after the end of the open season on such fur-bearing animal and ending with the first day of the next succeeding open season. No person shall disturb properly marked traps of another person, kill, remove or take a fur-bearing animal from the trap of another person without specific authorization of the owner of the trap, except upon land where the owner of such trap may have placed it with right or permission.

Sec. 18. *Number and Types of Traps.*—The director shall have the power and authority to regulate the number, kind and type of traps to be used in the catching or trapping of any game or fur-bearing animals.

Sec. 19. *Marking of Traps.*—All traps used for taking of any game or fur-bearing animal shall be marked with a
durable plate or tag, attached to the trap, trap chain, or set, bearing the name and address of the owner of said trap.

Sec. 20. Trapping Beaver.—No person shall at any time:

1. Set or maintain more than the number of beaver traps, or groups of beaver traps, established as the season limit in any one year by the director;
2. Set any traps for beaver within fifteen feet of the water line on the structure of any beaver house;
3. Have in his possession an unsealed beaver hide, or part thereof, within the period beginning thirty days after the end of the open season and ending with the first day of the next succeeding open season for beavers; and
4. Destroy, disturb, or in any manner interfere with dams, houses or burrows of beavers while trapping for or attempting to trap for beavers.

If any person shall unintentionally trap and kill more beavers than fixed by regulation as the season bag limit, he shall, within twenty-four hours thereafter, deliver said beaver or beavers to a conservation officer.

Sec. 21. Sealing Beaver Pelts or Skins.—Each licensee
Sec. 21. 

Any person who kills a legal deer during the open season shall deliver same for inspection and tagging to a conservation officer or an official checking station set up for that purpose by the commission during the open season.

Sec. 23. 

Services of outfitters and guides for the benefit and convenience of hunters and fishermen in this state are
recognized as essential and such outfitters and guides may be licensed and authorized to serve as provided in this article.

The word "outfitter", as used herein, shall mean and include any person who, operating from any temporary or permanent camp, private or public lodge, or private or incorporated home situate within this state, provides, for monetary profit or gain, saddle or pack animals or other animals, vehicles, boats, conveyances or equipment, or guide services for any person or persons hunting game animals or game birds or fishing in this state. The term "outfitter" shall not include, however, any person who occasionally, for accommodation or favor rather than profit or gain, rents equipment to hunters or fishermen as a service incidental to his principal occupation or business without advertising outfitter or guide services or holding out to the public his offerings of such services. The term "guide", as used herein, shall be construed to include and embrace outfitter services and the term "outfitter" shall be construed to include and embrace guide services, but the applicant for any license hereunder may in his appli-
Sec. 24. Outfitter and Guide Qualifications; Investigation and Determination Thereof.—Each outfitter and guide licensed under the provisions hereof shall be a financially responsible citizen of the United States of America and shall have been a resident of the state of West Virginia for a period of at least one year immediately prior to the date of his license application. He shall possess and inventory proper and adequate materials and equipment to provide for hunters and fishermen the services and conveniences he advertises. All such materials and equipment shall be safe and free of infection and conditions inimical to the health and well-being of hunters, fishermen and their traveling, camping and lodging companions.

The director shall cause all outfitter and guide applicants to be investigated and shall make a determination of their qualifications prior to the issuance or refusal of licenses thereto.

Sec. 25. Outfitter and Guide License Applications; Contents; National Forest Requirements.—Each applicant for
an outfitter or guide license shall file with the director a verified application setting forth the applicant’s name, his address, the property possessed and to be used in the proposed outfitter and guide services, the area within which he proposes to serve, his citizenship, his age and such other data and information as may be prescribed and required by the director on the application forms to be furnished by the department. Each such application, when filed by the applicant, shall be approved and signed by three resident real property owners of the county in which such applicant resides.

Before any outfitter or guide license shall be issued for serving hunters or fishermen in any national forest areas within this state, the applicant shall obtain from the supervisor of such national forest area a designation of the camp site or other site from which the outfitter or guide proposes to operate therein and shall likewise obtain from such supervisor any other authority or permit to so operate in such national forest area, together with copies of any rules and regulations of the forest incident to maintenance of camps, sanitary conditions, and prevention of
24 forest fires and water pollution. The applicant shall satisfy the director that he has obtained such designation, permit, authority and rules and regulations, as may be required, as a prerequisite to the director's consideration of the applicant's license application.

Sec. 26. Outfitter or Guide License and Bond; Revocation of License; Penalties.—When satisfied as to the applicant's qualifications for an outfitter's or guide's license and upon receipt of a fee of ten dollars therefor, the director shall issue such license which shall be for the calendar year therein designated.

Immediately upon the issuance of an outfitter or guide license and before any outfitter or guide services are offered or rendered thereunder, the licensee shall execute a surety bond in the penal sum of one thousand dollars payable to the state of West Virginia and conditioned upon the faithful and reliable discharge of his services under and pursuant to such license. Such bond shall be approved as to form by the attorney general and as to surety by the director, and when so executed and approved,
shall be filed in the office of the director. Such bond shall
be for the life of the license.

The director is hereby authorized to revoke and cancel
any such license for failure of the licensee to give the bond
herein required, for licensee's violation or disregard of
any of the provisions of this chapter, upon licensee's conv-
iction of crime, or for any other reason or cause justify-
ing refusal of the license to the licensee upon a new ap-
plication therefor. The director shall afford a licensee an
opportunity to be heard upon the revocation and cancel-
lation of the license.

No person shall act or serve as a guide or outfitter, as
defined in this article, without procuring and having on
his person at the time a valid license from the director
authorizing him so to do. Any person violating this pro-
vision shall be guilty of a misdemeanor and, upon convic-
tion thereof, may be fined not exceeding one hundred dol-
ars or confined in the county jail not exceeding ninety
days, or, in the discretion of the court, be both fined and
imprisoned within the limits herein prescribed.
PART II. LICENSES AND PERMITS

Sec. 27. Necessity for Licensing.—Except as otherwise provided by law, no resident who has reached his fifteenth birthday, and no nonresident, regardless of age, shall at any time take, hunt, pursue, trap for, kill or chase any wild animals, wild birds, or fish for, take, kill or catch any fish, amphibians or aquatic life of any kind whatsoever in this state without first having secured a license or permit, and then only during the respective open seasons. No person under the age of fifteen years shall hunt or chase any wild animals or wild birds upon lands of another unless accompanied by a licensed adult.

A resident or nonresident member of any club, organization or association, or persons owning or leasing a game preserve, or fish preserve, plant or pond in this state shall not hunt or fish therein without first securing a license or permit as required by law.

Licenses and permits shall be of the kinds and classes set forth in this article, and shall be conditioned upon the payment of the fees established therefor.

Sec. 28. When Licenses or Permits Not Required.—Per-
sons in the following categories shall not be required to obtain licenses or permits as indicated:

(a) Bona fide resident landowners or their resident children, or bona fide resident tenants of such land to hunt and fish on their own land during open seasons in accordance with laws and regulations applying to such hunting and fishing unless such lands have been designated as a wildlife refuge or preserve; and

(b) Any bona fide resident of this state who is totally blind may fish in this state without obtaining a fishing license to do so. A written statement or certificate from a duly licensed physician of this state showing the said resident to be totally blind shall serve in lieu of fishing license and shall be carried on the person of said resident at all times while he is fishing in this state.

Sec. 29. Licensing Aliens.—Persons, not citizens of the United States, shall at no time, except when licensed to do so, hunt, trap, pursue, kill, catch or take any wild animals or wild birds, have in their possession firearms of any kind, or fish for, capture, catch, kill or take any
fish, amphibians or other forms of aquatic life in this state.

Aliens desiring to procure licenses shall first apply to the director for a permit to secure such license. If the director satisfies himself that the applicant is entitled to such license, and will observe the laws of this state, and particularly the provisions of this chapter, he may issue the permit. Permits once issued remain in force until revoked.

Sec. 30. Application and Statement of Eligibility for Licenses.—It shall be the duty of every person who makes application for and procures any class of license for himself or another to inform correctly the issuing authority that the applicant is eligible and fulfills the prerequisites of this chapter in respect to age, citizenship and residence which are necessary to entitle such person to have and hold the class of license applied for. In the case of an alien, the applicant shall produce the permit issued by the director. The possession of any class of license by any licensee shall presume that such licensee or his agent has duly informed the issuing authority that the licensee in
question was eligible to have, hold and procure the class
of license so issued. It shall be unlawful for any person
to procure a license in violation of the provisions of this
chapter. It shall not be necessary for the state to prove,
in any proceeding for an offense hereunder, that false
statements were or were not made, if it be established
that the licensee possessed a class of license he was not
entitled to possess, or the license procured by the offender
for another was of a class the licensee was not entitled
to possess.

Sec. 31. Size and Form of License and Tags' Contents;

Unlawful to Alter Licenses or Permits.—The size, content
and form of all licenses, tags, and permits shall be pre-
scribed by the director. The information which a licensee
is required to furnish shall be placed upon the license by
the license issuing authority before delivery of such
license to the licensee.

It shall be unlawful for any person to alter, mutilate, or
deface any license, tag, or permit or the entries thereon
for the purpose of evading the provisions of this chapter.

Sec. 32. Issuance of Licenses.—The clerk of the county
court in each county and such other persons as are designated by the director shall be the license issuing authorities hereunder. Each issuing authority shall issue a license to a license applicant if, in the opinion of such authority, the license applicant is legally entitled to obtain the license applied for and pays the proper fee therefor.

All materials and supplies necessary for the issuance of licenses shall be furnished by the director to every person authorized to issue the licenses.

Each license shall bear a serial number and shall be signed by the issuing authority. The issuing authority shall deliver to the licensee any badge, tag, or other container required to be worn by the licensee. The issuing authority shall keep an accurate record, in the form and manner prescribed by the director, of all licenses issued and of all money collected as license fees.

Any license issuing authority may issue a duplicate license, to replace any lost, destroyed or damaged license, upon receipt of a verified application therefore duly executed by the original license holder and the payment
by such applicant to the issuing authority of a duplicate license fee of one dollar, which shall be paid to the director as provided in section thirty-four hereof.

Sec. 33. Authority of Director to Designate Agents to Issue Licenses; Bonds; Fees.—The director shall have authority to appoint within any county as many persons as his agents, with authority to issue licenses under the provisions of this article, as may, in his opinion, be necessary, in addition to the clerk of the county court of the county, to serve the convenience of the public in procuring such licenses. Each person so appointed as such agent and license issuing authority shall, before issuing any license, file with the director a bond payable to the state of West Virginia, in the amount to be fixed by the director at not less than one thousand dollars, conditioned upon the faithful performance of his obligation to issue licenses only in conformity with the provisions of this article and to account for all license fees received by him. The form of such bond shall be prescribed by the attorney general. No person, other than those designated as issuing agents by the director shall sell licenses, or buy the same for purposes of resale.
Every person making application for any licenses shall pay, in addition to the license fee prescribed therefor in the later sections of this article, an additional fee of twenty-five cents as compensation for the person issuing the license, except when such license is purchased from a state or county official: Provided, however, That only one fee of twenty-five cents shall be collected for issuing combination resident state-wide hunting and fishing Class A-B licenses.

Sec. 34. Disposition of License Fees; Reports of Agents; Special Funds and Uses.—All persons in this state who receive money for licenses and permits required by this chapter shall, on the first day of each month, pay over to the director all moneys so collected by them during the preceding month. Such payment shall be accompanied by a report showing in the case of license money, the name of the county, the class of license sold, the names and addresses of the persons paying the same, the date of the receipt thereof, the signature of the person receiving and remitting such funds, and such other information as the director may deem necessary.
Except where other provisions of this chapter specifically require and direct payment of any such moneys into designated funds for specific uses, and purposes, all moneys so received by the director hereunder shall be by him promptly paid into the state treasury and shall be credited to the department of natural resources and shall be further credited to and kept in a separate fund designated "License Fund—Game and Fish", which shall be used and paid out, upon order of the director, solely for the conservation, protection, propagation and distribution of fish, frogs, wild game and wild birds and fowls in this state pursuant to the provisions of this chapter.

Sec. 35. Period During Which License Valid.—Licenses and permits provided by this chapter shall be valid through the last day of the calendar year for which they are issued unless otherwise provided by law.

Sec. 36. When License to be Carried and Exhibited; Carrying License of Another.—Except as otherwise provided by law, no person shall hunt, take, pursue, trap for, kill, catch or chase for sport any wild animal or wild bird; or fish for, take, kill or catch any fish or amphibians of
any kind whatsoever in this state unless he shall have
attached and displayed upon his outer garment a valid
license issued to him.

It shall be unlawful for any person to use at any time
any license other than those legally issued to him, or
transfer a license to another person.

Sec. 37. Display of Bag and Creel Contents.—Any per-
son having in his possession in or near the fields or woods,
or about streams of this state, any dog, gun, fishing rod or
other hunting, fishing or trapping paraphernalia, shall,
upon demand of any officer authorized to enforce the
provisions of this chapter, state his correct name and
address, and shall exhibit for inspection his license, if
such license is required by law, and all firearms and wild-
life which he may have in his possession.

Sec. 38. Refusal or Revocation of License or Permit.—
The director may, for cause, refuse a license or permit to
any person or revoke a license or permit which had been
granted.

In case the director desires to refuse a license to any
person, he shall notify personnel authorized to issue
licenses, in counties where it is expected such license may
be sought, of the name and address of such person and
such other information in relation thereto as he may
desire to give, and such issuing authority shall not issue
a license to such person thereafter, and shall report to
the director any application made therefor. In case any
issuing authority shall, after receiving such notice, know-
ingly issue such license, he shall be guilty of a misde-
meanor. The director may revoke any such license so
wrongfully issued. The violation of any of the provisions
of this chapter by any person holding a license shall be
sufficient cause for the director to refuse or revoke a
license.

All licenses and permits authorized by this chapter to
be granted shall be deemed to have been granted by the
director, and the power and authority to revoke such
licenses is vested in the director. Upon the revocation of
any license, the one to whom the same was issued shall,
upon having knowledge of such revocation, forthwith
deliver the license and tag so issued to him to the director,
his agent, or the clerk of any county court. A clerk shall transmit the same to the director.

The hunting license of any person convicted under section eleven, article seven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, shall be revoked, and such person shall not be issued any other hunting license for a period of five years.

Sec. 39. Class A Resident State-wide Hunting License.

—A Class A license shall be a resident state-wide hunting license and shall entitle the licensee to hunt all game in all counties of the state. It shall be issued only to citizens of the United States who are residents of this state. The fee therefor shall be three dollars, except that, in any case where a licensee purchases a Class A and a Class B license at the same time, the fee for a Class A license shall be two dollars and fifty cents.

Sec. 40. Class B Resident State-wide Fishing License.

—A Class B license shall be a resident state-wide fishing license and shall entitle the licensee to fish for all fish in all counties of the state. It shall be issued
only to citizens of the United States, and unnaturalized
persons possessing the permit mentioned in section
twenty-eight of this article, who are residents of this
state. The fee therefor shall be three dollars, except that,
in any case where a licensee purchases a Class A and a
Class B license at the same time the fee for a Class B
license shall be two dollars and fifty cents. For conveni-
ence, the commission may provide for the issuance, in
those cases where both Class A and Class B licenses are
issued to a single licensee at the same time, of both Class
A and Class B licenses upon a single form, but, regardless
of such form, each shall be and remain a separate license.

Sec. 41. Class C Courtesy State-wide Hunting and Fish-
ing License.—A Class C license shall be a courtesy hunting
and fishing license and shall entitle the licensee to hunt
and fish in all counties of this state. It shall be issued
by the director upon application made to him and with-
out fee to:

(1) Members and agents of the United States fish and
wildlife service;
(2) Members of state commissions of other states extending similar courtesies;

(3) Diplomatic and consular representatives of foreign countries; and

(4) Persons engaged in scientific research.

Not more than one hundred courtesy licenses shall be issued in one year.

Sec. 42. Class D-1 and Class D-2 Ohio River Hunting and Fishing Licenses.—A Class D-1 license shall be an Ohio river hunting license and a Class D-2 license shall be an Ohio river fishing license. The licenses shall entitle the licensee to hunt and to fish in the Ohio river only. They shall be issued to citizens of the United States who are residents of the state of Ohio. The fee shall be two dollars for the hunting license and two dollars for the fishing license.

Sec. 43. Class E, Class F and Class G Licenses for Non-residents.—A Class E license shall be a nonresident hunting license and shall entitle the licensee to hunt all game in all counties of the state. It shall be issued only to citizens of the United States who are not resi-
A Class F license shall be a nonresident fishing license and shall entitle the licensee to fish for all fish in all counties of the state. It shall be issued only to citizens of the United States, and to unnaturalized persons possessing the permit required by section twenty-eight of this article, who are not residents of this state. The fee therefor shall be ten dollars.

A Class G license shall be a nonresident family fishing license and shall entitle the licensee and members of his family to fish within the territorial limits of state parks and state forests and in the waters of streams bounding same, for a distance of not to exceed one hundred yards from the exterior boundary of any state park or state forest, for a period not to exceed one week. It may be issued to any adult nonresident who is temporarily residing in any state park or forest as tenant or lessee of the state. The fee therefor shall be three dollars for the head of the family, plus fifty cents additional for each member of his family to whom the privileges of such
license are extended. Class G licenses may be issued in
such manner and under such regulations as the director
may see fit to prescribe.

Sec. 44. Class H Resident State-wide Beaver Trapping

License.—A Class H license shall be a state-wide beaver
trapping license and shall entitle the licensee to trap
beaver only in all counties of the state. It shall be issued
only to a citizen of the United States who is a bona fide
resident of West Virginia. This license shall become valid
only when countersigned, in a space provided on face
of license, by landowner, lessee, or person who has legal
possession of land upon which the trapper is operating.

Setting beaver traps upon the lands of another person
without obtaining permission and signature in space pro-
vided on license shall be considered an illegal act. The
licensee shall not be required to hold any other class of
license to trap beaver; nor shall said license be required
of any bona fide resident landowner or bona fide resident
tenant, or a child of either under the age of fifteen years
in those cases where they may trap beavers upon lands
belonging to such landowner, or in possession of such tenant. The fee therefor shall be two dollars.

Sec. 45. Class K Nonresident Six-day, State-wide, Fishing License.—A Class K license shall be a nonresident fishing license and shall entitle the licensee to fish for all fish in all counties of the state for a period not to exceed six days. It shall be issued only to citizens of the United States, and to unnaturalized persons possessing the permit required by section twenty-eight of this article, who are not residents of this state. The fee therefor shall be three dollars.

Sec. 46. Class L Nonresident State-wide Bow and Arrow Hunting and Fishing License.—A Class L license shall be a nonresident bow and arrow hunting and fishing license and shall entitle the licensee to employ a long bow and arrow in taking game, fish and frogs in all counties of the state. It shall be issued only to citizens of the United States who are not residents of this state. The fee therefor shall be five dollars.

Sec. 47. License for Private Game Farm for Propagating Animals and Birds for Commercial Purposes.—The
director may issue a license for the operation of a private
game preserve for propagation of wild animals and wild
birds for commercial purposes. The license shall author-
ize the holder to breed or raise animals and birds as
specified by the license to sell the same dead or alive, or
to sell the eggs of birds in accordance with regulations
prescribed by the director.

Application for a license under this section shall desig-
nate the property whereon the preserve is to be estab-
lished. Before the license is issued, the director shall de-
termine that the property is properly enclosed, that the
provisions for housing and sanitation are proper and
adequate, and that the safety of the public is protected.

The annual license fee shall be ten dollars.

Sec. 48. License for Private Plant or Pond for Propa-
gating Fish, Frogs, Turtles and Other Forms of Aquatic
Life for Commercial Purposes.—The director may issue
a license for the operation of a private plant, pond or
business for the propagation, sale or purchase of fish,
frogs, turtles and other forms of aquatic life for com-
mercial purposes. The license shall authorize the holder
to breed or raise fish, frogs, turtles and other forms of aquatic life as specified by the license and to buy and sell the same dead or alive or the eggs thereof in accordance with regulations prescribed by the director.

Application for a license under this section shall designate the size, character and location of the plant or pond.

Before the license is issued, the director shall determine that the pond or plant will not interfere with the free passage of fish; that any water diverted to such plant or pond does not violate the riparian rights of other landowners and that such plant, pond or diversion will not interfere with the public stocking or propagation of fish frequenting such waters.

A licensee selling fish shall furnish the purchaser with a certificate or invoice of sale, bearing date of sale, the number of the license under which sold, the number of fish and number of pounds sold, and such other information which the director may require.

The certificate or invoice shall be shown by the holder on demand of any person authorized under the provisions of this chapter to enforce the provisions hereof.
The annual license fee shall be ten dollars.

Sec. 49. License for Dealers in Furs.—The director may issue licenses for buying or dealing in raw furs, pelts or skins of fur-bearing animals as follows:

(1) A resident county license, which shall apply only to the county or counties designated on the license and shall be issued only to persons who have been bona fide residents of this state for a period of at least six months prior to the date of application, and of a county in which the privilege is to be exercised. A license shall apply to the county for which issued and to such adjacent counties as are designated in the license. A fee of one dollar for each county shall accompany the application;

(2) A resident state-wide license, which shall apply to all counties in the state and shall be issued only to persons who have been bona fide residents of this state for a period of at least six months prior to the date of application. A fee of ten dollars shall accompany the application;

(3) A nonresident state-wide license, which shall apply to all counties in the state and shall be issued only to non-
residents. A fee of fifty dollars shall accompany the
application; and
(4) An agent's permit, which shall apply to a person
employed by a licensee under subsections (1), (2) or (3)
above, to buy or deal as an agent of the licensee other
than at the place of business of the licensee. A fee of two
dollars and fifty cents for each such agent shall accompany
the application.

Sec. 50. Permit for Scientific or Propagation Purposes.
—The director may issue a permit to a person to hunt,
kill, take, capture or maintain in captivity wildlife or
reptiles exclusively for scientific or propagation purposes,
but not for any commercial purposes. A permit may be
issued only upon written application to the director
setting forth at least:
(1) The number and kind of wildlife or reptiles to be
taken;
(2) The purpose and manner of taking; and
(3) The name, residence and profession of the person
applying for the permit.
No charge shall be made for this license.
Sec. 51. Permit for Keeping Pets.—The director may issue a permit to a person to keep and maintain in captivity as a pet, a wild animal or wild bird that has been acquired from a commercial dealer or during the legal open season. The fee therefor shall be two dollars.

Sec. 52. Permits for Roadside Menageries.—The director may issue a permit for the keeping and maintaining in captivity wild animals, wild birds, amphibians or reptiles as a roadside menagerie. A permit shall not be issued unless:

1. The animals, birds, amphibians or reptiles have been purchased from a licensed commercial dealer, either within or without the state, or have been taken legally; or
2. The director is satisfied that provisions for housing and care of wildlife to be kept in captivity and for the protection of the public are proper and adequate.

A fee of twenty-five dollars shall accompany each application for such permit.

Sec. 53. License for Privately Owned Commercial Fishing Preserve.—The director may issue a license for the operation of a private pond or privately owned pond or
impoundment to be used as a commercial fishing preserve,
provided such impoundments meet the requirements of
section twenty-seven of this article: *Provided however,*
That only one license shall be required where more than
one private pond or privately owned pond or impound-
ment is operated under one ownership and management
and on one separate commercial fishing preserve. The
licensee shall have the authority to establish the fishing
seasons, size and creel limits for such licensed pond or
impoundment. Persons fishing in such lake shall not be
required to possess the same state-wide fishing license
as would be required of him if he were fishing any of the
public waters of this state.
The annual fee for the commercial fishing preserve
license shall be twenty-five dollars.

Sec. 54. *License for Privately Owned Commercial*

*Shooting Preserves.*—1. The director may issue a license
for privately owned commercial shooting preserves to any
person who meets the following requirements:

(a) Each commercial shooting preserve shall contain
a minimum of three hundred acres in one tract of leased
or owned land (including water area, if any) and shall be restricted to no more than three thousand contiguous acres (including water area, if any), except that preserves confined to the releasing of ducks only shall be authorized to operate with a minimum of fifty contiguous acres (including water area); and

(b) The exterior boundaries of each commercial shooting preserve shall be clearly defined and posted with signs erected around the extremity at intervals of one hundred fifty yards or less.

2. The director shall designate the game which may be hunted under this section on which a more liberal season may be allowed.

3. The operating licenses or permits issued by the director shall entitle holders thereof, and their guests or customers, to recover not more than eighty percent of the total number of each species of game bird released on the premises each year, except mallard, black duck, ring-necked pheasant, chukar partridge, and other non-native game species upon which a one hundred percent recovery may be allowed.
4. Except for the required compliance with the restriction on the maximum number of released birds that may be recovered from each preserve each year, as provided in subsections three and eight, shooting preserve operators may establish their own shooting limitations and restrictions on the age, sex and number of birds that may be taken by each person.

5. In order to give a reasonable opportunity for a fair return on a sizeable investment, a liberal season shall be designated by the director during the six-month period, beginning October first and ending March thirty-first.

6. All harvested game shall be tagged prior to being either consumed on the premises or removed therefrom, such tags to remain affixed until the game actually is delivered to the point of consumption. The director shall furnish numbered tags at nominal cost to shooting preserve operators.

7. Each shooting preserve operator shall maintain a registration book listing all names, addresses, and hunting license numbers of all shooters; the date on which they hunted; the amount of game and the species taken; and
the tag numbers affixed to each carcass. An accurate record likewise must be maintained of the total number, by species, of game birds and ducks raised and/or purchased, and the date and number of all species released. These records shall be open to inspection by a delegated representative of the director at any reasonable time, and shall be the basis upon which the game recovery limits in subsection three hereof shall be determined.

8. Any wild game found on commercial shooting preserves may be harvested in accordance with applicable game and hunting laws pertaining to open seasons, bag and possession limits, and so forth, as are established regularly by the director and the United States fish and wildlife service.

9. State hunting licenses shall be required of all persons hunting or shooting on shooting preserves.

10. The fee for such licenses shall be fifty dollars per year for the first three hundred acres of shooting preserve area, plus twenty-five dollars per year for each additional three hundred acres or part thereof.

Sec. 55. License to Catch and Sell Minnows or Other
Bait Fish; Fee; Duration; Renewal.—The director shall have the power and authority to issue a license to any person to catch and sell minnows or other bait fish upon written application therefor, signed by the applicant. The fee for such license shall be ten dollars. All licenses issued under this section shall expire on the first day of January following the date of issue. Any such license may be renewed from year to year upon paying to the director the sum of one dollar for each such renewal.

Article 3. Forests and Wildlife Areas.

Section 1. Division of Forestry; Duties and Functions.

--The division of forestry, herein created and established, shall have within its jurisdiction and supervision the state forests, other forest and woodland areas, the protection of forest areas from injury and damage by fire, disease, insects and other pestilences and forces, administration of the southeastern interstate forest fire protection compact and other compacts and agreements relating to forestry area management and husbandry, and the administration and enforcement of all laws relating to the conservation, development, protection, use and enjoy-
ment of all forest lands areas of the state consistent with
the provisions of this chapter.

The chief of the division shall be designated state
forester and shall be responsible for the execution and
administration of the provisions of this article as an in-
tegral part of the natural resources program of the state.

In addition to merit system qualifications and require-
ments, the state forester shall be a graduate of an ac-
credited school of forestry with practical experience and
training in forestry field organization and programs.

The division chief shall study means and methods of
implementing the provisions of section fifty-three, article
six of the constitution of West Virginia, relating to forest
lands, and shall prepare and recommend to the director
legislation thereon.

PART I. FORESTS AND WILDLIFE AREAS

Sec. 2. Acquisition of Suitable Lands by Director;

Maintenance Thereof as State Forests or Wildlife Areas.—

The director may with the consent of the governor pur-
chase, in the name of the state, out of funds set aside for
the purpose, or out of any unused funds in his hands, lands
suitable for forest culture, state forests, or wildlife
refuges. Such funds may also be used for the construction
of dams for fish refuges on lands so acquired. Purchase
may be made on terms requiring not less than one-third
of the purchase price to be paid at the time of the con-
veyance with the residue to be paid in not less than one
or two years after date. Without the consent of the gov-
ernor not more than twenty-five dollars per acre shall
be paid for lands to be used for the purpose of this article.
The director may also receive the gift of such lands by
deed or bequest. In all cases of transfers to the state, the
fee simple title shall pass to the state, except minerals
and mining rights to remove such minerals may be ex-
cepted or reserved.
The director shall protect, preserve and maintain lands
so acquired as state forests and wildlife areas for the
propagation and distribution of forest trees and for the
protection, management, propagation and distribution of
the fish, wild animals and birds thereon. He may prescribe
and enforce rules and regulations consistent with the laws
of the state to carry out that objective. The director may
prescribe and enforce rules prohibiting all fishing and
hunting, pursuing, catching, trapping, capturing and
cutting, killing of fish, wild animals and birds upon such state
forests and wildlife areas for such length of time as he
may deem proper.

The director may provide special regulations and open
seasons for the taking of any wild birds, wild animals or
fish on such lands in the manner provided in this chapter.

Sec. 3. Establishment of Wildlife Areas; Leasing Lands

Therefor.—The director shall establish and maintain
wildlife areas on lands purchased, leased or given for
this purpose. Upon such state owned or leased lands
under its administration, or lands purchased from depart-
mental funds for the establishment of wildlife areas, or
upon lands purchased in cooperation with any agency of
the federal government or leased therefrom or managed
cooperatively therewith, the director shall regulate public
hunting, chasing for sport, shooting, and limit the number
of wildlife, which may be taken from such areas open to
public shooting in any year. The director may establish
special open seasons on any such lands, and may close any
such areas, or parts thereof, to public shooting.

It shall be unlawful at any time to hunt, pursue or
molest in any manner, any animals, birds or fowls on that
section of any wildlife area designated as wildlife refuge,
except that any legally constituted enforcement officer,
or other person designated by the director may hunt,
pursue, catch and kill in any manner predatory animals
and predatory birds thereon.

On the boundary of each state wildlife refuge, there
shall be posted in conspicuous places, not more than one
hundred and fifty yards apart, notices bearing the follow-
ing words: “State wildlife refuge—hunting is unlawful”,
and such other information or rules and regulations as
the director may deem advisable. On the boundary line
of any such wildlife area which has been established as a
public shooting ground, the director shall have posted in
conspicuous places, not more than one hundred and fifty
yards apart, notices bearing the following words: “Public
shooting grounds”, together with information as to when
hunting is legal on such tract.
The director shall also have the power to lease lands for this purpose for not less than ten year periods, the rental price thereof not to be more than the amount of the annual property taxes on such land, and in no event to exceed ten cents per acre per annum.

The director may, with the consent of the owner, set apart any tract of land in the state as a wildlife area. When such lands have been set apart, the director shall manage them in the same manner and for the same purpose as wildlife areas owned by the state. Such lands not owned by the state and now operated by the director as wildlife areas shall, at the expiration of the agreement, be reorganized as wildlife areas or be discontinued.

Sec. 4. Forest Fires; Authority and Duties of Director; Expenditures for Forest Fire Control.—Upon receiving notice of any fire which is injuring or endangering forest land within the state, the director, or his duly authorized representative, the state forester, or any conservation officer shall employ all necessary means to confine, extinguish or suppress the fire. For these purposes such persons and their employees shall, under the general super-
vision of the director, 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. The state forester and any conservation officer may, under the general supervision of the director, or his duly authorized representative, 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: Provided, however, that the rate per hour shall not exceed the rate per hour paid for any comparable labor or skills by the state road commission. 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 and shall be paid out of the sum of one hundred twenty thousand dollars annually appropriated
and made available under provisions of section thirteen of this article. The state forester or his agent shall render to the director, as soon as practicable, a sworn statement with the names of all persons who were summoned or employed and assisted 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, 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.

Sec. 5. Forest Fire Seasons; Permits; Prohibited Fires; Closure of Forests.—The periods of each year between March first and May thirty-first, inclusive, and October first and December thirty-first, inclusive, are hereby designated as forest fire seasons. No person shall during any such fire season, except between the hours of five o'clock p. m. eastern standard time and five o'clock a. m. eastern standard time, set on fire or cause to be set on fire any forest land, or any grass, grain, stubble, slash, debris, or
other inflammable material if it is located in a place from which it is reasonable to expect that the fire may spread to any forest land. Any person who sets or causes to be set such a fire during any period of time permitted by this section shall not leave the fire unattended and shall completely extinguish the fire before five o'clock a.m. eastern standard time. If damage to the property of another results from any such fire during a forest fire season, it shall be prima facie evidence that the person who set such fire or caused it to be set violated the provisions of this paragraph.

The director or his designated appointees or employees may issue permits authorizing fires prohibited by the preceding paragraph. Such permits may be granted on such conditions and for such periods of time as the director deems necessary to prevent danger from fire to life or property, and noncompliance with any term of the permit shall be a violation of this section. Any permit which was obtained through willful misrepresentation shall be invalid. All permit holders shall take all necessary and adequate precautions to confine and control any fire
permitted by the authorization; failure to take such action
shall be a violation of this section and shall be justifica-
tion for the director's obtaining a court order requiring
the permit holder to extinguish and cease using fires dur-
ing the forest fire season.

When the director considers it necessary to prevent
danger from fire to life or property, he may, with the prior
approval of the governor, prohibit the starting of and re-
quire the extinguishment of any fire in any forest area
designated by the director, and such action may include
any fire for which a permit has been issued under the pre-
ceding paragraph. In addition, if so deemed necessary,
the director may, with the prior approval of the governor,
designate any forest area as a danger area and prohibit
entry thereon or use thereof except for the purposes and
on the conditions he designates. The director by procla-
mation shall establish such areas and designate which
fires are prohibited therein; and if a danger area is estab-
lished he shall announce the purposes for which and con-
ditions under which entry thereon or use thereof may be
made. Action hereunder may be taken by the director at
any time during the year. Notice of any proclamation hereunder shall be posted on each primary road at the entrance to the designated areas and copies of the proclamation shall be furnished at the time of posting to newspapers, radio stations and television stations which serve the area designated. The proclamation shall not be effective until twenty-four hours after it is posted as herein provided. Any proclamation hereunder shall remain in force until the director, with the approval of the governor, by order terminates it. The order shall designate the time of termination, and notice of any such order shall be furnished to each newspaper, radio station, and television station which received a copy of the proclamation. The posted notices shall be removed as soon as possible after termination of any such proclamation. Any person who starts or fails to extinguish a fire so prohibited or enters or uses a danger area otherwise than permitted shall be guilty of a violation of this section.

Sec. 6. Failure of Person to Extinguish Fire Started or Used by Him; Throwing Lighted Material on Forest Land.

—Any person who, by himself, or by his servants, agents
or guides, or as a servant, agent or guide of any other person, shall at any time build or use any fire in any field, in any public or private road, or in any area adjacent to or in any forest land in this state, shall, before leaving such fire for any period of time, totally extinguish the same.

A person shall not at any time throw or place any lighted match, cigar, cigarette, firecracker or other lighted material on any forest land, private road, public highway or railroad right of way within this state.

Any person who violates any provision of this section shall be guilty of a misdemeanor.

Sec. 7. Starting Fire on Lands of Another; Felony.—Any person who wilfully sets or causes to be set on fire any forest land, grass, grain, stubble, brush, slash, debris, or any other inflammable substance upon the property of another without his consent, or in a place from which it is reasonable to expect that the fire may spread to the property of another without his consent, and as a result of either causes damage or destruction to any natural resources in or on the other person's property, shall be guilty of a felony and, upon conviction thereof, shall be
enr. s. b. no. 23]

11 fined not less than one hundred dollars nor more than five
12 hundred dollars, or be imprisoned for not less than one
13 year nor more than five years, or both, in the discretion
14 of the court.

Sec. 8. Duty of Railroad Company to Protect Against
2 Fires.—Every railroad company or other company op-
3 erating a steam, diesel or other type of locomotive shall
4 cut and remove from the part of its road or right of way
5 which passes through forest land or lands subject to fire
6 from any cause, at least once a year, all grass, brush, and
7 other inflammable materials, and employ, at times when
8 such land is in a dry and dangerous fire condition, suffi-
9 cient trackmen to promptly put out fires on such road or
10 right of way; and shall provide locomotives thereon with
11 netting of steel or iron so constructed as to give the best
12 practical protection against the escape of fire and sparks
13 from the smokestacks or exhausts thereof and against the
14 escape of fire from ash pans and furnaces which are used
15 on such locomotives.

16 No such company, or any employee thereof, shall de-
17 posit, cast, or discharge fire coals or ashes on that part of
its road or right of way which passes through forest land,
or lands subject to fire from any cause, unless the fire therein is immediately extinguished. No such company,
or employee thereof, shall place a lighted fusee along such roads or rights of way in such a manner as will cause the same to ignite inflammable substances which may cause fire to spread to forest land. In case of any uncontrolled or unguarded fire on such part of its road or right of way, the company shall use all practicable means to extinguish it. Engineers, conductors, trainmen, or other persons who, while working for such companies, discover or know of any fire on, along or near such part of the road or right of way of their employer, shall report the same as soon as possible to personnel of the director. A company, or any officer or employee thereof, violating any provision of this section, shall be guilty of a misdemeanor.

Sec. 9. Right of Railroad Company to Clear Land Adjacent to Right of Way.—For the purpose of providing increased protection to forest land from fire originating along railroads, any company which operates a railroad shall have the right, subject to the provisions of this sec-
tion, without liability for trespass, to enter upon forest
land for a distance of one hundred feet from its road or
right of way and to clear from such a strip any inflamma-
ble material such as leaves, grass, dead trees, slash and
brush, but shall not remove any valuable timber growth
or other thing of value without consent of and recompense
to the owner. Not less than fifteen days prior to clearing
such lands, the railroad company shall give the owner
thereof notice of its intention, together with a transcript
of this section, by letter deposited in the United States
mail to his last known address. If the owner shall not file
an objection to such clearing with the director within ten
days of the date of said notice he shall be deemed to have
given consent. Upon the filing by an owner of such objec-
tion showing cause why such clearing should not be done,
the director shall review the case and may sustain the ob-
jection of the owner or permit the clearing in whole or
in part.

Sec. 10. Engines; Escape of Fire From.--No person, firm
or corporation shall use or operate in forest land, or
within one-eighth of a mile therefrom, a sawmill, a power
shovel, or an engine or machine capable of throwing
sparks, unless the equipment is provided with an adequate
spark arrester. Escape of fire from such equipment shall
be prima facie evidence that such appliance was not
maintained properly in compliance with this section. Any
person, firm, or corporation violating this section shall be
guilty of a misdemeanor.

Sec. 11. *Recovery of Expenses Incurred in Fighting*

*Fires.*—The director shall, in the name of the state, re-
cover from the persons, firms or corporations whose negli-
gence or whose violation of any provision of this article
causd any fire at any time on grass or forest land, the
amount expended by the state in confining, extinguishing
or suppressing such fire and the costs thereof. Such re-
covery shall not bar an action for damages by any other
person.

Any such fire which was caused by a trespasser or by a
person who was upon the property without the consent of
the owner shall not be deemed caused by the negligence
of the owner; but the owner shall use all practical means
to confine, extinguish or suppress any such fire on his
land even though it was caused by any such person. If he fails to do so, after becoming aware of such fire, the di-
corrector shall, in the name of the state, recover from him amounts expended by the state for such purposes and the costs thereof.

Sec. 12. **Timber Land and Forest Land Defined.**—For the purpose of this chapter, any land shall be considered timber land or forest land which has enough timber standing or down to constitute, in the judgment of the com-
mmission, a fire menace to itself or adjoining lands: Provided, however, That nothing in this section contained shall be construed to include lands under cultivation or in grass: Provided further, That nothing contained herein shall be construed so as to include within the provisions of this section any land which is an isolated fire risk, un-
less a forest fire thereon would imperil the lands of any adjoining landowner or landowners.

Sec. 13. **Director Authorized to Secure Federal Coop-
eration.**—The director may do all things required to meet the conditions and requirements of the federal govern-
ment in securing federal cooperation under the provisions
of the Weeks law and the Clark-McNary law, and any other law amendatory thereof or supplemental thereto, for the purpose of the prevention and control of forest fires and the advancement of forestry practices. The sum of one hundred twenty thousand dollars is hereby appropriated annually and the board of public works shall include said sum of one hundred twenty thousand dollars for said purpose in its annual budget to the legislature as provided in section fifty-one, article six of the constitution of this state and/or in such other budgets as it may present to the legislature as may be necessary to provide the said sum of one hundred twenty thousand dollars for the purpose of this section, which sum of one hundred twenty thousand dollars annually shall be paid into the state treasury to the credit of the department of natural resources and be expended and drawn upon by it for the aforesaid purposes, in the manner herein elsewhere provided. Any unexpended balance of this appropriation at the end of any fiscal year shall be reappropriated and retained for forest fire control expenditures: Provided, however, That all such balances revert to the general fund.
Sec. 14. **Financial Assistance From Owners of Forest Lands; Expenditures by Director.**—The director may cooperate with the owners of forest lands and receive financial assistance from them for forestry purposes and do any and all things necessary therefor, including the establishment and maintenance of patrol and lookout stations: *Provided, however,* That the director shall expend for forestry purposes, and for no other purpose, such moneys as shall be appropriated therefor by the state, and such moneys as may be recovered from persons giving origin to grass or forest fires, and such moneys as may be received from the federal government by appropriation under the Weeks and Clarke-McNary laws, or otherwise.

Sec. 15. **Owner Not Relieved From Civil Liability for Damage from Fire.**—Nothing in this chapter shall be construed to relieve the owner, lessee or user of any land from civil liability for damage resulting from any fire for which their agents or employees may be responsible.

Sec. 16. **Prima Facie Evidence of Negligence.**—In all criminal and civil actions for any injury occasioned by fire communicated by burning or clearing land, the fact that
such fire was so communicated shall be prima facie evi-
dence of negligence on the part of the person or agent or
employee or any other person who shall at the time of
such injury by fire be in the use and occupation of the
land on which the burning was done and of those who
shall at such time have care and management of such
burning.

Sec. 17. Disposition of Proceeds of National Forests.—
Receipts from any national forest, paid to the state or its
proper officers pursuant to directions of acts of congress,
shall be allocated by the auditor to each county which has
acreage located in such national forest, in the proportion
which the acreage in such county bears to the total acre-
age of such national forest in this state. Eighty per cent
of the funds so allocated to any county shall be paid to
the board of education of the county to be expended by
the board for the benefit of the public schools of the coun-
ty. Twenty per cent of the funds so allocated to any
county shall be paid to the state road commission to be ex-
pended for secondary road purposes in that county.

Notwithstanding any contrary provision of former law,
any sheriff or county court of any county having charge
or custody of any unexpended national forest proceeds,
received under allocations made pursuant to former pro-
visions of law, shall pay over eighty per cent of such un-
expended balance to the county board of education, and
twenty per cent thereof to the state road commission, for
expenditure as provided herein.

Sec. 18. Disposition of Flood Control, Navigation, and
Allied Funds from the Federal Government.—Receipts
from the treasurer of the United States, paid to the state
or its proper officers pursuant to direction of an act of
congress relating to disposition of funds received on ac-
count of the leasing of lands for flood control, navigation,
and allied purposes, shall be allocated by the state auditor
to each county in accordance with the method of allocation
specified by the federal government. The state auditor
shall transfer to the road commission fifty per cent of the
funds so allocated to each county for the purpose of main-
tenance of secondary roads in the area or areas of the
county in which such flooded lands are located. Fifty per
cent of the funds so allocated to any county in which such
lands are located shall be paid by the state auditor to the
board of education of that county to be expended by the
board for the benefit of the public schools of the county.

Sec. 19. 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, de-
foliators, 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 in-
jured 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, con-
trol, suppress, or eradicate incipient, potential or emerg-
ency 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 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 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 in writing by at least two publications 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 (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 section shall have the right to appeal from such action to the director and then to the
61 circuit court of the county in which such person resides
62 in which he owns forest land affected by such action. The
63 court, after hearing the evidence in the case, may make
64 such orders as may be appropriate to protect the interests
65 of the appellant, adjacent forest landowners, or the state.
66 (e) Cooperation with Individuals and Public Agencies.
67 The director is authorized to cooperate with landowners
68 and appropriate authorities of town, city, county, adjoining
69 state, and the United States government, and other
70 agencies having jurisdiction of state lands, concerning
71 forest tree insect and disease investigation and control,
72 and to accept money, gifts, and donations and to disburse
73 the same for the purpose of carrying out the provisions of
74 this section.
75 (f) Annual Appropriation; Forest Pest Control Fund.
76 There is hereby created in the state treasury a special
77 fund to be known as the forest pest control fund. Such
78 fund shall consist of all moneys appropriated thereto by
79 the legislature and all moneys received and deposited with
80 the state treasurer under the provisions of this section.
81 All such funds are hereby appropriated to the department
of natural resources to be used to carry out the purpose of
this section.

(g) Definitions. As used in this section, unless the con-
text 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 or growth which is determined to be
dangerously injurious to forest trees; and

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

**PART II. SOUTHEASTERN INTERSTATE FOREST FIRE**

**PROTECTION COMPACT**

Sec. 30. *Southeastern Interstate Forest Fire Protection Compact; Governor's Authority to Execute.*—The gov-
ernor of West Virginia, on behalf of this state, is hereby
authorized to execute a compact in substantially the fol-
lowing form, with any one or more of the states of Ala-
bama, Florida, Georgia, Kentucky, Mississippi, North
Carolina, South Carolina, Tennessee and Virginia, and
the legislature hereby signifies in advance its approval
and ratification of such compact:

**SOUTHEASTERN INTERSTATE FOREST FIRE**

**PROTECTION COMPACT**

**Article I.**

The purpose of this compact is to promote effective pre-
vention and control of forest fires in the southeastern
region of the United States by the development of inte-
grated forest fire plans, by the maintenance of adequate
forest fire fighting services by the member states, by pro-
viding for mutual aid in fighting forest fires among the
compacting states of the region and with states which
are party to other regional forest fire protection compacts
or agreements, and for more adequate forest protection.

Article II.

This compact shall become operative immediately as
to those states ratifying it whenever any two or more
of the states of Alabama, Florida, Georgia, Kentucky,
Mississippi, North Carolina, South Carolina, Tennessee,
Virginia and West Virginia, which are contiguous, have
ratified it and congress has given consent thereto. Any
state not mentioned in this article which is contiguous
with any member state may become a party to this com-
 pact subject to approval by the legislature of each of the
member states.

Article III.

In each state, the state forester or officer holding the
equivalent position who is responsible for forest fire con-
trol shall act as compact administrator for that state and
shall consult with like officials of the other member
states and shall implement cooperation between such
states in forest fire prevention and control.
The compact administrators of the member states shall coordinate the services of the member states and provide administrative integration in carrying out the purposes of this compact.

There shall be established an advisory committee of legislators, forestry commission representatives, and forestry or forest products industries representatives, which shall meet from time to time with the compact administrators. Each member state shall name one member of the senate and one member of the house of delegates who shall be designated by that state's commission on interstate cooperation, or if said commission cannot constitutionally designate the said members, they shall be designated in accordance with laws of that state; and the governor of each member state shall appoint two representatives, one of whom shall be associated with forestry or forest products industries to comprise the membership of the advisory committee. Action shall be taken by a majority of the compacting states and each state shall be entitled to one vote.

The compact administrators shall formulate and, in
accordance with need, from time to time, revise a regional forest fire plan for the member states.

It shall be the duty of each member state to formulate and put into effect a forest fire plan for that state and take such measures as may be necessary to integrate such forest fire plan with the regional forest fire plan formulated by the compact administrators.

Article IV.

Whenever the state forest fire control agency of a member state requests aid from the state forest fire control agency of any other member state in combating, controlling or preventing forest fires, it shall be the duty of the state forest fire control agency of that state to render all possible aid to the requesting agency which is consonant with the maintenance of protection at home.

Article V.

Whenever the forces of any member state are rendering outside aid pursuant to the request of another member state under this compact, the employees of such state shall, under the direction of the officers of the state to which they are rendering aid, have the same powers
(except the power of arrest), duties, rights, privileges and immunities as comparable employees of the state to which they are rendering aid.

No member state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith: Provided, That nothing herein shall be construed as relieving any person from liability for his own negligent act or omission, or as imposing liability for such negligent act or omission upon any state.

All liability, except as otherwise provided hereinafter, that may arise either under the laws of the requesting state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state. Any member state rendering outside aid pursuant to this compact shall be reimbursed by the member state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering
a request for aid, and for the cost of all materials, trans-
portation, wages, salaries, subsistence of employees
and maintenance of equipment incurred in connection
with such request: Provided, That nothing herein con-
tained shall prevent any assisting member state from
assuming such loss, damage, expense or other cost or from
loaning such equipment or from donating such service to
the receiving member state without charge or cost.

Each member state shall provide for the payment of
compensation and death benefits to injured employees and
the representatives of deceased employees in case em-
ployees sustain injuries or are killed while rendering
outside aid pursuant to this compact, in the same manner
and on the same terms as if the injury or death were
sustained within such state.

For the purposes of this compact the term employee
shall include any volunteer or auxiliary legally included
within the forest fire fighting forces of the aiding state
under the laws thereof.

The compact administrators shall formulate procedures
for claims and reimbursement under the provisions of
Article VI.

Ratification of this compact shall not be construed to affect any existing statute so as to authorize or permit curtailment or diminution of the forest fire fighting forces, equipment, services or facilities of any member state.

Nothing in this compact shall be construed to limit or restrict the powers of any state ratifying the same to provide for the prevention, control and extinguishment of forest fires, or to prohibit the enactment or enforcement of state laws, rules or regulations intended to aid in such prevention, control and extinguishment in such state.

Nothing in this compact shall be construed to affect any existing or future cooperative relationship or arrangement between any federal agency and a member state or states.

Article VII.

The compact administrators may request the United States forest service to act as a research and coordinating agency of the southeastern interstate forest fire protection
compact in cooperation with the appropriate agencies in each state, and the United States forest service may accept responsibility for preparing and presenting to the compact administrators its recommendations with respect to the regional fire plan. Representatives of any federal agency engaged in forest fire prevention and control may attend meetings of the compact administrators.

Article VIII.

The provisions of articles four and five of this compact which relate to mutual aid in combating, controlling or preventing forest fires shall be operative as between any state party to this compact and any other state which is party to a regional forest fire protection compact in another region: Provided, That the legislature of such other state shall have given its assent to such mutual aid provisions of this compact.

Article IX.

This compact shall continue in force and remain binding on each state ratifying it until the legislature or the governor of such state, as the laws of such state shall provide, takes action to withdraw therefrom. Such action
shall not be effective until six months after notice thereof has been sent by the chief executive of the state desiring to withdraw to the chief executives of all states then parties to the compact.

Sec. 21. When and How Compact Becomes Operative.—

When the governor shall have executed said compact on behalf of this state and shall have caused a verified copy thereof to be filed with the secretary of state and when said compact shall have been ratified by one or more of the states named in section nineteen of this article, then said compact shall become operative and effective as between this state and such other state or states. The governor is hereby authorized and directed to take such action as may be necessary to complete the exchange of official documents as between this state and any other state ratifying said compact.

Sec. 22. Compact Administration; Committee; Terms and Removal.—In pursuance of article three of said compact, the director of the department of natural resources of the state of West Virginia or his designated representative shall act as compact administrator for the state of
West Virginia of the southeastern interstate forest fire protection compact during his term of office as director, and his successor as compact administrator shall be his successor as director. As compact administrator he shall be an ex officio member of the advisory committee of the southeastern interstate forest fire protection compact, and chairman ex officio of the West Virginia members of said advisory committee. There shall be four members of the southeastern interstate forest fire protection compact advisory committee from the state of West Virginia. Two of the members from the state of West Virginia shall be members of the legislature of West Virginia, one from the senate and one from the house of delegates, designated by the state's commission on interstate cooperation and the terms of any such members shall terminate at the time they cease to hold legislative office, and their successors as members shall be named in like manner. The governor shall appoint the other two members from the state of West Virginia, one of whom shall be associated with forestry or forest products industries. The terms of such members shall hold office until their respective successors
shall be appointed and qualified. Vacancies occurring in
the office of such members from any reason or cause shall
be filled by appointment by the governor for the unex-
pired term. The director as compact administrator may
delegate, from time to time, to any deputy or other sub-
ordinate in his department or office, the power to be
present and participate, including voting as his repre-
sentative or substitute at any meeting of or hearing by or
other proceeding of the compact administrators or of the
advisory committee. The terms of each of the initial four
memberships of the advisory committee, whether ap-
pointed at said time or not, shall begin upon the date upon
which said compact shall become effective in accordance
with article two of said compact. Any member of said
advisory committee may be removed from office by the
governor upon charges and after a hearing.

Sec. 23. Compact Committee Powers and Duties; Co-
operation Therewith.—There is hereby granted to the
director as compact administrator and chairman ex officio
of the West Virginia members of said advisory committee,
and to the members from West Virginia of said advisory
committee all the powers provided for in the said com-
 pact and all the powers necessary or incidental to the
carrying out of said compact in every particular. All offi-
cers of the state of West Virginia are hereby authorized
and directed to do all things falling within their respec-
tive provinces and jurisdiction necessary or incidental to
the carrying out of said compact in every particular, it
being hereby declared to be the policy of the state of West
Virginia to perform and carry out the said compact and
to accomplish the purposes thereof. All officers, bureaus,
departments and persons of and in the state government
or administration of the state of West Virginia are hereby
authorized and directed at convenient times and upon re-
quest of said compact administrator, or of said advisory
committee, to furnish information and data relating to
the purposes of said compact possessed by them or any of
them to said compact administrator or said advisory com-
mittee. They are further authorized to aid said compact
administrator or said advisory committee by loan of per-
sonnel, equipment or other means in carrying out the
purposes of said compact.
Sec. 24. Other Powers Supplementary.—Any powers herein granted to the state forester shall be regarded as in aid of and supplemental to, and in no case a limitation upon, any of the powers vested in said director by other laws of the state of West Virginia or by the laws of the states of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee and Virginia, or by the congress or the terms of said compact.

Article 4. Parks and Recreation.

Section 1. Division of Parks and Recreation; Duties and Functions.—The division of parks and recreation herein created and established shall have within its jurisdiction and supervision:

(a) All state parks and state recreation areas, including all lodges, cabins, swimming pools, motorboating, and all other recreational facilities therein and thereat;

(b) Administration of all laws and regulations relating to beautification of state highways and other public areas;

(c) The functions and services of the following commissions which are hereby made activities of the department of natural resources:
(1) Point Pleasant battle monument commission, created by joint resolution number twenty-four adopted by the legislature of West Virginia on the sixth day of December, one thousand eight hundred seventy-five;

(2) The Prickett's Fort state park commission, created by chapter forty-eight, acts of the legislature of West Virginia, regular session, one thousand nine hundred twenty-seven;

(3) Droop Mountain battlefield commission, created by house joint resolution number eight adopted by the legislature of West Virginia on the twenty-fifth day of January, one thousand nine hundred twenty-seven;

(4) Philippi battlefield commission, created by house joint resolution number fifteen adopted by the legislature of West Virginia on the thirtieth day of March, one thousand nine hundred twenty-seven; and

(5) Carnifex Ferry battleground park commission, created by chapter nine, acts of the legislature of West Virginia, regular session, one thousand nine hundred thirty-one; and

(d) Administration of all laws and regulations re-
lating to the establishment, development, protection, use
and enjoyment of all state parks and state recreational
facilities consistent with the provisions of this chapter.

The chief of the division shall be primarily responsible
for the execution and administration of the provisions of
this article as an integral part of the natural resources
program of the state and shall organize and staff his divi-
sion for the orderly, efficient and economical accomplish-
ment of these ends.

PART I. PARKS AND RECREATIONAL FACILITIES

Sec. 2. Definitions.—As used in this article, unless the
context clearly requires a different meaning:

“Bonds” shall mean bonds issued by the director pur-
suant to this article.

“Cost of project” shall embrace the cost of construction,
the cost of all land, property, material and labor which
are deemed essential thereto, cost of improvements, fi-
nancing charges, interest during construction, and all
other expenses, including legal fees, trustees', engineers’
and architects' fees which are necessarily or properly inci-
dental to the project.
"Project" shall be deemed to mean collectively the acquisition of land, the construction of any buildings or other works, together with incidental approaches, structures and facilities, reasonably necessary and useful in order to provide new or improved recreational facilities.

"Recreational facilities" shall mean and embrace cabins, lodges, swimming pools, golf courses, restaurants, commissaries and other revenue producing facilities in any state park or forest.

"Rent or rental" shall include all moneys received for the use of any recreational facility.

Sec. 3. State Park and Recreation System; Purposes; Financing; Disposition and Use of Revenues.—In addition to the powers and duties vested in the director elsewhere in this chapter, he shall have the power and duty to establish and maintain a state park and public recreation system, and to do all things necessary and incident to the development and administration thereof. Individual projects of such system may be financed from any moneys of the department available for such purposes, or by the
issuance of park development revenue bonds as provided in this article.

The purposes of such system shall be to promote conservation by preserving and protecting natural areas of unique or exceptional scenic, scientific, cultural, archaeological or historic significance and to provide outdoor recreational opportunities for the citizens of this state and its visitors. In accomplishing such purposes the director shall, insofar as is practical, maintain in their natural condition lands that are acquired for and designated as state parks, and shall not permit public hunting, the exploitation of the minerals or harvesting of timber thereon for commercial purposes.

All revenue derived from the operation of the state park and public recreation system shall be expended by the director solely for the acquisition of property for the extension of the system, or for operating, maintaining and improving such system, or for the retirement of park development revenue bonds as provided in this article.

Sec. 4. Restaurants and Other Facilities on Department Lands.—The director may, on all areas under his juris-
3 diction and control, operate commissaries, restaurants and
4 other establishments for the convenience of the public.
5 For these purposes the director may purchase equipment,
6 foodstuffs, supplies and commodities, according to law.

Sec. 5. Authority of Director to Issue Park Development

Revenue Bonds; Grants and Gifts.—The director, with
3 the approval of the governor, is hereby empowered to
4 raise the cost of any project, as defined hereinabove, by
5 the issuance of park development revenue bonds of the
6 state, the principal of and interest on which bonds shall
7 be payable solely from the special fund herein provided
8 for such payment. Such bonds shall be authorized by
9 order of the director, approved by the governor, which
10 shall recite an estimate by the director of the cost of the
11 project, and shall provide for the issuance of bonds in an
12 amount sufficient, when sold as hereinafter provided, to
13 produce such cost, less the amount of any grant or grants,
14 gift or gifts received, or in the opinion of the director ex-
15 pected to be received from the United States of America
16 or from any other source. The acceptance by the director
17 of any and all such grants and gifts, whether in money or
in land, labor or materials, is hereby expressly authorized.

All such bonds shall have and are hereby declared to have all the qualities of negotiable instruments under the law merchant. Such bonds shall bear interest at not more than four per cent per annum, payable semiannually, and shall mature in not more than twenty-five years from their date or dates, and may be made redeemable at the option of the state, to be exercised by the director at such price and under such terms and conditions as the director may fix prior to the issuance of such bonds. The director shall determine the form of such bonds, including coupons to be attached thereto to evidence the right of interest payments, which bonds shall be signed by the director, under the great seal of the state, attested by the secretary of state, and the coupons attached thereto shall bear the facsimile signature of the director. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. The director shall fix the
denominations of the bonds, the principal and interest of
which shall be payable at the office of the treasurer of the
state of West Virginia, at the capitol of the state, or, at
the option of the holder, at some bank or trust company
in the city of New York to be named in the bonds in such
medium as may be determined by the director. Such
bonds shall be exempt from taxation by the state of West
Virginia, or any county or municipality therein. The di-
rector may provide for the registration of such bonds in
the name of the owner as to principal alone, and as to both
principal and interest under such terms and conditions as
the director may determine, and shall sell such bonds in
such manner as he may determine to be for the best inter-
est of the state, taking into consideration the financial
responsibility of the purchaser, and the terms and condi-
tions of the purchase, and especially the availability of
the proceeds of the bonds when required for payment of
the cost of the project, such sale to be made at a price not
lower than a price which, computed upon standard tables
of bond values, will show a net return of five per cent per
annum to the purchaser upon the amount paid therefor.
The proceeds of such bonds shall be used solely for the payment of the cost of the project, and shall be deposited and checked out as provided by section seven of this article, and under such further restrictions, if any, as the director may provide. If the proceeds of such bonds, by error in calculation or otherwise, shall be less than the cost of the project, additional bonds may in like manner be issued to provide the amount of the deficiency, and unless otherwise provided for in the trust agreement hereinafter mentioned, shall be deemed to be of the same issue, and shall be entitled to payment from the same fund, without preference or priority as the bonds before issued. If the proceeds of bonds issued for the project shall exceed the cost thereof, the surplus shall be paid into a special fund to be established for payment of the principal and interest of such bonds as specified in the trust agreement provided for in the following section. Such fund may be used for the purchase of any of the outstanding bonds payable from such fund at the market price, but at not exceeding the price, if any, at which such bonds shall in the same year be redeemable, and all bonds
redeemed or purchased shall forthwith be cancelled, and
shall not again be issued. Prior to the preparation of
definitive bonds, the director may, under like restrictions,
issue temporary bonds with or without coupons, ex-
changeable for definitive bonds upon the issuance of the
latter. Such revenue bonds may be issued without any
other proceedings or the happening of any other condi-
tions or things than those proceedings, conditions and
things which are specified and required by this article, or
by the constitution of the state. Revenue bonds issued
under the authority herein granted shall be eligible as
investments for the workmen's compensation fund and
as security for the deposit of all public funds.

Sec. 6. Trustee for Holders of Bonds.—The director may
ter into an agreement or agreements with any trust
company, or with any bank having the powers of a trust
company, either within or outside the state, as trustee for
the holders of bonds issued hereunder, setting forth
therein such duties of the state and of the director in re-
spect to acquisition, construction, improvement, mainte-
nance, operation, repair and insurance of the project, the
conservation and application of all moneys, the insurance of moneys on hand or on deposit, and the rights and remedies of the trustee and the holders of the bonds, as may be agreed upon with the original purchasers of such bonds, and including therein provisions restricting the individual right of action of bondholders as is customary in trust agreements respecting bonds and debentures of corporations, protecting and enforcing the rights and remedies of the trustee and the bondholders, and providing for approval by the original purchasers of the bonds of the appointment of consulting architects, and of the security given by those who contract to construct the project, and by any bank or trust company in which the proceeds of bonds or rentals shall be deposited, and for approval by the consulting architects of all contracts for construction. All expenses incurred in carrying out such agreement may be treated as a part of the cost of maintenance, operation and repair of the project.

Sec. 7. Proceeds of Bonds, Grants and Gifts.—The proceeds of all bonds sold as provided in this article for any park development project and the proceeds of any grant
or gift received by the director for any project financed
by the issuance of park development revenue bonds shall
be paid to the treasurer of the state of West Virginia, who
shall not commingle such funds with any other moneys,
but shall deposit them in a separate bank account or ac-
counts. The moneys in such accounts shall be paid out on
check of the treasurer on requisition of the director, or of
such other person as the director may authorize to make
such requisition. All deposits of such moneys shall, if re-
quired by the treasurer or the director, be secured by
obligation of the United States, of the state of West Vir-
ginia, or of the director, of a market value equal at all
times to the amount of the deposit, and all banking insti-
tutions are authorized to give such deposits.

Sec. 8. Authority of Director to Pledge Revenue as

Security. — The director shall have authority to pledge all
revenue derived from any project as security for any
bonds issued under this article to defray the cost of such
project. In any case in which the director may deem it
advisable, he shall also have the authority to pledge the
revenue derived from any existing recreational facilities
under his control, or any state park or forest, as additional
security for the payment of any bonds issued under the
provisions of this article to pay the cost of any park de-
velopment project.

Sec. 9. Management and Control of Project.—The de-
partment shall properly maintain, repair, operate, man-
age and control the project, fix the rates of rental, and
establish bylaws and rules and regulations for the use
and operation of the project, and may make and enter into
all contracts or agreements necessary and incidental to
the performance of its duties and the execution of its
powers under this article.

Sec. 10. Provisions of Constitution and Law Observed;
What Approval Required.—It shall not be necessary to
secure from any officer or board not named in this article
any approval or consent, or any certificate or finding, or
to hold an election, or to take any proceedings whatever,
either for the construction of any project, or the improve-
ment, maintenance, operation or repair thereof, or for the
issuance of bonds hereunder, except such as are prescribed
by this article or are required by the constitution of the state.

Nothing in this article contained shall be so construed or interpreted as to authorize or permit the incurring of state debt of any kind or nature as contemplated by the provisions of the constitution of the state in relation to state debt.

Sec. 11. Highway Beautification; Violations; Evidence; Enforcement; Penalties.—The director of the department of natural resources in cooperation with the state road commissioner, the department of public safety, the United States forestry service, and other law enforcement agencies of local, state and federal governments, shall be responsible for administration and enforcement of all laws and regulations relating to maintenance of cleanliness and improvement of appearances on and along highways, roads, streets, alleys and other public areas and ways of the state and shall make recommendations to the director from time to time concerning means and methods of accomplishing state highway beautification consistent with the provisions of this chapter.
It shall be unlawful to place, deposit, dump or throw, or cause to be placed, deposited, dumped or thrown, any litter, garbage, refuse, trash, cans, bottles, papers, ashes, cigarette or cigar butts, carcass of any dead animal, offal or any other offensive or unsightly matter in or upon any public or private highway, road, street or alley, or upon the surface of any land within one hundred yards thereof without the consent of the owner, or in or upon any private property into or upon which the public is admitted by easement or license, or upon any private property without the consent of the owner, or in or upon any public park or other public property other than in such place as may be set aside for such purpose by the governing body having charge thereof.

If any such materials be thrown, cast, dumped or discharged from a motor vehicle in violation of the provisions hereof, such action shall be deemed prima facie evidence that the owner and driver of such motor vehicle intended to violate the provisions of this section.

The state commissioner of motor vehicles, upon registering a motor vehicle or issuing an operator's or chauf-
feur's license, shall issue to the owner or licensee, as the case may be, a copy of this section.

The state road commissioner shall cause appropriate signs to be placed at the state boundary on each primary and secondary road, informing those entering the state of the maximum penalty herein provided for disposing of litter in, upon and near highways and roads in violation of this section.

No portion of this section shall be construed to restrict a private owner in the use of his own private property or to prohibit the disposal of materials designated in this section in any manner authorized by law.

Any person violating any provision of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than twenty nor more than five hundred dollars or be imprisoned in the county jail for a period of time not exceeding six months, or, in the discretion of the court, may be subject to both such fine and imprisonment.

Sec. 12. Correlation of Projects and Services.—The chief of the division of parks shall correlate and coordinate
his park and recreation programs, projects and developments with the functions and services of other offices and divisions of the department and other agencies of the state government so as to provide, consistent with the provisions of this chapter, suitable and adequate facilities, landscaping, personnel and other services at and about fish hatcheries, game farms, wildlife research areas, feeding stations, historic and scenic monuments and markers, and other institutions and activities of the state.

PART II. MOTORBOATING

Sec. 13. Motorboats and Other Terms Defined.—As used in this section and subsequent sections of this article, unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the bureau of customs of the United States government or any federal
agency successor thereto, nor to a vessel powered by a
motor of five horsepower or less; and

(3) "Owner" means a person, other than a lienholder,
having the property in or title to a motorboat. The term
includes a person entitled to the use or possession of a
motorboat subject to an interest in another person, re-
served or created by agreement and securing payment or
performance of an obligation, but the term excludes a
lessee under a lease not intended as security.

Sec. 14. Motorboat Numbers; Applications, Fees and
Records; Procedures.—Every motorboat, as herein de-
 ned, operating upon public waters within the territorial
limits of this state, shall be numbered as herein provided.

(a) The owner of each motorboat requiring numbering
by this state shall file an application for a number with
the director on forms approved by him. The application
shall be signed by the owner of the motorboat and shall
be accompanied by a fee of five dollars. All such fees
shall be deposited in the state treasury to the credit of the
state general fund. Upon receipt of the application in
approved form, the director shall enter the same upon
the records of his office and issue to the applicant a number awarded to the motorboat and the name and address of the owner. The owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules and regulations of the director in order that it may be clearly visible. The number shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the motorboat for which issued, whenever such motorboat is in operation;

(b) The owner of any motorboat already covered by a number in full force and effect which has been awarded to it pursuant to then operative federal law or a federally-approved numbering system of another state shall record the number prior to operating the motorboat on the waters of this state in excess of the ninety-day reciprocity period provided for in section sixteen of this article. Such recordation shall be in the manner and pursuant to the procedure required for the award of a number under
subsection (a) of this section, except that no additional
or substitute number shall be issued;
(c) Should the ownership of a motorboat change, a new
application form with fee shall be filed with the director
and a new certificate of number shall be awarded in the
same manner as provided for in an original award of
number;
(d) In the event that an agency of the United States
government shall have in force an overall system of
identification numbering for motorboats within the United
States, the numbering system employed pursuant to this
article by the commission shall be in conformity there-
with;
(e) The director may designate as issuing agent the
clerk of any county court and such other persons in each
county, as he deems advantageous to provide for the
issuance of certificates of number in accordance with the
provisions of this article. For services rendered in issuing
such certificates, and collecting and paying over such
numbering fees, each issuing agent, other than a state or
county official, shall charge and retain an additional fee
54 of twenty-five cents from the person obtaining the certifi-
55 cate of number. Every such issuing agent, unless already
56 under bond with the director as an agent for the collection
57 of its moneys, shall file a bond with the director, payable
58 to the state of West Virginia, in an amount to be fixed by
59 the director at not more than one thousand dollars, before
60 the supply of certificates of number is delivered to him,
61 conditioned upon the faithful performance of his obliga-
62 tion to issue certificates only in conformance with the
63 provisions of this article and the regulations of the direc-
64 tor. Each issuing agent, on the first day of each month,
65 shall remit to the director all moneys collected for the
66 director during the preceding month, and shall accompany
67 his remittance with a report showing the name of the
68 county, the names and addresses of the persons paying
69 the same, and the date of the receipt thereof;
70 (f) All records of the director made or kept pursuant
71 to this section shall be public records;
72 (g) Such license shall be valid only until the last day
73 of the calendar year in which the same is issued. If at
74 the end of such year ownership has remained unchanged,
such owner shall, upon application and payment of a fee of two dollars, be granted a renewal of such certificate of number for an additional one-year period;

(h) The owner shall furnish the director notice of the transfer of all or any part of his interest, other than the creation of a security interest, in a motorboat numbered in this state pursuant to subsections (a) and (b) of this section, or of the destruction or abandonment of such motorboat, within fifteen days thereof. Such transfer, destruction, or abandonment shall terminate the certificate of number for such motorboat, except that in the case of a transfer of a part interest which does not affect the owner's right to operate such motorboat, such transfer shall not terminate the certificate of number;

(i) Any holder of a certificate of number shall notify the director within fifteen days, if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the director with his new address. The director may provide in his rules and regulations for the surrender of the certificate bearing the former address and its replacement with a
(j) No number other than the number awarded to a motorboat or granted reciprocity pursuant to this article shall be painted, attached or otherwise displayed on either side of the bow of such motorboat; and

(k) It shall be the duty of the director on or before January thirtieth of each year, commencing with the year one thousand nine hundred sixty, to forward to the assessor of each county a list of the names and addresses of all persons, firms and corporations owning vessels and operating the same or other boats registered with the director under the provisions of this article. In furnishing this information to each county assessor, the director shall include in his report such information as is made available to him in the reports and registrations he receives as to make, model, value and cost price of such vessels and other equipment required to be registered for use by said owner or operator thereof under the provisions of this article: Provided, however, That the director need not
furnish such information to the assessor if the cost price
of such vessel does not exceed two hundred dollars nor
the cost of the motor does not exceed one hundred
seventy-five dollars.

Sec. 15. Motorboat Classification; Required Lights and
Equipment; Rules and Regulations; Pilot Rules.—(a)
Motorboats subject to the provisions of this article shall
be divided into four classes as follows:
Class A. Less than sixteen feet in length;
Class 1. Sixteen feet or over and less than twenty-six
feet in length;
Class 2. Twenty-six feet or over and less than forty
feet in length;
Class 3. Forty feet or over;
(b) Classes 1, 2 and 3 motorboats in all weathers from
sunset to sunrise shall carry and exhibit the following
lights when under way, and during such time no other
lights which may be mistaken for those prescribed shall
be exhibited.
(1) Every motorboat of Class 1 shall carry the follow-
ing lights:
First. A bright white light aft to show all around the horizon;

Second. A combined lantern in the fore part of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points abaft the beam on their respective sides.

(2) Every motorboat of Classes 2 and 3 shall carry the following lights:

First. A bright white light in the fore part of the vessel as near the stem as practicable, so constructed as to show an unbroken light over an arc of the horizon of twenty points of the compass, so fixed as to throw the light ten points on each side of the vessel; namely, from right ahead to two points abaft the beam on either side;

Second. A bright white light aft to show all around the horizon and higher than the white light forward;

Third. On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam.
on the starboard side. On the port side a red light so
constructed as to show an unbroken light over an arc of
the horizon of ten points of the compass, so fixed as to
throw the light from right ahead to two points abaft the
beam on the port side. The said side lights shall be fitted
with inboard screens of sufficient height so set as to pre-
vent these lights from being seen across the bow.

(3) Motorboats of Class 1 when propelled by sail alone
shall carry the combined lantern, but not the white light
aft, prescribed by this section. Motorboats of Classes 2
and 3 when so propelled, shall carry the colored side
lights, suitably screened, but not the white lights, pre-
scribed by this section. Motorboats of all classes, when so
propelled, shall carry, ready at hand, a lantern or flash-
light showing a white light which shall be exhibited in
sufficient time to avert collision.

(4) Every white light prescribed by this section shall
be of such character as to be visible at a distance of at
least two miles. Every colored light prescribed by this
section shall be of such character as to be visible at a
distance of at least one mile. The word “visible” in this
subsection, when applied to lights, shall mean visible on a dark night with clear atmosphere.

(5) When propelled by sail and machinery any motorboat shall carry the lights required by this section for a motorboat propelled by machinery only.

(c) Any vessel may carry and exhibit the lights required by the Federal Regulations for Preventing Collisions at Sea, one thousand nine hundred forty-eight, Federal Act of October eleven, one thousand nine hundred fifty-one, (33 USC 143-147d) as amended, in lieu of the lights required by subsection (b) of this section.

(d) Every motorboat of Class 1, 2, or 3 shall be provided with an efficient whistle or other sound-producing mechanical appliance.

(e) Every motorboat of Class 2 or 3 shall be provided with an efficient bell.

(f) Every motorboat shall carry at least one life preserver, or life belt, or ring buoy, or other device of the sort prescribed by regulations of the commission for each person on board, so placed as to be readily accessible:

Provided, That every motorboat carrying passengers for
Every motorboat shall be provided with such number, size, and type of fire extinguishers, capable of promptly and effectually extinguishing burning gasoline, as may be prescribed by the regulations of the director, which fire extinguishers shall be at all times kept in condition for immediate and effective use and shall be so placed as to be readily accessible.

The provisions of subsections (d), (e) and (g) of this section shall not apply to motorboats while competing in any race conducted pursuant to section twenty-two of this article or, if such boats be designed and intended solely for racing while engaged in such navigation as is incidental to the tuning up of the boats and engines for the race.

Every motorboat shall have the carburetor or carburetors of every engine therein (except outboard motors) using gasoline as fuel, equipped with such efficient flame arrestor, backfire trap, or other similar device
(j) Every such motorboat and every such vessel, except open boats using as fuel any liquid of a volatile nature, shall be provided with such means as may be prescribed by the regulations of the director for properly and efficiently ventilating the bilges of the engine and fuel tank compartments so as to remove any explosive or inflammable gases.

(k) The director is hereby authorized to make rules and regulations modifying the equipment requirements contained in this section to the extent necessary to keep these requirements in conformity with the provisions of the federal navigation laws or with the navigation rules promulgated by the United States coast guard.

(l) The director is hereby authorized to establish and maintain, for the operation of vessels on the waters of this state, pilot rules in conformity with the pilot rules contained in the federal navigation laws or the navigation rules promulgated by the United States coast guard.

(m) No person shall operate or give permission for the
operation of a vessel which is not equipped as required by this section or modification thereof.

Sec. 16. Motorboats Exempted from Numbering.—A motorboat shall not be required to be numbered under this article if it is:

(1) Already covered by a number in full force and effect which has been awarded to it pursuant to federal law or a federally-approved numbering system of another state: Provided, That such boat shall not have been within this state for a period in excess of ninety consecutive days;

(2) A motorboat from a country other than the United States temporarily using the waters of this state;

(3) Motorboats used exclusively for racing while participating in races, and the preparation therefor, which have been authorized pursuant to the provisions of section twenty-two of this article.

Sec. 17. Dealer and Manufacturer Motorboat Rules and Requirements.—Dealers’ and manufacturers’ certificate of number, containing the word “manufacturer” or “dealer”, as appropriate, may be used in connection with the operation of any motorboat in the possession of such dealer or
6 manufacturer, when the boat is being used for demonstrative purposes. Application for a dealer's or manufacturer's certificate of number shall be made upon a form provided by the director, and shall contain such information as may be required by the director. Upon receipt of the application and upon the payment of a fee of five dollars for the initial certificate of number, and five dollars for each additional certificate of number, the director shall issue to the applicant a manufacturer's or dealer's certificate of number which shall contain the word "manufacturer" or "dealer" in lieu of a description of the boat. The manufacturer or dealer may have the number awarded to him printed upon or attached to a removable sign or signs to be temporarily but firmly mounted upon or attached to the boat being demonstrated, so long as the display meets the requirements of the provisions of this article and regulations issued hereunder.

Sec. 18. Boat Liveries.—(a) The owner of a boat livery shall cause to be kept a record of the name and address of the person or persons hiring any vessel which is designed or permitted by him to be operated as a motor-
boat, the identification number thereof, and the departure
date and time, and the expected time of return. The
record shall be preserved for at least six months.

(b) Neither the owner of a boat livery, nor his agent
or employee, shall permit any motorboat or any vessel
designed or permitted by him to be operated as a motor-
boat to depart from his premises unless it shall have been
provided, either by owner or renter, with the equipment
required pursuant to section fifteen of this article and
any rules and regulations made pursuant thereto.

Sec. 19. *Motorboat Muffling.*—The exhaust of every
internal combustion engine used on any motorboat shall
be effectively muffled by equipment so constructed and
used as to muffle the noise of the exhaust in a reasonable
manner. The use of cutouts is prohibited, except for
motorboats competing in a regatta or boat race approved
as provided in section twenty-two of this article, and for
such motorboats while on trial runs, during a period not
to exceed seventy-two hours immediately preceding such
regatta or race and for such motorboats while competing
in official trials for speed records during a period not to
Sec. 20. Care in Handling Watercraft; Reports.—(a) No person shall operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device in a reckless or negligent manner so as to endanger the life, limb, or property of any person.

(b) No person shall operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana.

(c) It shall be the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as he can do so without serious danger to his own vessel, crew, and passengers (if any), to render to other persons affected by the collision, accident, or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident, or other casualty, and also to give his name, address and identification of his vessel in writing to any person injured and to the owner
of any property damaged in the collision, accident, or other casualty.

(d) In the case of a collision, accident, or other casualty involving a vessel, the operator thereof, if the collision, accident, or other casualty results in death or injury to a person or damage to property in excess of one hundred dollars, shall file with the director a full description of the collision, accident, or other casualty, including such information as the director may, by regulation, require.

In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the director pursuant to subsection (d) of this section shall be transmitted to such official or agency of the United States.

Sec. 21. Handling Water Skis and Surfboards.—(a) No person shall operate a vessel on any waters of this state towing a person or persons on water skis, surfboard, or similar device, nor shall any person engage in water skiing, surfboarding, or similar activity at any time between the hours from one hour after sunset to one hour before sunrise.
(b) The provisions of subsection (a) of this section do not apply to a performer engaged in a professional exhibition, or a person or persons engaged in an activity authorized under section twenty-two of this article.

(c) No person shall operate or manipulate any vessel, tow rope or other device by which the direction or location of water skis, surfboard, or similar device may be affected or controlled in such a way as to cause water skis, surfboard, or similar device, or any person thereon to collide with or strike against any object or person.

Sec. 22. Regattas, Races and Exhibitions; Applications and Permits.—(a) The department may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments or exhibitions on any waters of this state. It shall adopt and may, from time to time, amend regulations concerning the safety of motorboats and other vessels and persons thereon, either observers or participants. Whenever a regatta, motorboat or other boat race, marine parade, tournament or exhibition is proposed to be held, the person in charge thereof, shall, at least fifteen days prior thereto, file an application with the
director for permission to hold such regatta, motorboat
or other boat race, marine parade, tournament or exhibi-
tion. The application shall set forth the date, time and lo-
cation where it is proposed to hold such regatta, motor-
boat or other boat race, marine parade, tournament or
exhibition, and it shall not be conducted without author-
ization of the director in writing.

(b) The provisions of this section shall not exempt any
person from compliance with the applicable federal law
or regulation, but nothing contained herein shall be con-
strued to require the securing of a state permit pursuant
to this section if a permit therefor has been obtained from
an authorized agency of the United States.

Sec. 23. Incapable Operator; Owner Responsibility.—
No person who is the owner of any motorboat, or has such
in his charge or control shall act or permit the same to be
operated by any person who, by reason of any physical or
mental disability, is incapable of operating such motor-
boat under all the prevailing circumstances.

Sec. 24. General Rules and Regulations for Motorboat-
ing; Special Rules.—The director is hereby authorized and empowered to prescribe and to enforce:

(a) General rules and regulations to be observed in the operation or navigation of motorboats upon, over or through the waters of this state which he shall deem necessary for the public health or safety of persons or property on or in such waters, or for the preservation of all forms of useful aquatic life, particularly as to speed, running, lights, signals, courses, channels, rights of way, and the disposal of oil, gas, gasoline or other wastes from such boats;

(b) Special rules and regulations for such particular, artificial or natural areas of water, for further limiting, restricting, or prohibiting the operation or navigation of motorboats thereof to protect the public health or to protect and preserve useful aquatic life.

Sec. 25. Local Rules and Regulations.—(a) The provisions of this article, and of other applicable laws of this state shall govern the operation, equipment, numbering and all other matters relating thereto whenever any vessel shall be operated on the waters of this state, or when any
activity regulated by this article shall take place thereon,
but nothing in this article shall be construed to prevent
the adoption of any ordinance or local law relating to
operation and equipment of vessels the provisions of
which are identical to the provisions of this article,
amendments thereto or regulations issued thereunder:
Provided, That such ordinances or local laws shall be
operative only so long as and to the extent that they con-
tinue to be identical to provisions of this article, amend-
ments thereto or regulations issued thereunder.
(b) Any subdivision of this state may, at any time, but
only after public notice, make formal application to the
director for special rules and regulations with reference
to the operation of vessels on any waters within its terri-
torial limits and shall set forth therein the reasons which
make such special rules or regulations necessary or ap-
propriate.
(c) The director is hereby authorized to make special
rules and regulations with reference to the operation of
vessels on any waters within the territorial limits of any
subdivision of this state.
Article 5. Water Resources.

Section 1. Division of Water Resources; Duties and Functions.—The division of water resources, herein created and established, shall have within its jurisdiction and supervision the state water resources board, the Ohio river valley water sanitation commission from the state of West Virginia, the interstate commission on the Potomac river basin from the state of West Virginia, and the administration and enforcement of all laws relating to slack-water dams, stream and water areas beautification, and the conservation, development, protection, enjoyment and use of the water resources of the state consistent with the provisions of this chapter. The chief of the division shall be primarily responsible for the execution and administration of the provisions of this article as an integral part of the natural resources program of the state and shall organize and staff his division so as to accomplish these ends in an orderly, efficient and economical manner. The division chief shall give consideration to other functions and services of the department and, wherever practicable, shall coordinate the plans and programs of
his division with the functions and services of other divisions, offices and activities of the department.

PART I. WATER RESOURCES BOARD

Sec. 2. Definitions.—Unless the context in which used clearly requires a different meaning, as used in this article:

(a) “Board” shall mean the state water resources board;

(b) “Water resources” shall mean any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds, or diffused water on the surface of the ground, and water percolating, standing or flowing beneath the surface of the ground;

(c) “Domestic use” shall mean any use of water resources by occupants of land for personal need and for household purposes, including (1) uses for drinking, bathing, cooking and sanitation; (2) uses for maintaining poultry and animals kept for household sustenance; (3) uses for maintaining household pets, and (4) uses for heating and cooling private residences and for maintain-
ing noncommercial lawns, gardens, or orchards appurtenant to private residences;

(d) "Commercial use" shall mean any use of water resources other than domestic use;

(e) "Pollution" shall mean the discharge of deposit, directly or indirectly, of sewage, industrial wastes or other substances, in such condition, manner or quantity as may contaminate or alter the physical, chemical or biological properties of any of the waters of the state to such extent as to render such waters directly or indirectly detrimental to the public health or unreasonably and adversely affect such waters for present or future domestic, commercial, industrial, agricultural, recreational or other legitimate uses; and

(f) "Person" shall mean any and all persons natural or artificial, including any municipal or private corporation organized or existing under the laws of this or any other state or country, any county court, governmental institution, agency or political subdivision as well as any firm or association.
Sec. 3. Water Resources Board; Creation, Composition, and Organization.—A state water resources board is hereby created and established as successor to the state water commission and the state water resources commission. It shall be a public corporation and as such may sue and be sued, plead and be impleaded, contract and be contracted with and shall have and use a common seal. The board shall be composed of the state director of health, the superintendent of the state geological and economic survey, the director of the department of natural resources and four other members to be appointed by the governor with the advice and consent of the senate. The director of the department of natural resources shall be the chairman of the board. Members of the commission in office at the effective date of this section shall continue in office as members of the board until the new appointees have been appointed and qualified. The terms of office of the members of the board to be appointed by the governor shall be for six years. The first appointments made under the provisions of this section shall be as follows: Two members for three years and two members for six years;
as these terms expire the offices shall be filled for six-
year terms. The members of the board shall receive no
salary or remuneration for their services as such board
members but they shall be reimbursed, out of moneys
appropriated for such purposes, all sums which they nec-
essarily shall expend in the discharge of their duties as
members of such board. The director of the division of
sanitary engineering in the state health department shall
perform such services as the board may request of him in
connection with its duties hereunder and he shall be reim-
bursed, out of moneys appropriated for such purposes, all
sums which he necessarily shall expend in the perform-
ance of such services. Nothing contained in this article,
however, shall be construed to limit or interfere with the
power of the state health department to select, employ
and direct the director of the division of sanitary engi-
neering of said department, or any employee thereof who
in any way may perform any services for the board. The
college of engineering at West Virginia university, under
the direction of the dean thereof, shall, insofar as it can,
without interference with its usual and regular activities,
aid and assist the board in the study and research of questions connected with pollution of waters. The dean of the college of engineering shall be reimbursed out of moneys appropriated for such purposes, any and all sums which he necessarily shall expend in the performance of any services he may render to the board under the provisions hereof.

A majority of the board shall constitute a quorum for transaction of business. The board shall meet at such times and places as it may determine and shall meet on call of the chairman. The board shall keep an accurate record of all of its proceedings and maintain such board records and shall make certificates thereof or therefrom as may be required by law. The chief of the division of water resources shall be the executive secretary of the board.

Sec. 4. Board Functions, Services and Reports.—The board shall make surveys and investigations of the water resources of the state and, as soon as practicable, shall inventory the water resources of the state and to the extent practicable shall divide the state into watershed
6 drainage areas in making this inventory. The board shall
7 investigate and study the problems of agriculture, indus-
8 try, conservation, health, stream pollution, domestic and
9 commercial uses and allied matters as they relate to water
10 resources of the state, and shall make and formulate com-
11 prehensive plans and recommendations for the further
12 development, improvement, protection, preservation, reg-
13 ulation and use of such water resources, giving proper
14 consideration to the hydrologic cycle in which water
15 moves. Annually, not later than the first of November,
16 the board shall prepare and publish a full report on the
17 board's work as to collection and evaluation of the infor-
18 mation which has been obtained in accordance with the
19 requirements of this section and shall include in this re-
20 port the plans and recommendations which have been
21 formulated pursuant to the requirements of this section.
22 The report shall include the board's reasons for such plans
23 and recommendations, as well as any changes in the law
24 which are deemed desirable to effectuate such plans and
25 recommendations. Such reports shall be made available
26 to the public at a price to be determined by the board.
The board may request and, upon its request, shall be entitled to receive from any agency of the state or any political subdivision thereof, or from any other person who engages in a commercial use or controls any of the water resources of the state such necessary information and data as will assist the board in obtaining a complete picture of the water resources of the state and their existing control and commercial uses. The board shall reimburse such agencies, political subdivisions and other persons for any expenses which would not otherwise have been incurred in making such information and data available to the board.

The board shall study questions arising in connection with stream flow and pollution of waters in the state and make reports and recommendations in respect thereto; and, in cooperation with the college of engineering at West Virginia university, make research, investigate and scientific experiments in efforts to discover economical and practical methods for elimination, disposal and treatment of industrial wastes and the control and correction of stream pollution; and to this end the board may co-
operate with any public or private agency and receive therefrom, on behalf of the state, and for deposit in the state treasury, any money which such agency may contribute as its part of the expense thereof, and gifts, donations or contributions received as aforesaid may be expended according to the requirements or directions of the donor or contributor without the necessity of an appropriation therefor, except that an accounting thereof shall be made in the fiscal reports of the board.

Sec. 5. Board Powers and Duties.—In addition to all other powers and duties of the board as prescribed in this article or elsewhere by law, the board shall have and may exercise the following powers and authority and perform the following duties:

1. To enter into compacts and agreements concerning this state's share of waters in watercourses where a portion of such waters are contained within the territorial limits of a neighboring state or states, subject to the approval of the legislature;

2. To cooperate with federal officers and agencies, other state agencies and officers, interstate agencies, and
other interested persons in the conservation, improvement
and development of water resources, and to this end the
board may receive money from such agencies and persons,
on behalf of the state: Provided, That all moneys received
as provided in this subsection shall be paid into a special
fund which is hereby created in the state treasury and
shall be expended, under the direction of the board, solely
for the purpose or purposes for which the grant, gift, or
contribution shall have been made;

(3) To conduct, or contract for the conducting of, sci-
entific investigations, experiments and research and to
collect data concerning the water resources of the state
and pollution;

(4) To enter at all reasonable times upon any land,
public or private, for the purpose of making surveys,
examinations, investigations and studies needed in the
gathering of facts concerning water resources and their
use or pollution thereof, subject to responsibility for any
damage to the property entered;

(5) To hold public hearings pursuant to rules and
regulations established by the board, to obtain the neces-
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34 sary information to carry out the purposes of this article,
35 particularly with reference to the formulation of plans
36 and recommendations required by the provisions of sec-
37 tion four of this article and, at any such hearing, the board
38 or its duly authorized agents, shall have the power to
39 administer oaths, to take testimony, to issue subpoenas
40 and to compel the attendance of witnesses; and
41 (6) To advise all users of water resources as to the
42 availability of water resources and the most practicable
43 method of water diversion, use, development, and con-
44 servation.

Sec. 6. Condemnation; Pollution Control.—All persons
2 not otherwise having the right to condemn lands to ef-
3 fectuate the purposes of this article shall be vested with
4 the right of eminent domain under the provisions of chap-
5 ter fifty-four of the code of West Virginia, one thousand
6 nine hundred thirty-one, as amended, upon application to
7 the board for and the entry by the board of an order find-
8 ing that the use by the applicant of a specified interest in
9 a specifically described parcel of land is necessary in con-
10 nection with the elimination or control of a substantial
pollution or the substantial reduction of the pollution of any of the waters of the state and directing the applicant to put the said land to use for such purpose within a reasonable time after the acquisition of title or the right of possession thereof.

Sec. 7. Cooperation with Other Governments and Agencies.—The board is hereby designated as the water pollution agency for this state for all purposes of the Water Pollution Control Act, Public Law 845, 80th Congress (62 Stat. 1155) approved June thirtieth, one thousand nine hundred forty-eight, hereinafter called the "federal act", and is hereby authorized to take all action necessary or appropriate to secure to this state the benefits of said act. In carrying out the purposes of this section the board, in addition to any other action which may be necessary or appropriate, is authorized to cooperate with the surgeon general of the United States public health service and other agencies of the federal government, other states, interstate agencies and other interested parties in all matters relating to water pollution, including the development of programs for eliminating or reducing pollution and improving the sanitary conditions of waters, on be-
half of this state to apply for and receive funds made
available to the board under the aforesaid federal act by
any agency of the federal government: Provided, That all
moneys received from any federal agency as herein pro-
vided shall be paid into the state treasury and shall be
expended, under the direction of the board, solely for the
purpose or purposes for which the grant or grants shall
have been made; to approve projects for which applica-
tion for loans or grants under the federal act is made by
any municipality (including any city, town, district or
other public body created by or pursuant to the laws of
this state and having jurisdiction over disposal of sewage,
industrial wastes or other substances) or agency of this
state or by any interstate agency; to participate through
its authorized representatives in proceedings under the
federal act to recommend measures for abatement of
water pollution originating in this state; to give consent
on behalf of this state to requests by the federal security
administrator to the attorney general of the United States
for the bringing of suits for abatement of such pollution;
and to consent to the joinder as a defendant in such suit
of any person who is alleged to be discharging matter
contributing to the pollution, abatement of which is
sought in such suit. Whenever a federal law requires the
approval or recommendation of a state agency or any
political subdivision of the state in any matter relating
to the water resources of the state, the board, subject to
approval of the legislature, is hereby designated as the
sole agency to give the approval or recommendation re-
quired by the federal law, unless the federal law spe-
cifically requires the approval or recommendation of some
other state agency or political subdivision of the state.

Sec. 8. *Pollution Abatement and Control; Reports; Per-
mits; Citations.*—Any and all persons causing a material
contribution of sewage, industrial wastes or other pol-
luting substances to the waters of the state shall file with
the board such information as the board may require
with regard thereto, including, but not limited to, the
kind, characteristics and rate of flow.

No person shall, without first securing a permit from
the board, construct, install or operate a new sewer, dis-
posal system or treatment works; extensions, modifica-
tions or additions to new or existing disposal systems or
treatment works; extensions, modifications or additions
to industrial or commercial establishments or the opera-
tion thereof, or make or cause to be made any new outlet,
or to add to the load from any existing outlet; which
would cause a material pollution of the waters of the state.
For the purposes herein, the board may issue temporary
or conditional permits and renew, change, modify, amend
or revoke the same. Any person who is denied a permit
by the board, or who has such permit revoked or modified
shall be afforded an opportunity for hearing in connection
therewith, as hereinafter provided, upon written appli-
cation filed with the board within twenty days of receipt
of such denial, revocation or modification, which notice
shall be communicated to the board by registered mail,
addressed to its chairman or secretary, and upon any
other persons affected, personally or by registered mail.
All such applications for permits primarily relating to
sewage shall be submitted to the state department of
health in such form as shall have been approved by both
the board and the department of health. After the deci-
sion by the state department of health in regard thereto and the reasons have been noted therein, the application, the notation of the health department's decision and other papers making up the file shall be forwarded by the department of health to the board. The board's permit or other decision shall be returned with the entire file to the state department of health, which shall notify the applicant in writing of the decisions of both the health department and the board, enclosing certificates where granted, and shall deliver to the board a copy of such notification.

The procedures prescribed and detailed in this section shall not be employed or construed to impede, interfere with, delay or prevent prompt and expeditious action by the director, the attorney general, any prosecuting attorney, or other natural resources authority acting under other provisions of this chapter when such prompt and expeditious action is, in the opinion and judgment of the acting authority, necessary to prevent or abate water pollution.

Any person causing the pollution of any water, or alleged to be causing the pollution of any water, may be
cited by the board on its own motion, or by any member thereof, or the executive secretary on his own motion, to appear not less than fifteen nor more than thirty days from the date of service of such citation at a place designated by it, within the county wherein the pollution is alleged to have occurred or is being caused, then and there to show cause, if any shall exist, why said board should not issue an order regulating such pollution, and any persons affected by such pollution may by petition intervene as a party complainant or respondent in any proceeding instituted by or before the board. Such citation may be issued by the board or any member thereof, or its executive secretary, and may be served and returned in the same manner as process in any civil action, or it may be served by sending a copy thereof by registered mail addressed to the person causing, or alleged to be causing, any pollution of any water, at his, their or its usual, or last known, post office address. The hearings herein provided may be conducted by the board, any member thereof, or its executive secretary, or any person authorized to take depositions by the laws of this state: Provided, That
where any such hearing is not conducted by the board,
all the testimony shall be reduced to writing as provided
by law applicable to the taking of depositions, the cost
thereof to be borne by the party presenting the same, and
all findings in connection therewith shall be made by the
board at a meeting to be called by its chairman not less
than thirty days after conclusion of its hearing. Any
member of the board or its executive secretary may issue
any subpoena, administer oaths and cause the attendance
of witnesses, the production of evidence and testimony in
any proceeding, subject to the same conditions as are pro-
vided by the general statutes for the attendance of wit-
nesses and the production of evidence and testimony in
civil actions.

Sec. 9. Pollution Orders; Procedure; Enforcement.—
After a full hearing the board shall make its finding of
facts, and if it finds that any person is polluting any of the
waters of the state, or that the construction, installation
or operation of any new sewer, disposal system or treat-
ment works, extensions, modifications or additions to new
or existing disposal systems or treatment works, exten-
sions, modifications or additions to industrial or commercial establishments or the operation thereof, or any new outlet or additional load from any existing outlet would cause a material pollution of the waters of the state, and that the same should be prevented, eliminated, controlled or reduced, considering the purposes of this article, the amount and effect of such pollution, the practicality and physical and economic feasibility of eliminating, controlling or reducing such pollution, the health and welfare of the public and other present and future uses of the waters of the state, it shall make and enter an order directing such person to cease such pollution, or shall make and enter an order denying any permit being sought under the provision of section eight of this article, and such person shall have thirty days after notice of the entry of such final order to notify the board that he will comply therewith or will install, use and operate some practical and reasonably available system or means which will so eliminate, control or reduce such pollution, having regard for the rights and interests of all persons concerned, and if such person does not so comply with such
order, thereafter the board may cause the enforcement of any order issued by it to cease such pollution and, as well all other orders entered by it in matters subject to its jurisdiction, by application to the circuit court of any county wherein the alleged pollution originated or naturally flows or to any judge of such court if the same shall be in vacation, to enjoin any persons from causing or continuing such pollution, which application shall be brought and the proceedings thereon conducted by the attorney general through his assistant as provided in section thirteen of article one of this chapter or by the prosecuting attorney of the county wherein such proceedings may be pending, or by special counsel employed by any intervening complainant petitioner. If any person notifies the board that he will comply with such final order by installing, using and operating some practical and available system to so eliminate, control or reduce such pollution, and makes application for an extension of time, the board within reasonable limits may grant such extension of time. The person against whom such order shall be issued shall, before proceeding to install any sys-
tem or means, submit to the board, for its consideration
and approval, a plan or statement describing the system
or means which is proposed to be used or operated; if any
person shall desire to make any substantial change in any
system or means used or operated, such person shall, be-
fore making such change, file with the board for its con-
sideration and approval a plan or statement describing
such proposed change, together with application for the
action of the board thereon and in respect thereto. The
board shall, in any case, enter an order approving or dis-
approving any such system or means proposed to be used
or operated, or permit or refuse to permit the proposed
change in any system or means adopted, used or operated,
and shall make and enter all such orders as the board
deems proper and necessary. Any order of the board may,
at any time after at least twenty days' notice in writing
to any person affected thereby and any intervening pe-
titioner, and after a hearing thereon, be modified or re-
voked by an order entered by the board and the board
shall forthwith cause an attested copy of any order en-
tered by it to be served upon all persons affected thereby
in the same manner as writs or summons in civil actions may be served, or by sending the same by registered mail to such person, or intervenor, at his, their or its usual or last known post office address.

Sec. 10. Compliance with Orders; Finances and Funds; Procedures.—Any person, corporation, municipal corporation, partnership or legal entity, upon whom a final order of the board as herein provided is served, which order shall not have been set aside by a court of competent jurisdiction upon complaint filed as herein provided or upon whom a final order is served as modified to conform with a judgment of such court directing modification, shall, within thirty days after receipt of such order, or after judgment affirming such order is entered, take steps for the acquisition or construction of such plants, machinery or works, or for such repair, alteration or extension of existing plants, machinery or works, as may be necessary for the disposition or treatment of the organic or inorganic matter which is causing or contributing to, or is about to cause or contribute to, a polluted condition of such water or waters, or shall take such other steps as
may be necessary to comply with said final order of the board. If the offender be a municipal corporation, the cost of acquisition, construction, repair, alteration or extension of the necessary plant, machinery or works, or taking such other steps as may be necessary to comply with said order, shall be paid out of funds on hand available for such purpose, or out of the general funds of such municipal corporation, not otherwise appropriated; or if there be not sufficient funds on hand or unappropriated, then the necessary funds shall be raised by issuance of bonds, such bond issue to be subject to the approval of the state sinking fund commission and the attorney general of the state of West Virginia.

If the estimated cost of the steps necessary to be taken by such municipal corporation to comply with such final order of the board is such that the bond issue necessary to finance such project would not raise the total outstanding bonded indebtedness of such municipal corporation in excess of the constitutional limit imposed upon such indebtedness by the constitution of this state, then and in that event the necessary bonds may be issued as a direct
obligation of such municipal corporation, and retired by a
general tax levy to be levied against all property within
the limit of such municipal corporation listed and assessed
for taxation. If the amount of such bonds necessary to be
issued would raise the total outstanding bonded indebted-
ness of such municipal corporation above said constitut-
ional limitation on such indebtedness, or if such municipal
corporation by its governing body shall determine against
the issuance of direct obligation bonds, then such munici-
pal corporation shall issue revenue bonds and provide for
the retirement thereof in the same manner and subject
to the same conditions as provided for the issuance and
retirement of bonds in chapter twenty-five, acts of the
legislature, first extraordinary session, one thousand nine
hundred thirty-three: Provided, however, That the pro-
visions of section six of the above mentioned act, allowing
objections to be filed with the governing body, and pro-
viding that a written protest of thirty per cent or more
of the owners of real estate shall require a four-fifths vote
of the governing body for issuance of said revenue bonds,
shall not apply to bond issues proposed by any municipal
corporation to comply with the final order issued by the board, under the authority of this article, and such objections or submission of written protest shall not be authorized, nor shall the same, if had, operate to justify or excuse failure to comply with such final order of the board.

The funds made available by the issuance of either direct obligation bonds or revenue bonds, as herein provided, shall constitute a "sanitary fund", and shall be used for no other purpose than for carrying out such order or orders of the board; no public money so raised shall be expended by any municipal corporation for any purpose enumerated in this article, unless such expenditure and the amount thereof has been approved by the board.

Sec. 11. Municipal Projects; Finances; Law Controlling.

—The construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works by any municipal corporation, in compliance with a final order of the board, as herein provided, other than the financing thereof, and the rights, powers and duties, of such municipal corporation and the respective officers and departments thereof, whether the
same shall be financed by the issuance of revenue or direct
obligation bonds, shall be governed by the provisions of
said chapter twenty-five, acts of the legislature, first ex-
traordinary session, one thousand nine hundred thirty-
three.

Sec. 12. Time of Compliance; Procedures; Penalties.—

It shall be the duty of each individual offender and of each
member of a partnership, and of each member of the
governing body of a municipal corporation, and of each
member of the board of directors or other governing body
of a private corporation, association or other legal entity,
against whom a final order has been issued, as herein pro-
vided, to begin appropriate action or proceedings to com-
ply with such order, within thirty days from the receipt
thereof, if no action has been commenced in the circuit
court of the county where such violation is alleged to
exist to set aside or vacate such order, as provided in this
article, or, in case such action has been brought, within
thirty days from the date of judgment affirming such
order, or from the date of the receipt of such order, as
modified in conformity with the judgment of such court.
Failure of the governing body in the case of a municipal corporation, or of the board of directors or any other governing body of any private corporation, association or other legal entity, to provide for the financing and construction of such works as may be necessary to carry out said order by appropriate ordinance or resolution, shall constitute failure to begin appropriate action or proceedings to comply with such order, as above provided. Any individual offender, or member of a partnership, or any officer or member of the board of directors or a private corporation, association, or other legal entity, or any mayor, councilman or member of sanitary board as provided for in said chapter twenty-five, acts of the legislature, first extraordinary session, one thousand nine hundred thirty-three, of any municipal corporation, who fails or refuses to discharge any duty imposed upon him by this act or by such final order of the board, or any duty imposed upon him by reason of any ordinance of the governing body of any municipal corporation, or resolution of the board of directors or other governing body of any private corporation, association or other legal entity, pur-
suant to this act or to such final order, shall be deemed

 guilty of a misdemeanor, and, upon conviction thereof,

 shall be fined in any sum of not less than twenty-five

dollars nor more than one hundred dollars, to which, in

 the discretion of the court, may be added imprisonment in

 the county jail for any period not to exceed ninety days.

 Each day that such failure or refusal to discharge such
duties continues, shall be and constitute a separate and

 additional offense for the purposes of this section.

 Sec. 13. Time Extension; Procedures; Penalties.—The

 board shall have the authority, in its discretion, to extend

 the time fixed in any final order issued by it, within which

 any offender is ordered to correct or abate a condition of

 pollution of any water or waters, upon written petition

 filed with the board not less than thirty days prior to the

 time fixed in such order, when it shall appear that a good

 faith effort to comply with said order is being made, and

 that it shall be impossible for such an offender to complete

 the project of work undertaken within the time so fixed:

 Provided, however, That when it shall appear from such

 petition aforesaid that due to wartime or other govern-
mental restrictions with respect to labor or material, or
both, compliance with any such order would be impossible
or place undue burden upon such offender, the board shall
then stay the execution of its order until such time as it
may satisfactorily appear that such wartime or other re-
strictions no longer exist.

Any person, corporation, municipal corporation, part-
nership, association or other legal entity, who shall fail
or refuse to correct or abate such polluted condition in
compliance with such order within the time fixed or
within the time additionally granted as herein provided,
shall be subject to a penalty of one hundred dollars for
each day that such polluted condition continues to exist
after the time so fixed, or additionally granted, which may
be recovered in a civil suit brought in the name of the
state of West Virginia and which penalty shall be in
addition to the penalty provided in section twelve of this
article. It shall be the duty of the attorney general to
prosecute all actions for penalties under this section, and
all penalties so recovered shall be paid into the state treas-
ury to the credit of the state fund as general revenue. The
Sec. 14. Judicial Review.—Any party feeling aggrieved by the entry of a final order by the board, affecting him or it, may present a petition in writing to the circuit court of the county wherein the pollution originated or naturally flows, or to the judge of such court in vacation, within thirty days after the entry of such order, praying that such final order may be set aside or modified. The applicant shall deliver a copy of such petition to the secretary of the board before presenting the same to the court or judge. The court or judge shall fix a time for the hearing on the application, but such hearing, unless by agreement by the parties, shall not be held sooner than five days after its presentation; and notice of the time and place of such hearing shall be forthwith delivered to the secretary of the board, so that the board may be represented at such hearing by one or more of its members or by counsel. For such hearing the board shall file with the
clerk of said court all papers, documents, evidence and records or certified copies thereof as were before the board at the hearing or investigation resulting in the entry of the order from which the petitioner appeals. The board shall file with the court before the day fixed for the final hearing a written statement of its reasons for the entry of such order, and after arguments by counsel the court shall by order entered of record, affirm, modify or set aside in whole or in part the order of the board. Upon such judicial review, the findings of fact made by the board shall have like weight to that accorded to the findings of fact of a trial chancellor or at any equity procedure. The supreme court of appeals of the state shall have jurisdiction to review the order of the circuit court upon application of either party or any intervener. The prosecuting attorney of the county wherein the proceedings in the circuit court are had, or the attorney general through his assistant as provided in section thirteen of article one of this chapter, shall represent the board and the attorney general of the state shall represent it in any proceedings in the supreme court of appeals and any inter-
vener may be represented by counsel specially employed.

PART II. SLACK-WATER DAMS

Sec. 15. Slack-Water Dams; Location and Construction.

The state road commissioner, in constructing public highways, bridges and culverts, as provided by law, and any municipal corporation constructing or improving public streets, viaducts, bridges and culverts, either severally or jointly, upon request of the director of the department of natural resources and with the approval of the state road commissioner, may construct and maintain slack-water dams in connection with such public highways, streets, bridges, culverts or viaducts so as to create reservoirs, ponds, water parks, basins, lakes or other incidental works to conserve the water supply of the state.

Sec. 14. Dam Construction Initiated; Costs; Plans.—The director may request the public authority having charge of the construction of state highways, highway bridges, and culverts or municipal streets, viaducts, bridges and culverts for the construction of slack-water dams in connection with the construction of any such public highway, street, bridge, viaduct or culvert whenever, in his opinion,
the construction of such dam is desirable and feasible for
the economical creation and construction of reservoirs,
ponds, water parks, basins, lakes or other incidental works
for the conservation of the water supply of the state.
The public authority having charge of such construction
may approve such request when, in its opinion, the con-
struction of such dams will not unnecessarily delay or
hinder the construction of the public highway, street,
bridge, viaduct or culvert, or will not interfere with its
value or use for highway purposes.
If such request is approved, the director, in cooperation
with the state road commissioner and the public authority
participating in the project, shall make a survey and pre-
pare plans, specifications and estimates for the construc-
tion of such dams, reservoir, pond, water park, basin,
lake or other incidental works in connection there-
with.
Upon approval of the plans and specifications and de-
termination to proceed with the project, the director shall
enter into an agreement with the public authority on the
distribution of the cost and expense of the construction of
such dams and incidental works in connection therewith. The portion of the cost to be paid by the department shall be paid from any funds appropriated for or paid into the department and available for such purpose. No public authority shall proceed with the construction of such a project unless the plans have complied with the other requirements of law relative to the construction of dams and the director shall have satisfied the public authority that sufficient funds are available for the completion of the dam.

Such dams shall be constructed under and subject to any laws governing the construction of state, county or municipal highways, streets, viaducts, bridges or culverts. Any public authority undertaking construction pursuant to this article shall proceed in the same manner as provided for the construction of public highways or street improvements.

Nothing herein contained shall require the public authority so concerned to delay or postpone the construction of the principal public improvement, though approval of the combined project may have been given.
Sec. 17. Requests to Director for Dam Construction;

Costs; Procedure.—Any department or division of the state government or any county, municipal corporation, park board or district or any organization, club, corporation, or private person may petition the director for the construction of dams and reservoir projects in connection with the construction of any public highway, bridge, culvert, street or viaduct.

Upon receipt of such a petition and its approval by the director, the director shall proceed as authorized by section sixteen of this article. If the public authority having charge of the construction of such public highway, street, bridge, viaduct or culvert approves the request, then the director shall enter into an agreement with the public authority, organization or persons petitioning for the construction of such dam or reservoir on the apportionment of the cost and expense of construction. The cost and expense of such dam project shall include the cost of clearing and grubbing and the cost of property and damages incidental thereto. Such agreement shall also contain provisions for the proper maintenance and repair of such
projects after completion and also apportion the revenue
derived therefrom between the department and the pe-
titioner.

Sec. 18. Payment of Dam Costs; Deficiencies and Re-
funds.—In all cases in which a public authority, private
organization or person shall petition for the construction
of a dam and reservoir project as authorized by this arti-
icle, the director, as a condition precedent to the construc-
tion of such project, shall require the petitioning author-
ity, organization or person to pay his share of the cost and
expense of such project into the hands of the treasurer of
the state to be kept in a separate account for each such
project and to be disbursed upon the order of the director.
If the estimated cost paid into the state treasury is found
to be insufficient, the deficiency shall be made up by the
parties bearing the cost before any further work is done.
If the deficiency is not made up within sixty days after
notice to such parties, the cost paid in, less the amount of
expense incurred by the director and the cooperating pub-
lic authorities shall be refunded to the donor. After com-
pletion of the work, any amount remaining in the state
tury to the credit of the project shall likewise be
refunded.

Sec. 19. Contracts for Dam Construction.—In the con-
struction of dams, reservoirs and other incidental works
pursuant to this article, the state road commissioner or
the public authority of a municipality shall proceed as
provided by law and shall enter into contracts as pro-
vided by law.

Sec. 20. Dam Supervision, Maintenance and Manage-
ment.—The director shall have the supervision, care and
control of all dams, reservoirs, ponds, water parks, basins,
lakes or other incidental works constructed pursuant to
this article and shall maintain and keep them in repair.
The cost of such maintenance and repair shall be paid
from any funds appropriated to the department for that
purpose or paid into the state treasury as agreed upon
with the public or contracting authorities cooperating in
the construction of such projects.
Such projects may also be maintained by any department
or division of state government or other public author-
ities leasing or operating the projects, through agreements
made with said director. All rentals derived from the
leases of such projects shall be used by said director in
the maintenance or repair of all such projects. The costs
and expenses of the reconstruction of any such projects
shall be distributed, unless otherwise agreed, on the same
basis and pro rata share of the costs and expenses as was
paid by the contracting authorities to the cost of the origi-
nal project: Provided, however, That the state road com-
mission shall not be required to contribute any portion
of the cost of maintaining or repairing any dam, reservoir,
pond, water park, basin, lake, or other incidental work
when the maintenance of the road, bridge, or culvert
would not have required such expenditure if it were not
for the installation of the project or projects by this article
contemplated.

Sec. 21. Titles and Leases to Lands; Management and
Funds.—The title or lease to any such lands, waters or
riparian rights shall be taken by the department, subject
to the approval of the governor and the attorney general,
in the name of the state. The lease rentals or purchase
price of any such lands, waters or riparian rights, as well
as all costs and expenses of constructing any such reservoirs, ponds, water parks, basins, lakes or other incidental works on such lands, may be paid for from any funds appropriated for the use of or paid into the department and available for such purpose. The director may accept contributions to such funds from individuals, associations, clubs, organizations and corporations to effectuate the purposes of this article.

Sec. 22. Future Plans for Road and Other Construction; Coordination.—Upon request by the director, the state road commissioner or other public authority shall furnish such director plans under way or contemplated for the construction of new public highways, bridges, culverts, viaducts, or streets; and thereupon, it shall become the duty of the director to coordinate the plans of the department, if any, with the state road commission or other public authority to the end that such additional project shall not cause a delay in or interfere with the construction of the principal project, and to the end that such additional project shall, in all respects, be in conformity with recognized road construction standards and practices.
PART III. HUSBANDRY OF WATER AREAS

Sec. 23. Water Areas Beautification; Investigations;

Enforcement.—The division of water resources shall be
responsible for the department's program and practices
in the husbandry of rivers, streams, creeks, lakes, ponds,
except farm ponds and other water areas and the lands
immediately adjacent thereto. The chief of the division
shall make such investigations and surveys, conduct such
schools and public meetings and take such other steps as
may be expedient in the conservation, beautification, im-
provement and use of all such water areas of the state. He
shall cooperate with the department's chief law enforce-
ment officer in enforcing the provisions of law prohibiting
disposal of litter in, along and near such water areas.

Sec. 24. Litter Along Streams; Violations; Evidence;

Penalties.—It shall be unlawful to place, deposit, dump or
throw, or cause to be placed, deposited, dumped or thrown,
any litter, garbage, refuse, trash, cans, bottles, papers,
ashes, carcass of any dead animal, offal or any other offen-
sive or unsightly matter into any river, stream, creek,
lake or pond, or upon the surface of any land within one
hundred yards thereof or in such location that high water or normal drainage conditions will cause material designated in this section to be washed into any river, stream, creek, lake or pond.

No portion of this section shall be construed to restrict a private owner or lessee in the use of his own private property or leased property or to prohibit the disposal of materials designated in this section in any manner authorized by law. But if any owner, renter or lessee, private or otherwise, knowingly permits such material, heretofore designated in this section, to be deposited, dumped or thrown in such location that high water or normal drainage conditions will cause such material to wash into any river, stream, creek, lake or pond, it shall be deemed prima facie evidence that such owner, renter, or lessee intended to violate this section. The provisions of this section shall not apply to persons, firms or corporations subject to the jurisdiction of the state water resources board under provisions of this article.

In addition to enforcement by the director, provisions of this section may be enforced by the United States for-
Any person violating any provision of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than twenty nor more than five hundred dollars, or be imprisoned in the county jail for a period of time not exceeding six months, or, in the discretion of the court, may be subject to both such fine and imprisonment.

Article 6. Reclamation.

Section 1. Division of Reclamation; Duties and Functions; State Agriculturist, His Compensation and Duties.—

The division of reclamation, herein created and established, shall have within its jurisdiction and supervision all lands and areas of the state surfaced mined or susceptible of being surfaced mined for the removal of coal and other minerals and all other lands and areas of the state deforested, burned over, barren or otherwise denuded, unproductive, and subject to soil erosion and waste, except land being utilized in the production of agricultural commodities. Included within such lands and areas shall be...
lands seared and denuded by chemical operations and
processes abandoned coal mining areas, swamplands, lands
and areas subject to flowage easements and backwaters
from river locks and dams, and river, stream, lake and
pond shore areas subject to soil erosion and waste. The
jurisdiction and supervision exercised by the division
shall be consistent with other provisions of this chapter,
shall be in cooperation with other offices and divisions of
the department, and shall not interfere with or encroach
upon powers, functions and services lawfully within the
jurisdiction of the government of the United States.

The chief of the division shall organize and staff his di-
vision for the orderly, efficient and economical execution
and administration of the provisions of this article as an in-
tegral part of the department’s natural resources program.

Upon request of the director of the department of nat-
ural resources, the director of the West Virginia agricul-
tural experiment station at West Virginia University shall
select and designate a competent and qualified person to
be state agriculturist who shall serve in a liaison and ad-
visory capacity between the experiment station and the
department in agricultural reclamation programs and projects. The state agriculturist shall be a graduate of an accredited school or college of agriculture, shall have had at least five years' practical experience in agricultural work. The director of the experiment station shall fix the state agriculturist's salary, which shall be paid from university funds, and shall arrange on the university campus for adequate office facilities, stenographic and clerical assistance, and such other supplies and materials as needed by the state agriculturist. When performing services for the department of natural resources, his travel expenses shall be paid from department funds. The state agriculturist shall study and develop agricultural reclamation programs and projects consistent with the provisions of this chapter, and, under the supervision and direction of the directors of the experiment station and the department of natural resources, shall plan, effect and prosecute programs, projects and activities for the reclamation and restoration of lands of the state for agricultural uses and purposes.

Sec. 2. Surface Mining of Coal.—The terms surface
mining or strip mining of coal, as herein used, shall mean
the mining of coal by any method from an open cut or
open pit from which the overburden or surface materials
have been removed or stripped so as to expose the coal in
place. The term shall not be construed to include con-
ventional deep mining and auger mining.
Surface mining of coal, as an industrial enterprise and
occupation, shall be within the jurisdiction and subject to
regulations of the state department of mines, as provided
in article two-a, chapter twenty-two of this code, but the
department of natural resources shall have jurisdiction
and control over issuance of all surface mining permits,
land and soil aspects of all surface mining operations, and
the restoration and reclamation of all lands and areas sur-
face mined, partially surface mined, and affected by ad-

cjacent or nearby surface mining operations.
Personnel of the department of mines and of the de-

dpartment of natural resources shall correlate and coordi-
nate their respective departmental programs and records
so as to effect an orderly and harmonious administration
of the provisions of this article.
Sec. 3. Performance Bond.—It shall hereafter be unlawful for any person, firm or corporation to engage in the surface mining of coal without having first obtained from the director of the department of mines a permit therefor as provided in section three, article two-a, chapter twenty-two of the code. Before issuance of such permit the director of the department of natural resources shall certify to the director of the department of mines that such applicant for said permit has posted a bond with satisfactory corporate surety, in a penalty of five hundred dollars for each acre or fraction thereof covered by said permit with a minimum of one thousand dollars, conditioned upon the faithful performance of the requirements contained in section four hereof.

Sec. 4. Duties of Operators; Requirements; Procedures.

—It shall be the duty of each operator to: (1) Cover the face of the coal and so far as practicable, bury all roof coal and pyritic shales; (2) seal off with an earth fill any breakthrough to underground workings in the coal; (3) drain all the surface involved in the mining operation and provide such outlets as may be necessary to conduct
storm and seepage waters from such surface to a permanent stream or stream bed with as little erosion as possible; (4) remove all metal, lumber and other refuse resulting from the operation; (5) regrade, in a manner approved by the director and the agriculturist, the overburden or other strata removed from the coal so as to refill any ditches, trenches or excavations made in the mining operation, in order to minimize the hazards of floods, pollution of streams and water, accumulation of stagnant water, and the loss of soil for agricultural, forestry or grazing purposes, but any lands upon which stripping operations are conducted, which are not used for agricultural or grazing purposes, and in the opinion of the agriculturist, are not adapted therefore, shall be exempted from the provisions of this requirement by the director in the exercise of his sound discretion; and (6) to plant trees, shrubs, grasses or vines upon the land affected in such a manner so as to establish a satisfactory cover on the land in compliance with rules and regulations approved and adopted by the director or to offer to deposit with the soil conservation district, in
which the operation covered by such permit is located, a sufficient amount of money to reclaim the area of the permit, as estimated by the district. If the offer is accepted by the district and the deposit made with the district, and approved by the director, the district then assumes the responsibility for the reclamation work. If the district assumes responsibility for the reclamation work, the director shall release the bonds.

If the operator, landowner or coal owner, including the lessee, desires to conduct drift mining upon the premises, he may designate drift locations, and also outside haulage ways along the exposed face of the coal, at which places it will not be necessary to replace the overburden on the haulage way to the coal until such mining is completed.

For failure to do all the things required of the operator within one year after the completion of the mining operation on the land covered by the permit, and after receipt of a thirty-day notice in writing from the director, which notice may be sent by registered or certified mail, that any one or more of such things have not been done, the
permit covering the particular operation and any other
surface mining permits that may have been issued to the
operator involved shall be revoked by the director and the
performance bond shall be forfeited, unless such operator
shall comply with the provisions of this section within
said thirty-day period.

Any operator whose surface mining permit has been
revoked shall not be eligible to receive another such per-
mit until he shall have complied with the requirements
of all the laws in respect to former permits issued him.

Sec. 5. Bond Forfeitures; Procedures; Funds and Uses.
Upon default in the performance of the conditions of
the performance bond, the director shall give notice to
the attorney general and it shall be his duty to collect the
forfeiture without delay.

All such forfeitures, heretofore or hereafter collected,
as provided in this article, shall be deposited with the
state treasurer in a special fund to be designated “Surface
Mining Reclamation Fund” to the credit of the department
and shall be expended to reclaim and rehabilitate land
affected in accordance with the provisions of this article.
It shall then be the duty of the director with the knowledge and concurrence of the agriculturist to reclaim and rehabilitate land affected in accordance with the provisions of section four of this article. Insofar as reasonably practicable, the moneys in the fund shall be expended upon the lands upon which the permit was issued and for which the bond was given. The department may, when deemed necessary, avail itself of any services which may be provided by the state or federal government.

The auditor shall issue his warrant for any or all money in the special fund created by this section upon written request of the director. The special fund heretofore designated “Strip Mining Fund” shall be included in and made a part of the “Surface Mining Reclamation Fund” herein provided for.

Sec. 6. Validity of Existing Permits and Bonds; Continuity.—The provisions of chapter eighty-four of the acts of the legislature of West Virginia, regular session, one thousand nine hundred thirty-nine, shall continue to be in full force and govern in all respects every existing right for surface mining operations, every outstanding
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7 permit for surface mining operations and every existing
8 cash or other bond posted in connection therewith, and
9 the enactment of this article shall not affect any offenses
10 or act committed or done, or any penalty or forfeiture
11 incurred, or any right established, accrued, or accruing
12 before the day this law takes effect. Any money received
13 from the forfeiture of bonds given under the provisions
14 of said act shall be deposited in the same fund and used
15 in the same manner as forfeitures under this article.
16 Every operator under an existing permit, under which
17 actual mining operations have not been commenced prior
18 to the effective date of this article, shall nevertheless be
19 required to perform all the duties specified in section four
20 of this article, and that, for failure to do so, his bond shall
21 be forfeited and he shall be subject to all other penalties
22 provided by the above mentioned former act. Every such
23 operator shall be required to comply with the provisions
24 of section four of this article under which actual mining
25 operations have not been commenced prior to the effective
26 date of this article.

Sec. 7. When Bond Released and Discharged.—Upon
satisfactory completion of all requirements of law under
the permit granted to any operator pursuant to the pro-
visions hereof, the director of the department of natural
resources shall issue to the operator a certificate releasing
and discharging the bond and surety thereon.

Sec. 8. Offenses; Penalties; Prosecutions.—Any oper-
ator, or surface owner or owners, or owner or owners of
surface rights who shall conduct any surface mining oper-
ation or any part thereof without a permit, or who shall
carry on such operation or be a party thereto on land not
covered by a permit, shall be guilty of a misdemeanor
and, upon conviction thereof, shall be fined not exceeding
one thousand dollars or be imprisoned in the county jail
for a period not exceeding twelve months, or in the dis-
cretion of the court be subject to both such fine and im-
prisonment, for each such offense. It shall be the duty of
the director to see that prosecutions are instituted for viola-
ations of the provisions hereof.

Article 7. Law Enforcement, Procedures and Penalties.

Section 1. Chief Conservation Officer Duties; Conserva-
tion Officers; Special Conservation Officers.—The depart-
ment's law enforcement policies, practices and program shall be under the immediate supervision and direction of the department law enforcement officer selected by the director and designated as chief conservation officer as provided in article one hereof.

Under the supervision of the director, the chief conservation officer shall organize, develop and maintain law enforcement practices, means and methods geared, timed and adjustable to seasonal, emergency and other needs and requirements of the department's comprehensive natural resources program. All department personnel detailed and assigned to law enforcement duties and services hereunder shall be known and designated as conservation officers and shall be under the immediate supervision and direction of the chief conservation officer. All such conservation officers shall be trained, equipped and conditioned for duty and services wherever and whenever required by department law enforcement needs.

The chief conservation officer, acting under supervision of the director, is authorized to select and appoint special conservation officers for limited or extended periods of
time for effective enforcement of the provisions of this chapter when considered necessary because of seasonal, emergency or other unusual circumstances. The special conservation officers shall be selected from qualified merit system personnel and shall otherwise comply with other requirements and qualifications of conservation officers, except in emergency situations and circumstances when the director may designate such officers, without regard to such requirements and qualifications, to meet immediate law enforcement needs.

The term conservation officer, as used in this chapter, shall mean and include personnel which may be designated and described in other provisions of this code as game protectors, game wardens, fire wardens and by other like or similar names.

Conservation officers shall be subject to seasonal or other assignment and detail to duty whenever and wherever required by the functions, services and needs of the department.

Sec. 2. Conservation Officer Qualifications; Oath; Uniforms.—In addition to merit system qualifications and re-
3 requirements, persons selected as conservation officers shall have reached their twenty-first birthday and shall not have reached their forty-fifth birthday at the time of appointment, of height between five feet nine inches and six feet six inches, with weight proportioned to height, in good physical condition and of good moral character. Each person so selected shall be certified by the judge of the circuit court, the sheriff and the prosecuting attorney of the county in which he resides to be a person of good moral character, temperate in habits and without criminal record. Whenever possible and practicable, preference in selection of conservation officers shall be given honorably discharged United States military personnel. Each conservation officer, before entering upon the discharge of his duties, shall take and subscribe to the oath of office prescribed in article four, section five of the constitution of West Virginia, which executed oath shall be filed with the director.

The director shall prescribe the kind, style and material of uniforms to be worn by conservation officers. Uniforms
and other equipment furnished to the conservation officers shall be and remain the property of the state.

Sec. 3. Powers and Duties of Other Law Officers.—The sheriffs and constables of the several counties of the state, police officers of any city and members of the department of public safety shall be vested, within their respective jurisdictions, with all of the powers and authority of conservation officers without requirement of any additional oath or bond. Immediately upon making any arrest or executing any process under provisions of this chapter, each such officer shall report thereon to the director.

Sec. 4. Conservation Officer Powers and Duties.—Conservation officers and all other persons authorized to enforce the provisions of this chapter shall be under the supervision and direction of the director in the performance of their duties as herein provided. The authority, powers and duties of the conservation officers shall be state-wide and they shall have authority to:

1. Arrest on sight, without warrant or other court process, any person or persons detected by them in the violation of any of the provisions of this chapter, but no
such arrests shall be made where any form of administr-
trative procedure is prescribed by this chapter for the
enforcement of any of the particular provisions contained
herein;
(2) Carry such arms and weapons as may be pre-
scribed by the director in the course and performance of
their duties, upon giving the bond required by provisions
of section five, article seven, chapter sixty-one of this
code, but no license or other authorization shall be re-
quired of such officers for this privilege;
(3) Search and examine, in manner provided by law,
any boat, vehicle, automobile, conveyance, express or rail-
road car, fish box, fish bucket or creel, game bag or game
coat, or any other place in which hunting and fishing
paraphernalia, wild animals, wild birds, fish, amphibians
or other forms of aquatic life could be concealed, packed
or conveyed whenever they have reason to believe that
they would thereby secure or discover evidence of the
violation of any provision of this chapter;
(4) Execute and serve any search warrant, notice or
any process of law issued under the authority of this
chapter or any law relating to wildlife, forests, and all
other natural resources, by a justice of the peace, any
court having jurisdiction thereof, or the water resources
board, in the same manner, with the same authority, and
to and with the same legal effect, as any constable or sher-
iff can serve or execute such warrant, notice or process;
(5) Require the operator of any motor vehicle or other
conveyance, on or about the public highways or roadways,
or in or near the fields and streams of this state, to stop
for the purpose of allowing such officers to conduct game-
kill surveys;
(6) Summon aid in making arrests, seizures or exe-
cuting any warrants, notices or processes, and shall have
the same rights and powers as sheriffs have in their re-
spective counties in so doing;
(7) Enter private lands or waters within the state
while engaged in the performance of their official duties
hereunder: Provided, however, That in connection with
all surveys, examinations, investigations and studies
needed in the gathering of facts concerning water re-
sources and their use or pollution thereof under article
five of this chapter, such conservation officers and all
other persons authorized to enforce the provisions of this
chapter, shall act pursuant to and under the direction of
the state water resources board, and such officers and
other persons shall be subject to the provisions of sub-
section four, section five of article five of this chapter; and
(8) Do all things necessary to carry into effect the
provisions of this chapter.

Sec. 5. Enforcement Processes.—The director shall be
charged with the duty and responsibility of enforcing the
provisions of this chapter and to this end may call upon
the attorney general, the prosecuting attorneys of the sev-
eral counties, the department of public safety and all
other law enforcement officers of the state. He shall have
authority to compel compliance with and to prevent vio-
lations and threatened violations of any provisions of this
chapter, lawful rules and regulations promulgated here-
der, and cease and desist orders issued pursuant hereto.
He may invoke the processes of any court for coercive,
remedial or preventive relief by injunction, mandamus
or other appropriate proceedings.
Sec. 6. Prosecutions; Attorney Services; Costs.—The director may cause complaints to be made and proceedings to be instituted and prosecuted against any violators of this chapter, without the sanction of the prosecuting attorney of the county wherein such proceedings are instituted, and in all such cases no security for costs shall be required of the director. In any unusual or emergency situation or case wherein a prosecuting attorney or the attorney general may not be available to the director for legal services, the director may employ another attorney or other attorneys to represent the state in prosecutions and proceedings under provisions of this chapter and shall pay costs and fees for such services from department funds.

Sec. 7. Conspiracy to Violate Natural Resources Laws; Withholding Information; Obstructing Officers.—Any person who shields or conspires with another in the commission of a violation of any of the provisions of this chapter, or who, upon inquiry, withholds information from enforcement officers, or who hinders, obstructs, interferes with, or impersonates, or attempts to hinder, obstruct,
8 interfere with or impersonate an officer in the perform-
9 ance of his duties shall be guilty of a misdemeanor.

Sec. 8. Property Used for Illegal Purposes; Seizure and
2 Disposition.—Any officer, when he arrests or otherwise
3 takes a person into custody for violating any provision or
4 provisions of this chapter, is hereby also authorized and
5 empowered to take and impound any property found in
6 the possession of the accused and susceptible of use in
7 committing the offense of which the person is accused.
8 Such property shall include firearms, fishing equipment,
9 traps, boats, dogs, or any other device, appliance or con-
10 veyance.
11 If the accused is acquitted the property seized shall be
12 returned. If the accused is convicted and pays the fine,
13 costs and other penalties, the property shall be returned,
14 but if the accused fails to pay the fine and costs, the prop-
15 erty shall be sold at public auction in such manner as the
16 director may prescribe. The proceeds of the sale shall be
17 applied toward the payment of the fine and costs. The
18 remainder, if any, shall be paid to the owner of the seized
19 property.
Whenever a person is convicted of a violation of this chapter a second time, the property seized at the time of arrest shall in any case be declared forfeited to the state and shall be sold in the manner provided by this section.

Property seized, the use of which is forbidden by this chapter, or which is unfit or unsafe for further use, shall be declared forfeited to the state and shall be disposed of by the director.

Sec. 9. Offenses Generally; Penalties.—Any person violating any of the provisions of this chapter, or rules and regulations promulgated under the provisions of this chapter, the punishment for which is not prescribed, shall be guilty of a misdemeanor, and, upon conviction thereof, shall for each offense be fined not less than twenty nor more than three hundred dollars, or confined in jail not less than ten nor more than one hundred days, or be both fined and imprisoned within the limitations aforesaid; and, in the case of a violation by a corporation, every officer or agent thereof directing or engaging in such violation shall be guilty of a misdemeanor and, upon convic-
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13 tion thereof, shall be subject to the same penalties and
14 punishment as herein provided.

Sec. 10. Justice of Peace Jurisdiction.—Justices of the
2 peace and all other courts established in lieu thereof or in
3 supplementation thereto shall have jurisdiction of all
4 misdemeanor offenses arising under provisions of this
5 chapter concurrent with the jurisdiction of circuit and
6 other criminal courts.


Section 1. Transition in Terms; Continuity.—Wherever
2 in this code and elsewhere in law the terms "The Con-
3 servation Commission of West Virginia", "conservation
4 commission", "director of conservation" and similar and
5 related terms are used and referenced, they shall be read,
6 understood and construed in the light of the enactment
7 of this chapter by which the conservation commission and
8 the office of director of conservation are abolished and
9 the responsibilities, functions and services thereof are
10 transferred to and absorbed in the department of natural
11 resources, the natural resources commission and the office
of director of the department of natural resources as in this chapter provided.

Wherever in this code and elsewhere in law the terms "state water commission" and "state water resources commission" are used and referenced, they shall be read, understood and construed to mean and refer to the state water resources board established and continued in this chapter as an activity of the department of natural resources.

Any litigation instituted, entered into or pending to which any of the governmental corporations and agencies abolished by this chapter are named parties may be continued and prosecuted to completion in such party names or, at the option of the litigants and by leave of court, such party names may be amended or changed to correspond with the names of the successor governmental corporations and agencies as in this chapter provided.

All contracts, compacts and agreements, heretofore entered into by any of the governmental corporations and agencies hereby abolished, shall continue to be the obligations of the respective successor corporations and agen-
cies as in this chapter provided. No provision of this chapter shall be construed as impairing the obligation of any contract.

Sec. 2. Transfer of Records, Appropriations, Facilities and Other Properties and Assets.—As of the effective date of this chapter, the records, funds, unexpended appropriations, facilities, equipment and real and personal properties and assets of every kind and character belonging to, owned by or in the custody and control of any governmental corporation, agency, office or activity abolished or transferred to and absorbed in the department of natural resources by the provisions of this chapter shall be by each such governmental corporation, agency, office or activity transferred and delivered to the department of natural resources or to the identifiable successor to the abolished corporation, agency, office or activity as in this chapter established and constituted. It is the intent and purpose of the provisions of this section that continuity in the governmental operations, functions and services affected by this transition shall not be interrupted or impeded.
Sec. 3. Construction.—The provisions of this chapter shall be liberally construed to effect the objects and purposes hereof. The provisions of the chapter shall be construed to be separable and severable and in the event any clause, sentence or provision hereof shall for any reason be construed or held to be unconstitutional or invalid such unconstitutionality or invalidity shall not affect or impair the remaining provisions hereof.

Sec. 4. Effective Date.—The provisions of this chapter shall become effective on the first day of July, one thousand nine hundred sixty-one.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

Takes effect July 1st, 1961, passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within approved this the 17th day of March, 1961.

[Signature]
Governor