

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1961

ENROLLED

SENATE BILL NO. 23

(By Mr. McCarr ^{Ed} McCarrigan)

PASSED March 8th 1961

In Effect July 1st 1961 Passage



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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-

ernment and providing for its personnel, jurisdiction, powers, functions, services and enforcement processes.

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acts of the legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be repealed; and that a new article twenty of said code be enacted to read as follows: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

2 context clearly requires a different meaning:

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

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

7 “Bag limit” or “creel limit” means the maximum num-
8 ber of wildlife which may be taken, caught, killed or
9 possessed by any licensee.

10 “Board” means the water resources board of the depart-
11 ment of natural resources.

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

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

18 “Commission” means the natural resources commission.

19 “Commissioner” means a member of the advisory com-
20 mission of the natural resources commission.

21 “Director” means the director of the department of
22 natural resources.

23 “Fishing” or “to fish” means the taking, by any means,
24 of fish, minnows, frogs, or other amphibians, aquatic tur-
25 tles, and other forms of aquatic life used as fish bait.

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

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

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

39 “Game birds” shall include (a) the anatidae, commonly
40 known as swans, geese, brants and river and sea ducks,

41 (b) the rallidae, commonly known as rails, sora, coots,
42 mudhens, and gallinales, (c) the limicolae, commonly
43 known as shorebirds, plover, snipe, woodcock, sandpipers,
44 yellowlegs, and curlews, (d) the galli, commonly known
45 as wild turkey, grouse, pheasants, quails and partridges
46 (both native and foreign species), (e) the columbidae,
47 commonly known as doves and the icteridae, commonly
48 known as blackbirds, redwings and grackle.

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

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

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

60 "Migratory birds" means any migratory game or non-
61 game birds included in the terms of conventions between

62 the United States and Great Britain and between the
63 United States and United Mexican States, known as the
64 “Migratory Bird Treaty Act”, for the protection of migra-
65 tory birds and game mammals concluded, respectively,
66 August sixteen, one thousand nine hundred sixteen, and
67 February seven, one thousand nine hundred thirty-six.

68 “Nonresident” means any person who is a citizen of the
69 United States and who has not resided continuously in the
70 state of West Virginia for a period of six months immedi-
71 ately prior to the date of his application for a license or
72 permit.

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

78 “Person”, except as otherwise defined elsewhere in this
79 chapter, means the plural “persons”, and shall include
80 individuals, partnerships, corporations, or other legal
81 entity.

82 “Preserve” means all duly licensed private game farm
83 lands, or private plants, ponds or areas, where hunting or
84 fishing is permitted under special licenses or seasons other
85 than the regular public hunting or fishing seasons.

86 “Protected birds” means all wild birds not included
87 within the definition of “game birds” and “unprotected
88 birds”.

89 “Resident” means any person who is a citizen of the
90 United States and who has resided continuously in the
91 state of West Virginia for a period of six months or more
92 immediately prior to the date of his application for a
93 license or permit: *Provided, however,* That a member of
94 the armed forces of the United States who is stationed
95 beyond the territorial limits of this state, but who was a
96 resident of this state at the time of his entry into such
97 service, shall be considered a resident under the provi-
98 sions of this chapter.

99 “Roadside menagerie” means any place of business,
100 other than a commercial game farm, commercial fish pre-
101 serve, place or pond, where any wild bird, game bird, un-

102 protected bird, game animal or fur-bearing animal is kept
103 in confinement for the attraction and amusement of the
104 people for commercial purposes.

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

108 “Unprotected birds” shall include (a) the English spar-
109 row, (b) the European starling, (c) the sharp-shinned
110 hawk, (d) the Cooper’s hawk, (e) the goshawk, (f) the
111 cowbird, and (g) the crow.

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

115 “Wild birds” shall include all birds other than (a) do-
116 mestic poultry—chickens, ducks, geese, guinea fowl, pea-
117 fowls and turkeys, (b) psittacidae, commonly called par-
118rots and paraquets, and (c) other foreign cage birds such
119 as the common canary, exotic finches and ring dove. All
120 wild birds, either (a) those occurring in a natural state
121 in West Virginia, or (b) those imported foreign game

122 birds, such as waterfowl, pheasants, partridges, quail and
123 grouse, regardless of how long raised or held in captivity,
124 shall remain wild birds under the meaning of this chapter.

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

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

Sec. 3. Department, Office of Director and Commission

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

Sec. 4. Office, Functions, Appointment, Term and Quali-

2 *fications of Director.*—The director shall be the chief
3 executive officer of the department. Subject to provisions
4 of law, he shall organize the department into such offices,

5 divisions, agencies and other units of activity as may be
6 found by him necessary and desirable in the orderly, ef-
7 ficient and economical administration of the department
8 for the accomplishment of its objects and purposes.

9 The director shall be appointed by the governor, by
10 and with the advice and consent of the senate, and shall
11 continue to serve until his successor is appointed and
12 qualified as provided. On or before the first day of July,
13 one thousand nine hundred sixty-one, the governor shall
14 appoint the director for a term ending on the thirty-first
15 day of December, one thousand nine hundred sixty-two.
16 Upon the expiration of such term the governor shall ap-
17 point the director for a term of four years commencing
18 on the first day of January, one thousand nine hundred
19 sixty-three, and, upon the expiration thereof, for succes-
20 sive terms of four years each next thereafter. A vacancy
21 occurring in the office during any term thereof shall be
22 filled by appointment as herein provided for the remainder
23 of such term.

24 The director may be removed from office by the gov-
25 ernor for cause as provided in the constitution. At the

26 time of his initial appointment, he shall be at least thirty
27 years old and shall be selected with special reference and
28 consideration given to his training, experience, capacity
29 and interest in the natural resources program as herein
30 embraced. He shall not be a candidate for or hold any
31 other public office, shall not be a member of any political
32 party committee, and shall immediately forfeit and vacate
33 his office as director in the event he becomes a candidate
34 for or accepts appointment to any other public office or
35 political party committee.

Sec. 5. *Salary, Expenses, Oath and Bond of Director.*—

2 The director shall receive an annual salary of twelve
3 thousand dollars, payable in equal monthly installments,
4 and shall be allowed and paid necessary expenses incident
5 to the performance of his official duties. Prior to the as-
6 sumption of the duties of his office, he shall take and sub-
7 scribe to the oath required of public officers by the con-
8 stitution of West Virginia and shall execute a bond, with
9 surety approved by the governor, in the penal sum of ten
10 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

8 chapter, a long-range comprehensive program for the
9 conservation of the natural resources of the state which
10 best effectuates the purpose of this chapter and which
11 makes adequate provisions for the natural resources laws
12 of the state;

13 (2) Sign and execute in the name of the state by the
14 "Department of Natural Resources" any contract or agree-
15 ment with the federal government or its departments or
16 agencies, subdivisions of the state, corporations, associa-
17 tions, partnerships or individuals;

18 (3) Conduct research in improved conservation meth-
19 ods and disseminate information matters to the residents
20 of the state;

21 (4) Conduct a continuous study and investigation of
22 the habits of wildlife, and for purposes of control and pro-
23 tection to classify by regulation the various species into
24 such categories as may be established as necessary;

25 (5) Prescribe the locality in which and the manner
26 and method by which the various species of wildlife may
27 be taken, or chased, unless otherwise specified by this
28 chapter;

29 (6) Fix by regulation the open seasons and the bag,
30 creel, size, age, weight and sex limits with respect to wild-
31 life in this state;

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

39 (8) Suspend open hunting seasons upon any or all
40 wildlife in any or all counties of the state with the prior
41 approval of the governor in case of an emergency such
42 as a drought, forest fire hazard or epizootic of disease
43 among wildlife. The suspension shall continue during
44 the existence of the emergency and until rescinded by the
45 director. Suspension, or reopening after such suspension,
46 of open seasons may be made upon twenty-four hours'
47 notice by delivery of a copy of the order of suspension or
48 reopening to the wire press agencies at the state capitol;

49 (9) Supervise the fiscal affairs and responsibilities of
50 the department;

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

54 (11) Enter private lands to make surveys or inspec-
55 tions for conservation purposes, to investigate for viola-
56 tions of provisions of this chapter, to serve and execute
57 warrants and processes, to make arrests and to otherwise
58 effectively enforce the provisions of this chapter;

59 (12) Acquire for the state in the name of the “De-
60 partment of Natural Resources” by purchase, condemna-
61 tion, lease or agreement, or accept or reject for the state,
62 in the name of the department of natural resources, gifts,
63 donations, contributions, bequests or devises of money,
64 security or property, both real and personal, and any in-
65 terest in such property, including lands and waters, which
66 he deems suitable for the following purposes:

67 (a) For state forests for the purpose of growing tim-
68 ber, demonstrating forestry, furnishing or protecting
69 watersheds or providing public recreation;

70 (b) For state parks or recreation areas for the purpose
71 of preserving scenic, esthetic, scientific, cultural, archae-
72 logical or historical values or natural wonders, or pro-
73 viding public recreation;

74 (c) For public hunting, trapping, or fishing grounds
75 or waters for the purpose of providing areas in which the
76 public may hunt, trap or fish, as permitted by the pro-
77 visions of this chapter, and the rules and regulations is-
78 sued hereunder;

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

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

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

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

89 (14) Exercise the powers granted by this chapter for
90 the protection of forests, and regulate fires and smoking

91 in the woods or in their proximity at such times and in
92 such localities as may be necessary to reduce the danger
93 of forest fires;

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

97 (16) Report to the governor each year all information
98 relative to the operation and functions of his department
99 and shall make such other reports and recommendations
100 as may be required by the governor, including an annual
101 financial report covering all receipts and disbursements
102 of the department for each fiscal year and shall deliver
103 such report to the governor on or before the first day of
104 December next after the end of the fiscal year so covered.

105 A copy of such report shall be delivered to each house of
106 the legislature when convened in January next following.

107 (17) Keep a complete and accurate record of all pro-
108 ceedings, record and file all bonds and contracts taken or
109 entered into, and assume responsibility for the custody
110 and preservation of all papers and documents pertaining
111 to his office, except as otherwise provided by law;

112 (18) Offer and pay, in his discretion, rewards for in-
113 formation respecting the violation, or for the apprehen-
114 sion and conviction of any violators of any of the pro-
115 visions of this chapter;

116 (19) Require such reports as he may deem to be neces-
117 sary from any person issued a license or permit under the
118 provisions of this chapter;

119 (20) Purchase as provided by law all equipment neces-
120 sary for the conduct of his department;

121 (21) Conduct and encourage research designed to fur-
122 ther new and more extensive uses of the natural resources
123 of this state and to publicize the findings of such research;

124 (22) Encourage and cooperate with other public and
125 private organizations or groups in their efforts to publicize
126 the attractions of the state;

127 (23) Accept and expend, without the necessity of ap-
128 propriation by the legislature, any gift or grant of money
129 made to the department for any and all purposes specified
130 in this chapter, and shall account for and report on all
131 such receipts and expenditures to the governor;

132 (24) Cooperate with the state historian and other ap-

133 appropriate state agencies in conducting research with
134 reference to the establishment of state parks and monu-
135 ments of historic, scenic and recreational value, and to
136 take such steps as may be necessary in establishing such
137 monuments or parks as he deems advisable;

138 (25) Maintain in his office at all times, properly in-
139 dexed by subject matter, and also in chronological se-
140 quence, all rules and regulations made or issued under
141 the authority of this chapter. Such records shall be avail-
142 able for public inspection on all business days during the
143 business hours, of working days as prescribed by the state
144 board of public works;

145 (26) Act promptly and effectively, whenever in the
146 sole discretion of the director the ends of justice and the
147 interests of the state so require, through appropriate court
148 proceedings for citations and for injunctive, remedial,
149 coercive and other means and methods of relief, in the
150 prevention, abatement and correction of the pollution of
151 streams and other water areas prior and supplemental to
152 the effective operation of the procedures and processes of

153 the water resources board under provisions of article five
154 of this chapter;

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

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

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

Sec. 8. *Personnel Management*.—A merit system of
2 personnel management shall be established and main-
3 tained for all personnel of the department in order to in-
4 sure and provide for impartial selection of competent and
5 qualified personnel and to accord to all department em-

6 ployees rights of tenure and advancement during satis-
7 factory discharge of their duties. Employees of any
8 agency or activity absorbed in or transferred to the de-
9 partment by provisions of this chapter or elsewhere by
10 law, who then have and enjoy state merit system status,
11 shall maintain their merit system status for all purposes
12 as employees of the department, but employees of any
13 such agency or activity not so having and enjoying merit
14 system status shall be retained in department employ for
15 a period of time not exceeding twelve months unless dur-
16 ing such period of time they qualify for and attain merit
17 system status according to their merit system tenure and
18 advancement rights as other employees of the department.

19 In lieu of establishment of a merit system of personnel
20 management for the department, the director may resort
21 to and rely upon the state merit system council for per-
22 sonnel and personnel services of the department and for
23 this purpose may contribute from department funds a fair
24 share of the merit system council's expenses.

25 The director may select a personal secretary and a dep-
26 uty director of the department to serve at the director's

27 will and pleasure. The director shall fix the salary or
28 compensation of such secretary and deputy director and
29 shall prescribe their duties and responsibilities. The di-
30 rector, the secretary and deputy director shall not have
31 and enjoy merit system status, as herein provided, except
32 the deputy director, when selected from department per-
33 sonnel ranks, shall retain and be accorded all of the rights
34 of his merit system status regardless of his selection and
35 tenure as deputy director.

36 The director shall select and designate a competent and
37 qualified person as department personnel officer who shall
38 be responsible for personnel management, personnel
39 records and general personnel services. The personnel
40 officer, under supervision of the director and subject to
41 merit system rules, regulations and requirements, shall
42 prescribe qualifications, classifications and salary scales
43 for department personnel. He shall furnish to the director
44 information and data relating to qualified personnel avail-
45 able for the various offices, positions and places of em-
46 ployment and may make recommendations concerning

47 the selection, retention and advancement of personnel of
48 the department.

Sec. 9. *Fiscal Management*.—Subject to any controlling
2 rules and regulations of the department of finance and
3 administration relating to state fiscal management policies
4 and practices, the director shall establish in the depart-
5 ment an adequate budget, finance and accounting system
6 which will currently and accurately reflect the fiscal oper-
7 ations and conditions of the department at all times. The
8 department's accounting and auditing services shall be
9 on the fiscal year basis.

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

Sec. 10. *Property Management.*—The department shall
2 maintain at all times an accurate record of all of its lands,
3 interests in lands, buildings, structures, equipment and
4 other tangible properties and assets. Such record shall
5 reflect the location, utility, condition and estimated value
6 of all such properties and assets. The department shall
7 provide for the maintenance, preservation and custody of
8 all such properties and assets, and when any item or items
9 thereof become obsolete or are no longer needed, the de-
10 partment shall report thereon to the department of finance
11 and administration for disposition thereof.

12 The director shall select and designate a competent and
13 qualified person as department property officer who shall
14 be responsible for the department's records relating to
15 its properties and assets and for the maintenance, preser-
16 vation, custody and disposition of all such properties and
17 assets as herein provided.

Sec. 11. *Public Relations.*—The department shall col-
2 lect, organize and from time to time distribute to the
3 public, through news media or otherwise, interesting facts,
4 information and data concerning the natural resources

5 of the state and the functions and services of the depart-
6 ment. The director may organize and promote lectures,
7 demonstrations, symposiums, schools and other educa-
8 tional programs relating to the state's natural resources.
9 Motion pictures, slide films and other photographic serv-
10 ices may be provided for instruction on natural resources
11 for schools, other governmental agencies, and civic or-
12 ganizations under such rules and regulations and may be
13 prescribed by the director.

14 The director shall select and designate a competent and
15 qualified person as department public relations officer
16 who shall be responsible for the organization and manage-
17 ment of the department's public relations program. He
18 may prepare and distribute from time to time pamphlet
19 materials and other compilations and publications of the
20 department and may cooperate with other governmental
21 agencies in the publication and distribution of such
22 materials.

Sec. 12. *Surveys and Planning.*—As departmental proj-
2 ects or in cooperation with other governmental or private
3 agencies, the director may organize and promote surveys

4 and explorations relating to the state's natural resources,
5 their utility, development and protection. The state geo-
6 logical and economic survey commission, the department
7 of mines, the department of agriculture, the economic
8 development agency and other governmental agencies and
9 activities shall cooperate, whenever and wherever prac-
10 ticable to do so, with the department in its survey and
11 exploration work.

12 The director shall select and designate a competent and
13 qualified person as department surveys officer who shall
14 be responsible for the organization, promotion and cor-
15 relation of the surveys and explorations as herein pro-
16 vided. He shall work closely with other offices and divi-
17 sions of the department in order to effect maximum
18 development, utilization, protection and enjoyment of the
19 state's natural resources.

Sec. 13. *Law Enforcement and Legal Services.*—The di-
2 rector shall select and designate a competent and qualified
3 person to be department law enforcement officer who
4 shall have the title of chief conservation officer and who
5 shall be responsible for the prompt, orderly and effective

6 enforcement of all of the provisions of this chapter. Under
7 the supervision of the director and subject to personnel
8 qualifications and requirements otherwise prescribed in
9 this chapter, the chief conservation officer shall be re-
10 sponsible for the selection, training, assignment, distribu-
11 tion and discipline of conservation officers and the effec-
12 tive discharge of their duties in carrying out the law en-
13 forcement policies, practices and programs of the depart-
14 ment in compliance with the provisions of article seven
15 of this chapter and other controlling laws and regulations.
16 Except as otherwise provided in this chapter, he and his
17 conservation officers are hereby authorized to enter into
18 and upon private lands and waters to investigate com-
19 plaints and reports of conditions, conduct, practices and
20 activities considered to be adverse to and violative of the
21 provisions of this chapter and to execute writs and war-
22 rants and make arrests thereupon.

23 The attorney general and his assistants and the prose-
24 cuting attorneys of the several counties shall render to
25 the director, without additional compensation, such legal
26 services as the director may require of them in the dis-

27 charge of his duties and the execution of his powers under
28 and his enforcement of the provisions of this chapter. The
29 director, in an emergency and with prior approval of the
30 attorney general, may employ an attorney to act in pro-
31 ceedings wherein criminal charges are brought against
32 personnel of the department because of action in line of
33 duty. For such attorney services, a reasonable sum, not
34 exceeding five hundred dollars, may be expended by the
35 director in any one case.

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

Sec. 14. *Divisions.*—Divisions of game and fish, of for-
2 estry, of parks and recreation, of water resources, and of

3 reclamation are hereby created and established within
4 the department. Subject to provisions of law, the director
5 shall allocate the functions and services of the department
6 to the divisions, offices and activities thereof and may
7 from time to time establish and abolish other divisions,
8 offices and activities within the department in order to
9 carry out fully and in an orderly manner the powers,
10 duties and responsibilities of his office as director. The
11 director shall select and designate a competent and quali-
12 fied person to be chief of each division. The chief shall be
13 the principal administrative officer of his division and
14 shall be accountable and responsible for the orderly and
15 efficient performance of the duties, functions and services
16 thereof.

Sec. 15. *Public Land Corporation.*—The public land cor-
2 poration of West Virginia, heretofore created and estab-
3 lished, shall be continued as an activity of the department
4 of natural resources. The corporation may sue and be
5 sued, contract and be contracted with, plead and be im-
6 pleaded and have and use a common seal. It shall be a
7 public benefit corporation composed of the governor as

8 chairman, the director of the department of natural re-
9 sources as secretary, the commissioner of agriculture, the
10 attorney general, and the director of the engineering ex-
11 periment station at West Virginia university, none of
12 whom shall receive additional compensation as members
13 of the corporation.

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

21 The corporation is hereby authorized and empowered to:

- 22 (1) Acquire from any persons or the state commis-
23 sioner of forfeited lands, by purchase, lease or other agree-
24 ment, any lands necessary and required for public use;
- 25 (2) Acquire by purchase, condemnation, lease or
26 agreement, receive by gifts and devises, or exchange
27 rights of way, easements, waters and minerals suitable
28 for public use;

29 (3) Sell, purchase or exchange lands or stumpage for
30 the purpose of consolidating lands under state or federal
31 government administration;

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

36 (5) Expend the income from the use and development
37 of public lands for the purpose of liquidating obligations
38 incurred in the acquisition, development and administra-
39 tion of such lands, until all such obligations have been
40 fully discharged, and thereafter pay such income into the
41 state fund for general revenue purposes and uses.

42 The corporation shall have the authority to designate
43 lands to which it has title for development and adminis-
44 tration for the public use including forestation, recreation,
45 wildlife, stock grazing, agricultural rehabilitation home-
46 steading or other conservation activities and may contract
47 or lease for the proper development of oil, gas, mineral,
48 except that no contract or lease may be entered into for
49 the extraction and removal by stripping or auger mining

50 of coal, and water rights within or upon the lands or prop-
51 erty under its control. It shall convey, assign, or allot
52 lands to the title or custody of proper departments or
53 other agencies of state government for administration and
54 control within the functions of such departments or other
55 agencies as provided by law. The corporation shall make
56 proper lands available for the purpose of cooperating
57 with the government of the United States in the relief of
58 unemployment and hardship. The corporation shall re-
59 port biennially to odd-year sessions of the legislature on
60 its public land holdings, its financial condition and its
61 operations and shall make such recommendations to the
62 legislature as deemed proper concerning the acquisition,
63 development, disposition and use of public lands.

Sec. 16. *Natural Resources Commission*.—The natural
2 resources commission, created and established by pro-
3 visions of section three of this article, shall be a public
4 benefit corporation and as such may sue and be sued,
5 plead and be impleaded, contract and be contracted with
6 and have and use a common seal. It shall be a commission
7 advisory to the director and to the department of natural

8 resources. The commission shall be composed of seven
9 members, known as commissioners, one from each con-
10 gressional district and the remainder from the state at
11 large, appointed by the governor by and with the advice
12 and consent of the senate. Their terms of office shall begin
13 on the first day of July and shall be for a period of seven
14 years, except that the governor in making the initial ap-
15 pointments shall designate and define their respective
16 terms of office so that the term of one member of the com-
17 mission will expire each year. As initial appointments
18 expire, all subsequent appointments shall be for terms of
19 seven years or for the unexpired term of a member who
20 may have died, resigned or become disqualified.

21 The members of the commission shall be citizens and
22 residents of the state, selected with special reference to
23 their training and experience in relation to the principal
24 activities required of the commission, and for their ability
25 and fitness to perform their duties within the purposes of
26 this chapter. No member of the commission shall be a can-
27 didate for or hold any public office other than that of
28 member of the commission; nor shall he be a member of

29 any committee of a political party. In case a member be-
30 comes a candidate for or accepts appointment to any pub-
31 lic office or political party committee, his office as member
32 of the commission shall be immediately vacated.

Sec. 17. *Commission Organization and Services.*—Mem-

2 bers of the natural resources commission shall take and
3 subscribe to the public officer's oath prescribed by the
4 constitution before entering upon the duties of their office.
5 All such executed oaths shall be filed in the office of the
6 secretary of state. Members of the commission shall re-
7 ceive no compensation as such but each shall be reim-
8 bursed for his actual and necessary traveling expenses
9 incurred in the performance of his official duties.

10 The director of the department shall be ex officio a
11 member of the commission and its presiding officer. A
12 majority of the commission shall constitute a quorum for
13 transaction of business. Four regular meetings of the
14 commission shall be held each year commencing on the
15 first Monday in the months of July, October, January and
16 April. Special meetings may be convened by the gov-
17 ernor, the director or by a majority of the commission.

18 The meetings of the commission shall be regularly held
19 at the office of the director but may be held at other points
20 within the state when need therefor exists as explained
21 in the call setting forth the time and place of the meeting.
22 The director shall furnish all articles and supplies re-
23 quired by the commission in the performance of its duties
24 and shall provide necessary stenographic, secretarial and
25 clerical assistance therefor. All such materials and serv-
26 ices shall be paid for from department funds.

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

35 (1) To consider and study the entire field of legislation
36 and administrative methods concerning the forests and
37 their maintenance and development, the protection of fish
38 and game, the beautification of the state and its highways,

39 and the development of lands, minerals, waters and other
40 natural resources;

41 (2) To advise with the director concerning the con-
42 servation problems of particular localities or districts of
43 the state;

44 (3) To recommend policies and practices to the direc-
45 tor relative to any duties imposed upon him by law;

46 (4) To investigate the work of the director, and for
47 this purpose to have access at reasonable times to all offi-
48 cial books, papers, documents and records;

49 (5) To advise or make recommendations to the gov-
50 ernor relative to natural resources of the state; and

51 (6) To keep minutes of the transactions of each ses-
52 sion, regular or special, which shall be public records and
53 filed with the director.

Sec. 18. *Government Cooperation; Projects; Finances;*
2 *Properties.*—In addition to all other powers and authority
3 vested in the director, he is hereby authorized and em-
4 powered to represent and advance the interests of the
5 state of West Virginia under provisions of acts of congress
6 now in force or hereafter enacted providing for coopera-

7 tion between the governments of the United States and
8 of the several states in the exploration, development,
9 conservation, use and enjoyment of natural resources. He
10 may acquire by purchase or lease, as in this chapter pro-
11 vided, such lands, interests in lands, forests, parks, recre-
12 ational facilities, wildlife and water areas and such other
13 properties within this state as may be required in co-
14 operative programs with any other government or gov-
15 ernments and, with the approval of the governor, may
16 negotiate and effect self-liquidating loans with the gov-
17 ernment of the United States or any agency or agencies
18 thereof for the procurement, development and use of all
19 such properties. All such projects shall be in the interest
20 and for the benefit of the state and may be geared and
21 timed to relieve economic hardship and unemployment.

22 In order to consolidate forest tracts under either state
23 or federal administration, the director may sell, purchase
24 or exchange stumpage or lands within or adjacent to any
25 national forest purchase area.

26 The director shall study the land and water boundary
27 areas of the state and, where practicable, cooperate with

28 adjacent states in programs for the development, con-
29 servation and use of waters, forests, minerals, wildlife and
30 other natural resources.

Article 2. Game and Fish.

Section 1. *Game and Fish Division Organization and*
2 *Administration.*—The chief of the division of game and
3 fish shall be primarily responsible for the execution and
4 administration of the provisions of this article as an
5 integral part of the natural resources program of the state
6 as defined and constituted in this chapter. He shall or-
7 ganize the division and select competent and qualified per-
8 sonnel therefor so as to effect an orderly, efficient and
9 economical division organization.

Sec. 2. *Violations; Punishment and Penalties.*—When
2 no specific punishment or penalty is otherwise provided
3 for violations of the provisions of this article, any person
4 violating any provision hereof shall be guilty of a misde-
5 meanor offense and, upon conviction thereof, shall be sub-
6 ject to the punishment and penalties prescribed in section
7 nine, article seven of this chapter.

PART I. WILDLIFE MANAGEMENT

Sec. 3. *State Ownership of Wildlife.*—The ownership of

2 and title to all wild animals, wild birds, both migratory
3 and resident, and all fish, amphibians, and all forms of
4 aquatic life in the state of West Virginia is hereby de-
5 clared to be in the state, as trustee for the people. No
6 such wildlife shall be taken or hunted in any manner, or
7 at any time, unless the person so taking or hunting the
8 same shall consent that the title thereto shall be and re-
9 main in the state of West Virginia for the purpose of regu-
10 lating the taking, hunting, using and disposing of the same.
11 The taking or hunting of wildlife at any time or in any
12 manner by any person shall be deemed such consent:
13 *Provided, however,* That all fish, frogs and other aquatic
14 life in privately owned ponds are, and shall remain, the
15 private property of the owner or owners of such privately
16 owned ponds, and that such fish, frogs, and other aquatic
17 life in such privately owned ponds may be caught, taken
18 or killed by such owner or owners at any time.

Sec. 4. *Possession of Wildlife.*—Except as otherwise
2 provided by law, no person shall have in his possession
3 during closed seasons any wildlife. Wildlife which may
4 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
7 director may be issued a permit authorizing the possession
8 of the flesh of such wildlife as the director may determine
9 for an additional period not to exceed four months.

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 Migratory wild birds shall be possessed only in accord-
18 ance with the "Migratory Bird Treaty Act" and regula-
19 tions thereunder.

20 Possession of any wildlife, or any part thereof, except
21 during their respective open seasons and for sixty days
22 thereafter, shall be presumptive evidence that the same
23 was taken unlawfully by the possessor, unless such per-
24 son has been issued a permit as authorized by this section.

25 The restrictions in this section do not apply to the di-

26 rector or his duly authorized agents, who may, in any
27 manner, take or maintain in captivity at any time any
28 wildlife for the purpose of carrying out the provisions of
29 this chapter.

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

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

4 (1) Shoot at or to shoot any wild bird or animal unless
5 it is plainly visible to him;

6 (2) Dig out, cut out, or smoke out, or in any manner take
7 or attempt to take any live wild animal or wild bird out
8 of its den or place of refuge, except as may be authorized
9 by regulations promulgated by the director or by law;

10 (3) Make use of, or take advantage of, any artificial
11 light in hunting for, or taking any wild animals or wild
12 birds, except that artificial lights such as are ordinarily
13 carried in the hand or on the person may be used for the
14 purpose of taking raccoon, opossum or skunk; or to throw
15 or cast the rays of a spotlight, headlight, or other artificial
16 light, from any vehicle, on any animal or game bird, or
17 attempt to do so, while having in his or their possession

18 or under their control, or in any vehicle or conveyance in
19 which they may be traveling, a cased or uncased firearm
20 or other implement whereby any wild animal or wild bird
21 could be killed, even though such animal be not shot at,
22 injured or killed. The provisions of this paragraph shall
23 not apply if it shall be proven that the headlights of a
24 motor vehicle while traveling on a highway in the usual
25 way, cast a light upon such animal, on, or adjacent to such
26 highway, and there was no attempt or intent to locate
27 such animal;

28 (4) Hunt for, take, kill, wound or shoot at wild animals
29 or wild birds from an airplane, or other airborne convey-
30 ance, an automobile, or other land conveyance, or from a
31 motor driven water conveyance, except as may be au-
32 thorized by regulations promulgated by the director;

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

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

38 (7) Destroy or attempt to destroy needlessly or wil-

39 fully the nest or eggs of any wild bird or have in his pos-
40 session such nest or eggs unless authorized to do so under
41 regulations or under a permit by the director;

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

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

58 (10) To have in his possession a loaded firearm or a
59 firearm from the magazine of which all shells and cart-

60 ridges have not been removed, in or on any vehicle or con-
61 veyance, or its attachments, within the state, **except as**
62 **may otherwise be provided by law or regulation. Except**
63 **as hereinafter provided,** between five o'clock postmeridian
64 of one day and seven o'clock antemeridian, eastern stand-
65 ard time of the day following, any unloaded firearm, be-
66 ing lawfully carried in accordance with the foregoing pro-
67 visions, shall be so carried only when in a case or taken
68 apart and securely wrapped. During the period from July
69 first to September thirtieth, inclusive, of each year, the
70 foregoing requirements relative to carrying certain un-
71 loaded firearms shall be permissible only from eight thirty
72 o'clock postmeridian to five o'clock antemeridian, eastern
73 standard time;

74 (11) Hunt, catch, take, kill, trap, injure or pursue with
75 firearms or other implement by which wildlife may be
76 taken on Sunday any wild animals or wild birds:
77 *Provided, however,* That traps previously and legally set
78 may be tended on Sunday, if the person so doing shall not
79 have firearms or long bow of any description in his pos-
80 session;

81 (12) Hunt with firearms or long bow while under the
82 influence of intoxicating liquor;

83 (13) Possess a ferret;

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

86 (15) Have in his possession or about his premises, with-
87 out the written permission of the director, any hunting or
88 fishing paraphernalia which cannot be used lawfully in
89 this state for hunting or fishing, and any conservation of-
90 ficer shall remove and destroy such hunting and fishing
91 paraphernalia, whenever found in this state, and the per-
92 son or persons claiming ownership shall have no recourse
93 at law against such confiscation and destruction;

94 (16) Catch, take, kill, or attempt to catch, take or kill
95 any fish at any time by any means other than by rod, line,
96 and hooks with natural or artificial lures unless otherwise
97 authorized by law or regulation issued by the director:
98 *Provided, however,* That snaring of any species of suckers,
99 carp, fallfish and creek chubs through the ice shall at all
100 times be lawful;

101 (17) Employ or hire, or induce or persuade, by the use

102 of money or other things of value, or by any means, any
103 person to hunt, take, catch or kill, any wild animal or wild
104 bird except those species on which there is no closed
105 season, or to fish for, catch, take or kill any fish, amphibian
106 or aquatic life which is protected by the provisions of this
107 chapter or regulations of the director, or the sale of which
108 is prohibited;

109 (18) Hunt, catch, take, kill, capture, pursue, transport,
110 possess or use any migratory game or non-game birds in-
111 cluded in the terms of conventions between the United
112 States and Great Britain and between the United States
113 and United Mexican States for the protection of migratory
114 birds and game mammals concluded, respectively, August
115 sixteen, one thousand nine hundred sixteen, and February
116 seven, one thousand nine hundred thirty-six, except dur-
117 ing the time and in the manner and numbers prescribed
118 by the federal migratory bird treaty act and regulations
119 made thereunder;

120 (19) Kill, take, catch, or have in his possession living
121 or dead, any wild bird, other than a game bird; or expose
122 for sale, or transport within or without the state any such

123 bird, except as aforesaid. No part of the plumage, skin
124 or body of any protected bird shall be sold or had in
125 possession for sale, except mounted or stuffed plumage,
126 skin, bodies or heads of such birds legally taken and
127 stuffed or mounted, irrespective of whether such bird
128 was captured within or without this state, except the
129 English or European sparrow (*Passer domesticus*),
130 starling (*Sturnus vulgaris*), sharp-shinned hawk (*Ac-
131 cipiter striatus*), Cooper's hawk (*Accipiter cooperii*), gos-
132 hawk (*Accipiter gentilis*), crow, (*Corvus brachyr-
133 hynchos*), and cowbird (*Molthrus ater*), which shall
134 not be protected and the killing thereof at any time is
135 lawful;

136 (20) Use dynamite or any like explosives or poisonous
137 mixture placed in any waters of the state for the purpose
138 of killing or taking fish. Any person violating the pro-
139 visions of this subsection shall be guilty of a felony, and,
140 upon conviction thereof, shall be imprisoned for not less
141 than six months nor more than three years, and, in the
142 discretion of the court, may be fined not more than five
143 hundred dollars;

144 (21) Have both a bow and a gun in the field or woods
145 at the same time;

146 (22) Have a crossbow in the woods or fields or use a
147 crossbow to hunt for, take or attempt to take any wildlife;

148 (23) Take or attempt to take turkey, bear, elk or deer
149 with any arrow unless the same is equipped with a point
150 having at least two sharp cutting edges measuring in ex-
151 cess of three-fourths of an inch wide;

152 (24) Take or attempt to take any wildlife with an ar-
153 row having an explosive head or shaft;

154 (25) Shoot an arrow across any public highway or from
155 aircraft, motor-driven watercraft, motor vehicle or other
156 land conveyance; and

157 (26) Permit any dog owned by him or under his con-
158 trol to chase, pursue or follow upon the track of any game
159 animal or game bird, either day or night, between the first
160 day of May and the fifteenth day of August next follow-
161 ing: *Provided, however,* That dogs may be trained on game
162 animals and game birds except deer and wild turkeys,
163 during the closed season on such game animals and game
164 birds (the period from May first to August fifteenth, ex-

165 cepted) ; provided the person training said dogs does not
166 have firearms or other implements in his possession where-
167 by game animals or game birds could be taken or killed.

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

Sec. 7. *Hunting, Trapping, Fishing on Lands of An-*
2 *other; Damages and Compensation.*—It shall be unlawful
3 for any person to shoot, hunt, fish or trap upon the fenced,
4 enclosed or posted grounds or lands of another person or
5 to peel trees or timber, build fires or do any other act or
6 thing thereon in connection with or auxiliary to shooting,
7 hunting, fishing or trapping on such lands without per-
8 mission in writing from the owner, tenant or agent of such

9 owner, and every person hunting, fishing, shooting or
10 fowling upon such lands shall have in his possession such
11 written permission when so doing.

12 Any person who, for the purpose of, or while hunting,
13 trapping or fishing, shall, without the permission of the
14 owner, tenant or agent of the owner, enter upon the land
15 of another and while thereon shall kill or injure any do-
16 mestic animal or fowl, or shall cut, destroy or damage
17 any bars, gates or fence, or any part thereof, or shall leave
18 open any bars or gates thereon resulting in damage to
19 owner or occupant thereof, shall be guilty of a misde-
20 meanor, and in addition shall be liable to the owner or
21 person suffering such damage for all costs and damages
22 resulting therefrom. The officers charged with the en-
23 forcement of the provisions of this chapter shall have the
24 duty to enforce the provisions of this section if requested
25 to do so by such owner, lessee, person or agent, but not
26 otherwise.

Sec. 8. *Posting Unenclosed Lands.*—The owner, lessee
2 or other person entitled to possession of unenclosed lands
3 may have erected and maintained signs or placards legibly

4 printed, easily discernible, conspicuously posted and rea-
5 sonably spaced, so as to indicate the territory in which
6 hunting, trapping or fishing is prohibited.

7 Any person who enters upon the unenclosed lands of
8 another which have been lawfully posted, for the purpose
9 of hunting, trapping or fishing shall be guilty of a misde-
10 meanor. The officers charged with the enforcement of
11 the provisions of this chapter shall have the duty to en-
12 force the provisions of this section if requested to do so
13 by such owner, lessee, person or agent, but not otherwise.

Sec. 9. *Unlawful Posting of Lands.*—It shall be unlawful
2 and shall constitute a misdemeanor offense for any per-
3 son or his agent or employee wilfully to post any notice
4 or warning or wilfully to ward, drive or attempt to drive
5 any person off, or prevent his hunting or fishing on any
6 land not owned or lawfully occupied by such person, his
7 agent, or employee, unless such land is a lawfully estab-
8 lished game or fish preserve.

Sec. 10. *Unlawful to Deface Signs.*—It shall be unlaw-
2 ful and shall constitute a misdemeanor offense for any
3 person to destroy, tear down, shoot at, deface or erase any

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

15 of a legally killed deer and the hide, head, skull and feet
16 of a legally killed black bear may be sold.

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

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

Sec. 12. *Transportation of Wildlife Out of State.*—No
2 person shall at any time transport or have in his posses-
3 sion with the intention of transporting beyond the limits
4 of the state, any species of wildlife or any part thereof
5 killed, taken, captured or caught within this state: *Pro-*
6 *vided, however,* That a nonresident legally entitled to
7 hunt and fish in this state may take with him personally,

8 when leaving the state, any wildlife that he has lawfully
9 taken or killed, not exceeding, during the open season, the
10 number that any person may lawfully take or kill in any
11 two days. This section shall not apply to persons legally
12 entitled to propagate and sell wild animals, wild birds,
13 fish, amphibians and other forms of aquatic life.

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

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

Sec. 15. *Permit to Kill Deer Causing Damage to Cul-*
2 *tivated Crops, Fruit Trees or Commercial Nurseries.*—
3 Whenever it shall be found that deer are causing damage
4 to cultivated crops, fruit trees or commercial nurseries,

5 the owner or lessee of the lands on which such damage is
6 done may report such finding to the conservation officer
7 of the county in which such lands are located or to the di-
8 rector. The director shall then investigate the reported
9 damage and if found substantial may issue a permit to the
10 owner or lessee to kill one or more deer in the manner
11 prescribed by the director. No such permit may be issued
12 to an owner or lessee when such lands are posted against
13 public hunting of deer.

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

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

26 the director or such conservation officer shall see that the
27 carcass is removed.

Sec. 16. *Dogs Chasing Deer; Confiscation and Disposition; Destruction.*—No person shall permit his dogs to
2 hunt or chase deer. A conservation officer shall take into
3 possession any dog known to have hunted or chased deer
4 and the director shall advertise in a newspaper of general
5 circulation in the county that such dog is in his possession,
6 giving a description of the dog and stating the circum-
7 stances under which it was taken. He shall hold the dog
8 for a period of ten days. If, within ten days, the owner
9 does not claim the dog, the director shall destroy it. In
10 this event the cost of keeping and advertising shall be paid
11 by the director. If, within ten days, the owner claims the
12 dog, he may repossess it on the payment of costs of ad-
13 vertising and the cost of keep, not exceeding fifty cents
14 per day. A conservation officer, or any officer or employee
15 of the director authorized to enforce the provisions of this
16 section, after a bona fide but unsuccessful effort to capture
17 dogs detected chasing or pursuing deer, may kill such
18 dogs.
19 dogs.

Sec. 17. *Hunting Fur-Bearing Animals; Possession of*

2 *Fur; Disturbing Traps of Another.*—No person shall hunt,
3 capture, trap, take or kill fur-bearing animals except as
4 authorized by regulation of the director. Except as au-
5 thorized by the director, no person shall have in his pos-
6 session the fresh skin, or part thereof, of any fur-bearing
7 animal, except beaver, within the period beginning ten
8 days after the end of the open season on such fur-bearing
9 animal and ending with the first day of the next succeed-
10 ing open season. No person shall disturb properly mark-
11 ed traps of another person, kill, remove or take a fur-bear-
12 ing animal from the trap of another person without spe-
13 cific authorization of the owner of the trap, except upon
14 land where the owner of such trap may have placed it
15 with right or permission.

Sec. 18. *Number and Types of Traps.*—The director

2 shall have the power and authority to regulate the num-
3 ber, kind and type of traps to be used in the catching or
4 trapping of any game or fur-bearing animals.

Sec. 19. *Marking of Traps.*—All traps used for taking

2 of any game or fur-bearing animal shall be marked with a

3 durable plate or tag, attached to the trap, trap chain, or
4 set, bearing the name and address of the owner of said
5 trap.

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

2 (1) Set or maintain more than the number of beaver
3 traps, or groups of beaver traps, established as the season
4 limit in any one year by the director;

5 (2) Set any traps for beaver within fifteen feet of the
6 water line on the structure of any beaver house;

7 (3) Have in his possession an unsealed beaver hide, or
8 part thereof, within the period beginning thirty days after
9 the end of the open season and ending with the first day
10 of the next succeeding open season for beavers; and

11 (4) Destroy, disturb, or in any manner interfere with
12 dams, houses or burrows of beavers while trapping for or
13 attempting to trap for beavers.

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

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

2 holding a resident state-wide beaver trapping license shall
3 present for sealing, within thirty days after the close of a
4 legal open season, all beaver pelts or skins taken under
5 said license to a designated representative of the depart-
6 ment. The resident state-wide beaver trapping license,
7 countersigned by the owner, lessee or other person en-
8 titled to the possession of such lands, on which beaver
9 were trapped, shall accompany all such pelts or skins. A
10 seal provided by the department shall be affixed to each
11 beaver pelt or skin and shall remain attached to the skin
12 until such pelt or skin has been tanned and processed into
13 commercial fur. The sealing fee shall be one dollar per
14 pelt.

Sec. 22. *Hunting Deer; Report to Director; Tagging.*—

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

Sec. 23. *Outfitter and Guide Services; Definition; Ex-*

2 *ceptions.*—Services of outfitters and guides for the benefit
3 and convenience of hunters and fishermen in this state are

4 recognized as essential and such outfitters and guides may
5 be licensed and authorized to serve as provided in this
6 article.

7 The word "outfitter", as used herein, shall mean and
8 include any person who, operating from any temporary or
9 permanent camp, private or public lodge, or private or
10 incorporated home situate within this state, provides, for
11 monetary profit or gain, saddle or pack animals or other
12 animals, vehicles, boats, conveyances or equipment, or
13 guide services for any person or persons hunting game
14 animals or game birds or fishing in this state. The term
15 "outfitter" shall not include, however, any person who oc-
16 casionally, for accommodation or favor rather than profit
17 or gain, rents equipment to hunters or fishermen as a
18 service incidental to his principal occupation or business
19 without advertising outfitter or guide services or holding
20 out to the public his offerings of such services. The term
21 "guide", as used herein, shall be construed to include and
22 embrace outfitter services and the term "outfitter" shall
23 be construed to include and embrace guide services, but
24 the applicant for any license hereunder may in his appli-

25 cation elect whether he wishes to be designated as an out-
26 fitter or as a guide.

Sec. 24. *Outfitter and Guide Qualifications; Investiga-
tion and Determination Thereof.*—Each outfitter and guide
3 licensed under the provisions hereof shall be a financially
4 responsible citizen of the United States of America and
5 shall have been a resident of the state of West Virginia for
6 a period of at least one year immediately prior to the date
7 of his license application. He shall possess and inventory
8 proper and adequate materials and equipment to provide
9 for hunters and fishermen the services and conveniences
10 he advertises. All such materials and equipment shall be
11 safe and free of infection and conditions inimical to the
12 health and well-being of hunters, fishermen and their trav-
13 eling, camping and lodging companions.

14 The director shall cause all outfitter and guide appli-
15 cants to be investigated and shall make a determination
16 of their qualifications prior to the issuance or refusal of
17 licenses thereto.

Sec. 25. *Outfitter and Guide License Applications; Con-
2 tents; National Forest Requirements.*—Each applicant for

3 an outfitter or guide license shall file with the director a
4 verified application setting forth the applicant's name, his
5 address, the property possessed and to be used in the pro-
6 posed outfitter and guide services, the area within which
7 he proposes to serve, his citizenship, his age and such
8 other data and information as may be prescribed and re-
9 quired by the director on the application forms to be fur-
10 nished by the department. Each such application, when
11 filed by the applicant, shall be approved and signed by
12 three resident real property owners of the county in which
13 such applicant resides.

14 Before any outfitter or guide license shall be issued for
15 serving hunters or fishermen in any national forest areas
16 within this state, the applicant shall obtain from the su-
17 pervisor of such national forest area a designation of the
18 camp site or other site from which the outfitter or guide
19 proposes to operate therein and shall likewise obtain from
20 such supervisor any other authority or permit to so op-
21 erate in such national forest area, together with copies of
22 any rules and regulations of the forest incident to main-
23 tenance of camps, sanitary conditions, and prevention of

24 forest fires and water pollution. The applicant shall sat-
25 isfy the director that he has obtained such designation,
26 permit, authority and rules and regulations, as may be
27 required, as a prerequisite to the director's consideration
28 of the applicant's license application.

Sec. 26. *Outfitter or Guide License and Bond; Revoca-*
2 *tion of License; Penalties.*—When satisfied as to the appli-
3 cant's qualifications for an outfitter's or guide's license and
4 upon receipt of a fee of ten dollars therefor, the director
5 shall issue such license which shall be for the calendar
6 year therein designated.

7 Immediately upon the issuance of an outfitter or guide
8 license and before any outfitter or guide services are offer-
9 ed or rendered thereunder, the licensee shall execute a
10 surety bond in the penal sum of one thousand dollars pay-
11 able to the state of West Virginia and conditioned upon
12 the faithful and reliable discharge of his services under
13 and pursuant to such license. Such bond shall be ap-
14 proved as to form by the attorney general and as to sure-
15 ty by the director, and when so executed and approved,

16 shall be filed in the office of the director. Such bond shall
17 be for the life of the license.

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

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

PART II. LICENSES AND PERMITS

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

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

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

Sec. 28. *When Licenses or Permits Not Required.*—Per-

2 sons in the following categories shall not be required to
3 obtain licenses or permits as indicated:

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

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

Sec. 29. *Licensing Aliens.*—Persons, not citizens of the
2 United States, shall at no time, except when licensed to
3 do so, hunt, trap, pursue, kill, catch or take any wild
4 animals or wild birds, have in their possession firearms
5 of any kind, or fish for, capture, catch, kill or take any

6 fish, amphibians or other forms of aquatic life in this
7 state.

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

Sec. 30. *Application and Statement of Eligibility for*

2 *Licenses.*—It shall be the duty of every person who makes
3 application for and procures any class of license for him-
4 self or another to inform correctly the issuing authority
5 that the applicant is eligible and fulfills the prerequisites
6 of this chapter in respect to age, citizenship and residence
7 which are necessary to entitle such person to have and
8 hold the class of license applied for. In the case of an
9 alien, the applicant shall produce the permit issued by
10 the director. The possession of any class of license by any
11 licensee shall presume that such licensee or his agent has
12 duly informed the issuing authority that the licensee in

13 question was eligible to have, hold and procure the class
14 of license so issued. It shall be unlawful for any person
15 to procure a license in violation of the provisions of this
16 chapter. It shall not be necessary for the state to prove,
17 in any proceeding for an offense hereunder, that false
18 statements were or were not made, if it be established
19 that the licensee possessed a class of license he was not
20 entitled to possess, or the license procured by the offender
21 for another was of a class the licensee was not entitled
22 to possess.

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

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

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

Sec. 32. *Issuance of Licenses.*—The clerk of the county

2 court in each county and such other persons as are desig-
3 nated by the director shall be the license issuing au-
4 thorities hereunder. Each issuing authority shall issue
5 a license to a license applicant if, in the opinion of such
6 authority, the license applicant is legally entitled to
7 obtain the license applied for and pays the proper fee
8 therefor.

9 All materials and supplies necessary for the issuance of
10 licenses shall be furnished by the director to every per-
11 son authorized to issue the licenses.

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

19 Any license issuing authority may issue a duplicate
20 license, to replace any lost, destroyed or damaged license,
21 upon receipt of a verified application therefor duly
22 executed by the original license holder and the payment

23 by such applicant to the issuing authority of a duplicate
24 license fee of one dollar, which shall be paid to the director
25 as provided in section thirty-four hercof.

Sec. 33. *Authority of Director to Designate Agents to*
2 *Issue Licenses; Bonds; Fees.*—The director shall have
3 authority to appoint within any county as many persons
4 as his agents, with authority to issue licenses under the
5 provisions of this article, as may, in his opinion, be neces-
6 sary, in addition to the clerk of the county court of the
7 county, to serve the convenience of the public in pro-
8 curing such licenses. Each person so appointed as such
9 agent and license issuing authority shall, before issuing
10 any license, file with the director a bond payable to the
11 state of West Virginia, in the amount to be fixed by the
12 director at not less than one thousand dollars, conditioned
13 upon the faithful performance of his obligation to issue
14 licenses only in conformity with the provisions of this
15 article and to account for all license fees received by him.
16 The form of such bond shall be prescribed by the attorney
17 general. No person, other than those designated as issuing
18 agents by the director shall sell licenses, or buy the same
19 for purposes of resale.

20 Every person making application for any licenses shall
21 pay, in addition to the license fee prescribed therefor in
22 the later sections of this article, an additional fee of
23 twenty-five cents as compensation for the person issuing
24 the license, except when such license is purchased from
25 a state or county official: *Provided, however,* That only
26 one fee of twenty-five cents shall be collected for issuing
27 combination resident state-wide hunting and fishing
28 Class A-B licenses.

Sec. 34. *Disposition of License Fees; Reports of Agents;*
2 *Special Funds and Uses.*—All persons in this state who
3 receive money for licenses and permits required by this
4 chapter shall, on the first day of each month, pay over
5 to the director all moneys so collected by them during
6 the preceding month. Such payment shall be accompanied
7 by a report showing in the case of license money, the
8 name of the county, the class of license sold, the names
9 and addresses of the persons paying the same, the date of
10 the receipt thereof, the signature of the person receiving
11 and remitting such funds, and such other information as
12 the director may deem necessary.

13 Except where other provisions of this chapter specif-
14 ically require and direct payment of any such moneys
15 into designated funds for specific uses, and purposes, all
16 moneys so received by the director hereunder shall be
17 by him promptly paid into the state treasury and shall
18 be credited to the department of natural resources and
19 shall be further credited to and kept in a separate fund
20 designated "License Fund—Game and Fish", which shall
21 be used and paid out, upon order of the director, solely
22 for the conservation, protection, propagation and distribu-
23 tion of fish, frogs, wild game and wild birds and fowls in
24 this state pursuant to the provisions of this chapter.

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

Sec. 36. *When License to be Carried and Exhibited;*
2 *Carrying License of Another.*—Except as otherwise pro-
3 vided by law, no person shall hunt, take, pursue, trap for,
4 kill, catch or chase for sport any wild animal or wild bird;
5 or fish for, take, kill or catch any fish or amphibians of

6 any kind whatsoever in this state unless he shall have
7 attached and displayed upon his outer garment a valid
8 license issued to him.

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

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

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

5 In case the director desires to refuse a license to any
6 person, he shall notify personnel authorized to issue

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

20 All licenses and permits authorized by this chapter to
21 be granted shall be deemed to have been granted by the
22 director, and the power and authority to revoke such
23 licenses is vested in the director. Upon the revocation of
24 any license, the one to whom the same was issued shall,
25 upon having knowledge of such revocation, forthwith
26 deliver the license and tag so issued to him to the director,

27 his agent, or the clerk of any county court. A clerk shall
28 transmit the same to the director.

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

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

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

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

2 —A Class B license shall be a resident state-wide fish-
3 ing license and shall entitle the licensee to fish for all
4 fish in all counties of the state. It shall be issued

5 only to citizens of the United States, and unnaturalized
6 persons possessing the permit mentioned in section
7 twenty-eight of this article, who are residents of this
8 state. The fee therefor shall be three dollars, except that,
9 in any case where a licensee purchases a Class A and a
10 Class B license at the same time the fee for a Class B
11 license shall be two dollars and fifty cents. For conveni-
12 ence, the commission may provide for the issuance, in
13 those cases where both Class A and Class B licenses are
14 issued to a single licensee at the same time, of both Class
15 A and Class B licenses upon a single form, but, regardless
16 of such form, each shall be and remain a separate license.

Sec. 41. *Class C Courtesy State-wide Hunting and Fish-*

2 *ing License.*—A Class C license shall be a courtesy hunting
3 and fishing license and shall entitle the licensee to hunt
4 and fish in all counties of this state. It shall be issued
5 by the director upon application made to him and with-
6 out fee to:

7 (1) Members and agents of the United States fish and
8 wildlife service;

9 (2) Members of state commissions of other states ex-
10 tending similar courtesies;

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

13 (4) Persons engaged in scientific research.

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

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

Sec. 43. *Class E, Class F and Class G Licenses for Non-
2 residents.*—A Class E license shall be a nonresident hunt-
3 ing license and shall entitle the licensee to hunt all
4 game in all counties of the state. It shall be issued
5 only to citizens of the United States who are not resi-

6 dents of this state. The fee therefor shall be twenty
7 dollars.

8 A Class F license shall be a nonresident fishing license
9 and shall entitle the licensee to fish for all fish in all
10 counties of the state. It shall be issued only to citizens of
11 the United States, and to unnaturalized persons possess-
12 ing the permit required by section twenty-eight of this
13 article, who are not residents of this state. The fee there-
14 for shall be ten dollars.

15 A Class G license shall be a nonresident family fishing
16 license and shall entitle the licensee and members of his
17 family to fish within the territorial limits of state parks
18 and state forests and in the waters of streams bounding
19 same, for a distance of not to exceed one hundred yards
20 from the exterior boundary of any state park or state
21 forest, for a period not to exceed one week. It may be
22 issued to any adult nonresident who is temporarily re-
23 siding in any state park or forest as tenant or lessee of
24 the state. The fee therefor shall be three dollars for the
25 head of the family, plus fifty cents additional for each
26 member of his family to whom the privileges of such

27 license are extended. Class G licenses may be issued in
28 such manner and under such regulations as the director
29 may see fit to prescribe.

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

2 *License.*—A Class H license shall be a state-wide beaver
3 trapping license and shall entitle the licensee to trap
4 beaver only in all counties of the state. It shall be issued
5 only to a citizen of the United States who is a bona fide
6 resident of West Virginia. This license shall become valid
7 only when countersigned, in a space provided on face
8 of license, by landowner, lessee, or person who has legal
9 possession of land upon which the trapper is operating.
10 Setting beaver traps upon the lands of another person
11 without obtaining permission and signature in space pro-
12 vided on license shall be considered an illegal act. The
13 licensee shall not be required to hold any other class of
14 license to trap beaver; nor shall said license be required
15 of any bona fide resident landowner or bona fide resident
16 tenant, or a child of either under the age of fifteen years
17 in those cases where they may trap beavers upon lands

18 belonging to such landowner, or in possession of such
19 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
2 fishing license and shall entitle the licensee to fish for all
3 fish in all counties of the state for a period not to exceed
4 six days. It shall be issued only to citizens of the United
5 States, and to unnaturalized persons possessing the per-
6 mit required by section twenty-eight of this article, who
7 are not residents of this state. The fee therefor shall be
8 three dollars.

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

Sec. 47. *License for Private Game Farm for Propa-
2 gating Animals and Birds for Commercial Purposes.*—The

3 director may issue a license for the operation of a private
4 game preserve for propagation of wild animals and wild
5 birds for commercial purposes. The license shall author-
6 ize the holder to breed or raise animals and birds as
7 specified by the license to sell the same dead or alive, or
8 to sell the eggs of birds in accordance with regulations
9 prescribed by the director.

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

16 The annual license fee shall be ten dollars.

Sec. 48. *License for Private Plant or Pond for Propa-
2 gating Fish, Frogs, Turtles and Other Forms of Aquatic
3 Life for Commercial Purposes.*—The director may issue
4 a license for the operation of a private plant, pond or
5 business for the propagation, sale or purchase of fish,
6 frogs, turtles and other forms of aquatic life for com-
7 mercial purposes. The license shall authorize the holder

8 to breed or raise fish, frogs, turtles and other forms of
9 aquatic life as specified by the license and to buy and sell
10 the same dead or alive or the eggs thereof in accordance
11 with regulations prescribed by the director.

12 Application for a license under this section shall desig-
13 nate the size, character and location of the plant or pond.
14 Before the license is issued, the director shall determine
15 that the pond or plant will not interfere with the free
16 passage of fish; that any water diverted to such plant or
17 pond does not violate the riparian rights of other land-
18 owners and that such plant, pond or diversion will not
19 interfere with the public stocking or propagation of fish
20 frequenting such waters.

21 A licensee selling fish shall furnish the purchaser with
22 a certificate or invoice of sale, bearing date of sale, the
23 number of the license under which sold, the number of
24 fish and number of pounds sold, and such other informa-
25 tion which the director may require.

26 The certificate or invoice shall be shown by the holder
27 on demand of any person authorized under the provisions
28 of this chapter to enforce the provisions hereof.

29 The annual license fee shall be ten dollars.

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

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

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

19 (3) A nonresident state-wide license, which shall apply
20 to all counties in the state and shall be issued only to non-

21 residents. A fee of fifty dollars shall accompany the
22 application; and

23 (4) An agent's permit, which shall apply to a person
24 employed by a licensee under subsections (1), (2) or (3)
25 above, to buy or deal as an agent of the licensee other
26 than at the place of business of the licensee. A fee of two
27 dollars and fifty cents for each such agent shall accompany
28 the application.

Sec. 50. *Permit for Scientific or Propagation Purposes.*

2 —The director may issue a permit to a person to hunt,
3 kill, take, capture or maintain in captivity wildlife or
4 reptiles exclusively for scientific or propagation purposes,
5 but not for any commercial purposes. A permit may be
6 issued only upon written application to the director
7 setting forth at least:

8 (1) The number and kind of wildlife or reptiles to be
9 taken;

10 (2) The purpose and manner of taking; and

11 (3) The name, residence and profession of the person
12 applying for the permit.

13 No charge shall be made for this license.

Sec. 51. *Permit for Keeping Pets.*—The director may
2 issue a permit to a person to keep and maintain in cap-
3 tivity as a pet, a wild animal or wild bird that has been
4 acquired from a commercial dealer or during the legal
5 open season. The fee therefor shall be two dollars.

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

6 (1) The animals, birds, amphibians or reptiles have
7 been purchased from a licensed commercial dealer, either
8 within or without the state, or have been taken legally; or

9 (2) The director is satisfied that provisions for housing
10 and care of wildlife to be kept in captivity and for the
11 protection of the public are proper and adequate.

12 A fee of twenty-five dollars shall accompany each ap-
13 plication for such permit.

Sec. 53. *License for Privately Owned Commercial Fish-*
2 *ing Preserve.*—The director may issue a license for the
3 operation of a private pond or privately owned pond or

4 impoundment to be used as a commercial fishing preserve,
5 provided such impoundments meet the requirements of
6 section twenty-seven of this article: *Provided however,*
7 That only one license shall be required where more than
8 one private pond or privately owned pond or impound-
9 ment is operated under one ownership and management
10 and on one separate commercial fishing preserve. The
11 licensee shall have the authority to establish the fishing
12 seasons, size and creel limits for such licensed pond or
13 impoundment. Persons fishing in such lake shall not be
14 required to possess the same state-wide fishing license
15 as would be required of him if he were fishing any of the
16 public waters of this state.

17 The annual fee for the commercial fishing preserve
18 license shall be twenty-five dollars.

Sec. 54. *License for Privately Owned Commercial*

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

5 (a) Each commercial shooting preserve shall contain
6 a minimum of three hundred acres in one tract of leased

7 or owned land (including water area, if any) and shall
8 be restricted to no more than three thousand contiguous
9 acres (including water area, if any), except that preserves
10 confined to the releasing of ducks only shall be author-
11 ized to operate with a minimum of fifty contiguous acres
12 (including water area); and

13 (b) The exterior boundaries of each commercial shoot-
14 ing preserve shall be clearly defined and posted with signs
15 erected around the extremity at intervals of one hundred
16 fifty yards or less.

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

20 3. The operating licenses or permits issued by the di-
21 rector shall entitle holders thereof, and their guests or
22 customers, to recover not more than eighty percent of the
23 total number of each species of game bird released on the
24 premises each year, except mallard, black duck, ring-
25 necked pheasant, chukar partridge, and other non-native
26 game species upon which a one hundred percent recovery
27 may be allowed.

28 4. Except for the required compliance with the restric-
29 tion on the maximum number of released birds that may
30 be recovered from each preserve each year, as provided
31 in subsections three and eight, shooting preserve opera-
32 tors may establish their own shooting limitations and
33 restrictions on the age, sex and number of birds that may
34 be taken by each person.

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

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

45 7. Each shooting preserve operator shall maintain a
46 registration book listing all names, addresses, and hunting
47 license numbers of all shooters; the date on which they
48 hunted; the amount of game and the species taken; and

49 the tag numbers affixed to each carcass. An accurate
50 record likewise must be maintained of the total number,
51 by species, of game birds and ducks raised and/or pur-
52 chased, and the date and number of all species released.
53 These records shall be open to inspection by a delegated
54 representative of the director at any reasonable time, and
55 shall be the basis upon which the game recovery limits
56 in subsection three hereof shall be determined.

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

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

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

Sec. 55. *License to Catch and Sell Minnows or Other*

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

Article 3. Forests and Wildlife Areas.

Section 1. Division of Forestry; Duties and Functions.

2 --The division of forestry, herein created and established,
3 shall have within its jurisdiction and supervision the
4 state forests, other forest and woodland areas, the protec-
5 tion of forest areas from injury and damage by fire,
6 disease, insects and other pestilences and forces, adminis-
7 tration of the southeastern interstate forest fire protec-
8 tion compact and other compacts and agreements relating
9 to forestry area management and husbandry, and the
10 administration and enforcement of all laws relating to
11 the conservation, development, protection, use and enjoy-

12 ment of all forest lands areas of the state consistent with
13 the provisions of this chapter.

14 The chief of the division shall be designated state
15 forester and shall be responsible for the execution and
16 administration of the provisions of this article as an in-
17 tegral part of the natural resources program of the state.
18 In addition to merit system qualifications and require-
19 ments, the state forester shall be a graduate of an ac-
20 credited school of forestry with practical experience and
21 training in forestry field organization and programs.

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

PART I. FORESTS AND WILDLIFE AREAS

Sec. 2. *Acquisition of Suitable Lands by Director;*

2 *Maintenance Thereof as State Forests or Wildlife Areas.—*

3 The director may with the consent of the governor pur-
4 chase, in the name of the state, out of funds set aside for
5 the purpose, or out of any unused funds in his hands, lands

6 suitable for forest culture, state forests, or wildlife
7 refuges. Such funds may also be used for the construction
8 of dams for fish refuges on lands so acquired. Purchase
9 may be made on terms requiring not less than one-third
10 of the purchase price to be paid at the time of the con-
11 veyance with the residue to be paid in not less than one
12 or two years after date. Without the consent of the gov-
13 ernor not more than twenty-five dollars per acre shall
14 be paid for lands to be used for the purpose of this article.
15 The director may also receive the gift of such lands by
16 deed or bequest. In all cases of transfers to the state, the
17 fee simple title shall pass to the state, except minerals
18 and mining rights to remove such minerals may be ex-
19 cepted or reserved.

20 The director shall protect, preserve and maintain lands
21 so acquired as state forests and wildlife areas for the
22 propagation and distribution of forest trees and for the
23 protection, management, propagation and distribution of
24 the fish, wild animals and birds thereon. He may prescribe
25 and enforce rules and regulations consistent with the laws
26 of the state to carry out that objective. The director may

27 prescribe and enforce rules prohibiting all fishing and
28 hunting, pursuing, catching, trapping, capturing and
29 killing of fish, wild animals and birds upon such state
30 forests and wildlife areas for such length of time as he
31 may deem proper.

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

Sec. 3. *Establishment of Wildlife Areas; Leasing Lands*

2 *Therefor.*—The director shall establish and maintain
3 wildlife areas on lands purchased, leased or given for
4 this purpose. Upon such state owned or leased lands
5 under its administration, or lands purchased from depart-
6 mental funds for the establishment of wildlife areas, or
7 upon lands purchased in cooperation with any agency of
8 the federal government or leased therefrom or managed
9 cooperatively therewith, the director shall regulate public
10 hunting, chasing for sport, shooting, and limit the number
11 of wildlife, which may be taken from such areas open to
12 public shooting in any year. The director may establish

13 special open seasons on any such lands, and may close any
14 such areas, or parts thereof, to public shooting.

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

22 On the boundary of each state wildlife refuge, there
23 shall be posted in conspicuous places, not more than one
24 hundred and fifty yards apart, notices bearing the follow-
25 ing words: "State wildlife refuge—~~hunting~~ is unlawful",
26 and such other information or rules and regulations as
27 the director may deem advisable. On the boundary line
28 of any such wildlife area which has been established as a
29 public shooting ground, the director shall have posted in
30 conspicuous places, not more than one hundred and fifty
31 yards apart, notices bearing the following words: "Public
32 shooting grounds", together with information as to when
33 hunting is legal on such tract.

34 The director shall also have the power to lease lands for
35 this purpose for not less than ten year periods, the rental
36 price thereof not to be more than the amount of the an-
37 nual property taxes on such land, and in no event to
38 exceed ten cents per acre per annum.

39 The director may, with the consent of the owner, set
40 apart any tract of land in the state as a wildlife area.
41 When such lands have been set apart, the director shall
42 manage them in the same manner and for the same pur-
43 pose as wildlife areas owned by the state. Such lands not
44 owned by the state and now operated by the director as
45 wildlife areas shall, at the expiration of the agreement,
46 be reorganized as wildlife areas or be discontinued.

Sec. 4. *Forest Fires; Authority and Duties of Director;*

2 *Expenditures for Forest Fire Control.*—Upon receiving
3 notice of any fire which is injuring or endangering forest
4 land within the state, the director, or his duly authorized
5 representative, the state forester, or any conservation
6 officer shall employ all necessary means to confine, extin-
7 guish or suppress the fire. For these purposes such per-
8 sons and their employees shall, under the general super-

9 vision of the director, have the right and authority to
10 enter upon public or private lands, to destroy fences
11 thereon, to plow such lands, and in case of extreme emer-
12 gency, to set backfires thereon. The state forester and any
13 conservation officer may, under the general supervision
14 of the director, or his duly authorized representative,
15 employ persons to detect fires which may injure or
16 endanger forest land, and may likewise summon or em-
17 ploy persons to assist in extinguishing such fires, who shall
18 be paid for the actual time so employed, at a rate per
19 hour to be determined by the director: *Provided, however,*
20 That the rate per hour shall not exceed the rate per hour
21 paid for any comparable labor or skills by the state road
22 commission. Any person so summoned who shall fail or
23 refuse to assist in extinguishing any such fire shall, unless
24 such failure or refusal to assist is due to physical inability,
25 be guilty of a misdemeanor.

26 Expenditures for detecting, confining, extinguishing or
27 suppressing fires described in this section shall be charged
28 against the state and shall be paid out of the sum of one
29 hundred twenty thousand dollars annually appropriated

30 and made available under provisions of section thirteen of
31 this article. The state forester or his agent shall render to
32 the director, as soon as practicable, a sworn statement
33 with the names of all persons who were summoned or em-
34 ployed and assisted in fighting such fires, the time so
35 spent by each, as well as the names of persons who
36 furnished equipment, subsistence or supplies, or trans-
37 portation therefor, and the amount of money due each for
38 such services, subsistence, supplies or transportation.
39 Requisitions shall be issued and payment of the sums due
40 shall be made in the same manner as is provided for the
41 making of other expenditures by the director.

Sec. 5. *Forest Fire Seasons; Permits; Prohibited Fires;*

2 *Closure of Forests.*—The periods of each year between
3 March first and May thirty-first, inclusive, and October
4 first and December thirty-first, inclusive, are hereby des-
5 ignated as forest fire seasons. No person shall during any
6 such fire season, except between the hours of five o'clock
7 p. m. eastern standard time and five o'clock a. m. eastern
8 standard time, set on fire or cause to be set on fire any
9 forest land, or any grass, grain, stubble, slash, debris, or

10 other inflammable material if it is located in a place from
11 which it is reasonable to expect that the fire may spread to
12 any forest land. Any person who sets or causes to be set
13 such a fire during any period of time permitted by this
14 section shall not leave the fire unattended and shall com-
15 pletely extinguish the fire before five o'clock a. m. eastern
16 standard time. If damage to the property of another re-
17 sults from any such fire during a forest fire season, it **shall**
18 be prima facie evidence that the person who set such fire
19 or caused it to be set violated the provisions of this para-
20 graph.

21 The director or his designated appointees or employees
22 may issue permits authorizing fires prohibited by the pre-
23 ceding paragraph. Such permits may be granted on such
24 conditions and for such periods of time as the director
25 deems necessary to prevent danger from fire to life or
26 property, and noncompliance with any term of the permit
27 shall be a violation of this section. Any permit which was
28 obtained through wilful misrepresentation shall be in-
29 valid. All permit holders shall take all necessary and
30 adequate precautions to confine and control any fire

31 permitted by the authorization; failure to take such action
32 shall be a violation of this section and shall be justifica-
33 tion for the director's obtaining a court order requiring
34 the permit holder to extinguish and cease using fires dur-
35 ing the forest fire season.

36 When the director considers it necessary to prevent
37 danger from fire to life or property, he may, with the prior
38 approval of the governor, prohibit the starting of and re-
39 quire the extinguishment of any fire in any forest area
40 designated by the director, and such action may include
41 any fire for which a permit has been issued under the pre-
42 ceding paragraph. In addition, if so deemed necessary,
43 the director may, with the prior approval of the governor,
44 designate any forest area as a danger area and prohibit
45 entry thereon or use thereof except for the purposes and
46 on the conditions he designates. The director by procla-
47 mation shall establish such areas and designate which
48 fires are prohibited therein; and if a danger area is estab-
49 lished he shall announce the purposes for which and con-
50 ditions under which entry thereon or use thereof may be
51 made. Action hereunder may be taken by the director at

52 any time during the year. Notice of any proclamation
53 hereunder shall be posted on each primary road at the en-
54 trance to the designated areas and copies of the procla-
55 mation shall be furnished at the time of posting to news-
56 papers, radio stations and television stations which serve
57 the area designated. The proclamation shall not be ef-
58 fective until twenty-four hours after it is posted as here-
59 in provided. Any proclamation hereunder shall remain in
60 force until the director, with the approval of the governor,
61 by order terminates it. The order shall designate the time
62 of termination, and notice of any such order shall be fur-
63 nished to each newspaper, radio station, and television
64 station which received a copy of the proclamation. The
65 posted notices shall be removed as soon as possible after
66 termination of any such proclamation. Any person who
67 starts or fails to extinguish a fire so prohibited or enters or
68 uses a danger area otherwise than permitted shall be
69 guilty of a violation of this section.

Sec. 6. *Failure of Person to Extinguish Fire Started or*
2 *Used by Him; Throwing Lighted Material on Forest Land.*
3 —Any person who, by himself, or by his servants, agents

4 or guides, or as a servant, agent or guide of any other per-
5 son, shall at any time build or use any fire in any field, in
6 any public or private road, or in any area adjacent to or
7 in any forest land in this state, shall, before leaving such
8 fire for any period of time, totally extinguish the same.

9 A person shall not at any time throw or place any light-
10 ed match, cigar, cigarette, firecracker or other lighted ma-
11 terial on any forest land, private road, public highway or
12 railroad right of way within this state.

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

Sec. 7. Starting Fire on Lands of Another; Felony.—

2 Any person who wilfully sets or causes to be set on fire
3 any forest land, grass, grain, stubble, brush, slash, debris,
4 or any other inflammable substance upon the property of
5 another without his consent, or in a place from which it is
6 reasonable to expect that the fire may spread to the prop-
7 erty of another without his consent, and as a result of
8 either causes damage or destruction to any natural re-
9 sources in or on the other person's property, shall be
10 guilty of a felony and, upon conviction thereof, shall be

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

18 its road or right of way which passes through forest land,
19 or lands subject to fire from any cause, unless the fire
20 therein is immediately extinguished. No such company,
21 or employee thereof, shall place a lighted fusee along such
22 roads or rights of way in such a manner as will cause the
23 same to ignite inflammable substances which may cause
24 fire to spread to forest land. In case of any uncontrolled
25 or unguarded fire on such part of its road or right of way,
26 the company shall use all practicable means to extinguish
27 it. Engineers, conductors, trainmen, or other persons who,
28 while working for such companies, discover or know of
29 any fire on, along or near such part of the road or right of
30 way of their employer, shall report the same as soon as
31 possible to personnel of the director. A company, or any
32 officer or employee thereof, violating any provision of this
33 section, shall be guilty of a misdemeanor.

Sec. 9. *Right of Railroad Company to Clear Land Ad-*
2 *jacent to Right of Way.*—For the purpose of providing in-
3 creased protection to forest land from fire originating
4 along railroads, any company which operates a railroad
5 shall have the right, subject to the provisions of this sec-

6 tion, without liability for trespass, to enter upon forest
7 land for a distance of one hundred feet from its road or
8 right of way and to clear from such a strip any inflamma-
9 ble material such as leaves, grass, dead trees, slash and
10 brush, but shall not remove any valuable timber growth
11 or other thing of value without consent of and recompense
12 to the owner. Not less than fifteen days prior to clearing
13 such lands, the railroad company shall give the owner
14 thereof notice of its intention, together with a transcript
15 of this section, by letter deposited in the United States
16 mail to his last known address. If the owner shall not file
17 an objection to such clearing with the director within ten
18 days of the date of said notice he shall be deemed to have
19 given consent. Upon the filing by an owner of such objec-
20 tion showing cause why such clearing should not be done,
21 the director shall review the case and may sustain the ob-
22 jection of the owner or permit the clearing in whole or
23 in part.

Sec. 10. *Engines; Escape of Fire From.*—No person, firm
2 or corporation shall use or operate in forest land, or
3 within one-eighth of a mile therefrom, a sawmill, a power

4 shovel, or an engine or machine capable of throwing
5 sparks, unless the equipment is provided with an adequate
6 spark arrester. Escape of fire from such equipment shall
7 be prima facie evidence that such appliance was not
8 maintained properly in compliance with this section. Any
9 person, firm, or corporation violating this section shall be
10 guilty of a misdemeanor.

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

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

10 Any such fire which was caused by a trespasser or by a
11 person who was upon the property without the consent of
12 the owner shall not be deemed caused by the negligence
13 of the owner; but the owner shall use all practical means
14 to confine, extinguish or suppress any such fire on his

15 land even though it was caused by any such person. If
16 he fails to do so, after becoming aware of such fire, the di-
17 rector shall, in the name of the state, recover from him
18 amounts expended by the state for such purposes and the
19 costs thereof.

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

Sec. 13. *Director Authorized to Secure Federal Coop-*
2 *eration.*—The director may do all things required to meet
3 the conditions and requirements of the federal govern-
4 ment in securing federal cooperation under the provisions

5 of the Weeks law and the Clark-McNary law, and any
6 other law amendatory thereof or supplemental thereto,
7 for the purpose of the prevention and control of forest
8 fires and the advancement of forestry practices. The sum
9 of one hundred twenty thousand dollars is hereby appro-
10 priated annually and the board of public works shall in-
11 clude said sum of one hundred twenty thousand dollars for
12 said purpose in its annual budget to the legislature as pro-
13 vided in section fifty-one, article six of the constitution of
14 this state and/or in such other budgets as it may present
15 to the legislature as may be necessary to provide the said
16 sum of one hundred twenty thousand dollars for the pur-
17 pose of this section, which sum of one hundred twenty
18 thousand dollars annually shall be paid into the state
19 treasury to the credit of the department of natural re-
20 sources and be expended and drawn upon by it for the
21 aforesaid purposes, in the manner herein elsewhere pro-
22 vided. Any unexpended balance of this appropriation at
23 the end of any fiscal year shall be reappropriated and re-
24 tained for forest fire control expenditures: *Provided,*
25 *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 co-
operate 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

4 such fire was so communicated shall be prima facie evi-
5 dence of negligence on the part of the person or agent or
6 employee or any other person who shall at the time of
7 such injury by fire be in the use and occupation of the
8 land on which the burning was done and of those who
9 shall at such time have care and management of such
10 burning.

Sec. 17. *Disposition of Proceeds of National Forests.*—

2 Receipts from any national forest, paid to the state or its
3 proper officers pursuant to directions of acts of congress,
4 shall be allocated by the auditor to each county which has
5 acreage located in such national forest, in the proportion
6 which the acreage in such county bears to the total acre-
7 age of such national forest in this state. Eighty per cent
8 of the funds so allocated to any county shall be paid to
9 the board of education of the county to be expended by
10 the board for the benefit of the public schools of the coun-
11 ty. Twenty per cent of the funds so allocated to any
12 county shall be paid to the state road commission to be ex-
13 pended for secondary road purposes in that county.

14 Notwithstanding any contrary provision of former law,

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

Sec. 18. *Disposition of Flood Control, Navigation, and*
2 *Allied Funds from the Federal Government.*—Receipts
3 from the treasurer of the United States, paid to the state
4 or its proper officers pursuant to direction of an act of
5 congress relating to disposition of funds received on ac-
6 count of the leasing of lands for flood control, navigation,
7 and allied purposes, shall be allocated by the state auditor
8 to each county in accordance with the method of allocation
9 specified by the federal government. The ~~state~~ auditor
10 shall transfer to the road commission fifty per cent of the
11 funds so allocated to each county for the purpose of main-
12 tenance of secondary roads in the area or areas of the
13 county in which such flooded lands are located. Fifty per
14 cent of the funds so allocated to any county in which such

15 lands are located shall be paid by the state auditor to the
16 board of education of that county to be expended by the
17 board for the benefit of the public schools of the county.

Sec. 19. *Protection of Forests Against Destructive In-*
2 *sects and Diseases; Purposes and Intent of the Section.*—

3 In order to protect and preserve forest resources of the
4 state of West Virginia from ravages of bark beetles, de-
5 foliators, rusts, blights, wilts, and other destructive forest
6 pests and diseases, and thereby enhance the growth and
7 maintenance of forests; promote the stability of forest-
8 using industries and employment associated therewith;
9 reduce the fire risk created by dying and dead trees in-
10 jured or killed by insects or diseases; conserve forest cover
11 on watersheds and protect recreational and other forest
12 values, it shall be the policy of the state of West Virginia,
13 independently and through cooperation with adjoining
14 states, the federal government, and private timber owners
15 and other private organizations, to prevent, retard, con-
16 trol, suppress, or eradicate incipient, potential or emerg-
17 ency outbreaks of destructive insects and diseases on, or
18 threatening, all forest land irrespective of ownership.

19 (a) Authority. The director is authorized either di-
20 rectly or in cooperation with other agencies, subject to
21 such conditions as he may deem necessary and using such
22 funds as have been, or may hereafter be made available
23 for those purposes, to conduct surveys on any forest land
24 to detect and appraise infestations of forest insect pests
25 and tree diseases, to determine the measures which should
26 be applied on such lands, in order to prevent, retard, con-
27 trol, suppress, or eradicate incipient, threatening, poten-
28 tial or emergency outbreaks of such insect or disease pests,
29 and to plan, organize, direct and carry out such meas-
30 ures as he may deem necessary to accomplish the objec-
31 tives and provisions of this section: *Provided*, That actual
32 control measures shall be conducted with the coopera-
33 tion and consent of the quarantine and regulatory official
34 of the department of agriculture.

35 (b) Establishing Control Zone; Notice to Landowners.
36 Where an insect infestation or disease infection is be-
37 lieved to exist on a forest land within this state, the di-
38 rector shall investigate the condition. Whenever he finds
39 that an infestation or infection exists, he shall request the

40 quarantine officials of the state department of agriculture
41 to declare the same a public nuisance. When same has
42 been declared a public nuisance he shall establish a con-
43 trol zone of the forest land wherein the same is found, and
44 shall give notice in writing by at least two publications
45 in a newspaper of general circulation in the area or areas
46 where the control zone is established, by mail or otherwise
47 to forest landowners within the control zone, advising
48 them of the nature of the infestation or infection, recom-
49 mending control measures and offering technical advice
50 on methods of carrying out the control measures.

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

57 (d) Appeals. Any person damaged or aggrieved by
58 any action of any officer or employee of the department
59 under the provisions of this section shall have the right
60 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, adjoin-
69 ing 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

82 of natural resources to be used to carry out the purpose of
83 this section.

84 (g) Definitions. As used in this section, unless the con-
85 text clearly requires otherwise:

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

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

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

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

102 (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. 20. Southeastern Interstate Forest Fire Protection

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

10 **SOUTHEASTERN INTERSTATE FOREST FIRE**
11 **PROTECTION COMPACT**

12 **Article I.**

13 The purpose of this compact is to promote effective pre-
14 vention and control of forest fires in the southeastern
15 region of the United States by the development of inte-
16 grated forest fire plans, by the maintenance of adequate
17 forest fire fighting services by the member states, by pro-

18 viding for mutual aid in fighting forest fires among the
19 compacting states of the region and with states which
20 are party to other regional forest fire protection compacts
21 or agreements, and for more adequate forest protection.

22 Article II.

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

33 Article III.

34 In each state, the state forester or officer holding the
35 equivalent position who is responsible for forest fire con-
36 trol shall act as compact administrator for that state and
37 shall consult with like officials of the other member
38 states and shall implement cooperation between such
39 states in forest fire prevention and control.

40 The compact administrators of the member states shall
41 coordinate the services of the member states and provide
42 administrative integration in carrying out the purposes
43 of this compact.

44 There shall be established an advisory committee of
45 legislators, forestry commission representatives, and for-
46 estry or forest products industries representatives, which
47 shall meet from time to time with the compact admin-
48 istrators. Each member state shall name one member
49 of the senate and one member of the house of delegates
50 who shall be designated by that state's commission on
51 interstate cooperation, or if said commission cannot con-
52 stitutionally designate the said members, they shall be
53 designated in accordance with laws of that state; and
54 the governor of each member state shall appoint two
55 representatives, one of whom shall be associated with
56 forestry or forest products industries to comprise the
57 membership of the advisory committee. Action shall be
58 taken by a majority of the compacting states and each
59 state shall be entitled to one vote.

60 The compact administrators shall formulate and, in

61 accordance with need, from time to time, revise a regional
62 forest fire plan for the member states.

63 It shall be the duty of each member state to formulate
64 and put into effect a forest fire plan for that state and take
65 such measures as may be necessary to integrate such
66 forest fire plan with the regional forest fire plan formu-
67 lated by the compact administrators.

68 Article IV.

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

76 Article V.

77 Whenever the forces of any member state are rendering
78 outside aid pursuant to the request of another member
79 state under this compact, the employees of such state
80 shall, under the direction of the officers of the state to
81 which they are rendering aid, have the same powers

82 (except the power of arrest), duties, rights, privileges
83 and immunities as comparable employees of the state to
84 which they are rendering aid.

85 No member state or its officers or employees rendering
86 outside aid pursuant to this compact shall be liable on
87 account of any act or omission on the part of such forces
88 while so engaged, or on account of the maintenance or
89 use of any equipment or supplies in connection therewith:

90 *Provided*, That nothing herein shall be construed as re-
91 lieving any person from liability for his own negligent act
92 or omission, or as imposing liability for such negligent
93 act or omission upon any state.

94 All liability, except as otherwise provided hereinafter,
95 that may arise either under the laws of the requesting
96 state or under the laws of a third state on account of or
97 in connection with a request for aid, shall be assumed
98 and borne by the requesting state.

99 Any member state rendering outside aid pursuant to
100 this compact shall be reimbursed by the member state
101 receiving such aid for any loss or damage to, or expense
102 incurred in the operation of any equipment answering

103 a request for aid, and for the cost of all materials, trans-
104 portation, wages, salaries, subsistence of employees
105 and maintenance of equipment incurred in connection
106 with such request: *Provided*, That nothing herein con-
107 tained shall prevent any assisting member state from
108 assuming such loss, damage, expense or other cost or from
109 loaning such equipment or from donating such service to
110 the receiving member state without charge or cost.

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

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

122 The compact administrators shall formulate procedures
123 for claims and reimbursement under the provisions of

124 this article, in accordance with the laws of the member
125 states.

126 Article VI.

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

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

137 Nothing in this compact shall be construed to affect
138 any existing or future cooperative relationship or arrange-
139 ment between any federal agency and a member state or
140 states.

141 Article VII.

142 The compact administrators may request the United
143 States forest service to act as a research and coordinating
144 agency of the southeastern interstate forest fire protection

145 compact in cooperation with the appropriate agencies in
146 each state, and the United States forest service may accept
147 responsibility for preparing and presenting to the com-
148 pact administrators its recommendations with respect
149 to the regional fire plan. Representatives of any federal
150 agency engaged in forest fire prevention and control may
151 attend meetings of the compact administrators.

152 Article VIII.

153 The provisions of articles four and five of this compact
154 which relate to mutual aid in combating, controlling or
155 preventing forest fires shall be operative as between any
156 state party to this compact and any other state which is
157 party to a regional forest fire protection compact in an-
158 other region: *Provided*, That the legislature of such other
159 state shall have given its assent to such mutual aid pro-
160 visions of this compact.

161 Article IX.

162 This compact shall continue in force and remain bind-
163 ing on each state ratifying it until the legislature or the
164 governor of such state, as the laws of such state shall
165 provide, takes action to withdraw therefrom. Such action

166 shall not be effective until six months after notice thereof
167 has been sent by the chief executive of the state desiring
168 to withdraw to the chief executives of all states then
169 parties to the compact.

Sec. 21. *When and How Compact Becomes Operative.*---

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

Sec. 22. *Compact Administration; Committee; Terms*

2 *and Removal.*—In pursuance of article three of said com-
3 pact, the director of the department of natural resources
4 of the state of West Virginia or his designated representa-
5 tive shall act as compact administrator for the state of

6 West Virginia of the southeastern interstate forest fire
7 protection compact during his term of office as director,
8 and his successor as compact administrator shall be his
9 successor as director. As compact administrator he shall
10 be an ex officio member of the advisory committee of the
11 southeastern interstate forest fire protection compact, and
12 chairman ex officio of the West Virginia members of said
13 advisory committee. There shall be four members of the
14 southeastern interstate forest fire protection compact ad-
15 visory committee from the state of West Virginia. Two
16 of the members from the state of West Virginia shall be
17 members of the legislature of West Virginia, one from the
18 senate and one from the house of delegates, designated
19 by the state's commission on interstate cooperation and
20 the terms of any such members shall terminate at the time
21 they cease to hold legislative office, and their successors
22 as members shall be named in like manner. The governor
23 shall appoint the other two members from the state of
24 West Virginia, one of whom shall be associated with for-
25 estry or forest products industries. The terms of such
26 members shall hold office until their respective successors

27 shall be appointed and qualified. Vacancies occurring in
28 the office of such members from any reason or cause shall
29 be filled by appointment by the governor for the unex-
30 pired term. The director as compact administrator may
31 delegate, from time to time, to any deputy or other sub-
32 ordinate in his department or office, the power to be
33 present and participate, including voting as his repre-
34 sentative or substitute at any meeting of or hearing by or
35 other proceeding of the compact administrators or of the
36 advisory committee. The terms of each of the initial four
37 memberships of the advisory committee, whether ap-
38 pointed at said time or not, shall begin upon the date upon
39 which said compact shall become effective in accordance
40 with article two of said compact. Any member of said
41 advisory committee may be removed from office by the
42 governor upon charges and after a hearing.

Sec. 23. *Compact Committee Powers and Duties; Co-*
2 *operation Therewith.*—There is hereby granted to the
3 director as compact administrator and chairman ex officio
4 of the West Virginia members of said advisory committee,
5 and to the members from West Virginia of said advisory

6 committee all the powers provided for in the said com-
7 pact and all the powers necessary or incidental to the
8 carrying out of said compact in every particular. All offi-
9 cers of the state of West Virginia are hereby authorized
10 and directed to do all things falling within their respec-
11 tive provinces and jurisdiction necessary or incidental to
12 the carrying out of said compact in every particular, it
13 being hereby declared to be the policy of the state of West
14 Virginia to perform and carry out the said compact and
15 to accomplish the purposes thereof. All officers, bureaus,
16 departments and persons of and in the state government
17 or administration of the state of West Virginia are hereby
18 authorized and directed at convenient times and upon re-
19 quest of said compact administrator, or of said advisory
20 committee, to furnish information and data relating to
21 the purposes of said compact possessed by them or any of
22 them to said compact administrator or said advisory com-
23 mittee. They are further authorized to aid said compact
24 administrator or said advisory committee by loan of per-
25 sonnel, equipment or other means in carrying out the
26 purposes of said compact.

Sec. 24. *Other Powers Supplementary.*---Any powers
2 herein granted to the state forester shall be regarded as
3 in aid of and supplemental to, and in no case a limitation
4 upon, any of the powers vested in said director by other
5 laws of the state of West Virginia or by the laws of the
6 states of Alabama, Florida, Georgia, Kentucky, Missis-
7 sippi, North Carolina, South Carolina, Tennessee and
8 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*
2 *Functions.*---The division of parks and recreation herein
3 created and established shall have within its jurisdiction
4 and supervision:

5 (a) All state parks and state recreation areas, includ-
6 ing all lodges, cabins, swimming pools, motorboating, and
7 all other recreational facilities therein and thereat;

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

10 (c) The functions and services of the following com-
11 missions which are hereby made activities of the depart-
12 ment of natural resources:

13 (1) Point Pleasant battle monument commission, cre-
14 ated by joint resolution number twenty-four adopted by
15 the legislature of West Virginia on the sixth day of De-
16 cember, one thousand eight hundred seventy-five;

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

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

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

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

33 (d) Administration of all laws and regulations re-

34 lating to the establishment, development, protection, use
35 and enjoyment of all state parks and state recreational
36 facilities consistent with the provisions of this chapter.

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

PART I. PARKS AND RECREATIONAL FACILITIES

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

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

5 “Cost of project” shall embrace the cost of construction,
6 the cost of all land, property, material and labor which
7 are deemed essential thereto, cost of improvements, fi-
8 nancing charges, interest during construction, and all
9 other expenses, including legal fees, trustees’, engineers’
10 and architects’ fees which are necessarily or properly inci-
11 dental to the project.

12 “Project” shall be deemed to mean collectively the ac-
13 quisition of land, the construction of any buildings or
14 other works, together with incidental approaches, struc-
15 tures and facilities, reasonably necessary and useful in
16 order to provide new or improved recreational facilities.

17 “Recreational facilities” shall mean and embrace cabins,
18 lodges, swimming pools, golf courses, restaurants, com-
19 missaries and other revenue producing facilities in any
20 state park or forest.

21 “Rent or rental” shall include all moneys received for
22 the use of any recreational facility.

Sec. 3. State Park and Recreation System; Purposes;
2 *Financing; Disposition and Use of Revenues.*—In addition
3 to the powers and duties vested in the director elsewhere
4 in this chapter, he shall have the power and duty to es-
5 tablish and maintain a state park and public recreation
6 system, and to do all things necessary and incident to the
7 development and administration thereof. Individual proj-
8 ects of such system may be financed from any moneys of
9 the department available for such purposes, or by the

10 issuance of park development revenue bonds as provided
11 in this article.

12 The purposes of such system shall be to promote con-
13 servation by preserving and protecting natural areas of
14 unique or exceptional scenic, scientific, cultural, archae-
15 logical or historic significance and to provide outdoor rec-
16 reational opportunities for the citizens of this state and
17 its visitors. In accomplishing such purposes the director
18 shall, insofar as is practical, maintain in their natural
19 condition lands that are acquired for and designated as
20 state parks, and shall not permit public hunting, the ex-
21 ploitation of the minerals or harvesting of timber thereon
22 for commercial purposes.

23 All revenue derived from the operation of the state park
24 and public recreation system shall be expended by the
25 director solely for the acquisition of property for the ex-
26 tension of the system, or for operating, maintaining and
27 improving such system, or for the retirement of park de-
28 velopment revenue bonds as provided in this article.

Sec. 4. Restaurants and Other Facilities on Department

2 *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

2 *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

18 in land, labor or materials, is hereby expressly authorized.
19 All such bonds shall have and are hereby declared to have
20 all the qualities of negotiable instruments under the law
21 merchant. Such bonds shall bear interest at not more than
22 four per cent per annum, payable semiannually, and shall
23 mature in not more than twenty-five years from their
24 date or dates, and may be made redeemable at the option
25 of the state, to be exercised by the director at such price
26 and under such terms and conditions as the director may
27 fix prior to the issuance of such bonds. The director shall
28 determine the form of such bonds, including coupons to
29 be attached thereto to evidence the right of interest pay-
30 ments, which bonds shall be signed by the director, under
31 the great seal of the state, attested by the secretary of
32 state, and the coupons attached thereto shall bear the
33 facsimile signature of the director. In case any of the
34 officers whose signatures appear on the bonds or coupons
35 shall cease to be such officers before the delivery of such
36 bonds, such signatures shall nevertheless be valid and suf-
37 ficient for all purposes the same as if they had remained
38 in office until such delivery. The director shall fix the

39 denominations of the bonds, the principal and interest of
40 which shall be payable at the office of the treasurer of the
41 state of West Virginia, at the capitol of the state, or, at
42 the option of the holder, at some bank or trust company
43 in the city of New York to be named in the bonds in such
44 medium as may be determined by the director. Such
45 bonds shall be exempt from taxation by the state of West
46 Virginia, or any county or municipality therein. The di-
47 rector may provide for the registration of such bonds in
48 the name of the owner as to principal alone, and as to both
49 principal and interest under such terms and conditions as
50 the director may determine, and shall sell such bonds in
51 such manner as he may determine to be for the best inter-
52 est of the state, taking into consideration the financial
53 responsibility of the purchaser, and the terms and condi-
54 tions of the purchase, and especially the availability of
55 the proceeds of the bonds when required for payment of
56 the cost of the project, such sale to be made at a price not
57 lower than a price which, computed upon standard tables
58 of bond values, will show a net return of five per cent per
59 annum to the purchaser upon the amount paid therefor.

60 The proceeds of such bonds shall be used solely for the
61 payment of the cost of the project, and shall be deposited
62 and checked out as provided by section seven of this arti-
63 cle, and under such further restrictions, if any, as the
64 director may provide. If the proceeds of such bonds, by
65 error in calculation or otherwise, shall be less than the
66 cost of the project, additional bonds may in like manner
67 be issued to provide the amount of the deficiency, and
68 unless otherwise provided for in the trust agreement
69 hereinafter mentioned, shall be deemed to be of the same
70 issue, and shall be entitled to payment from the same
71 fund, without preference or priority as the bonds before
72 issued. If the proceeds of bonds issued for the project
73 shall exceed the cost thereof, the surplus shall be paid
74 into a special fund to be established for payment of the
75 principal and interest of such bonds as specified in the
76 trust agreement provided for in the following section.
77 Such fund may be used for the purchase of any of the out-
78 standing bonds payable from such fund at the market
79 price, but at not exceeding the price, if any, at which such
80 bonds shall in the same year be redeemable, and all bonds

81 redeemed or purchased shall forthwith be cancelled, and
82 shall not again be issued. Prior to the preparation of
83 definitive bonds, the director may, under like restrictions,
84 issue temporary bonds with or without coupons, ex-
85 changeable for definitive bonds upon the issuance of the
86 latter. Such revenue bonds may be issued without any
87 other proceedings or the happening of any other condi-
88 tions or things than those proceedings, conditions and
89 things which are specified and required by this article, or
90 by the constitution of the state. Revenue bonds issued
91 under the authority herein granted shall be eligible as
92 investments for the workmen's compensation fund and
93 as security for the deposit of all public funds.

Sec. 6. *Trustee for Holders of Bonds.*—The director may
2 enter into an agreement or agreements with any trust
3 company, or with any bank having the powers of a trust
4 company, either within or outside the state, as trustee for
5 the holders of bonds issued hereunder, setting forth
6 therein such duties of the state and of the director in re-
7 spect to acquisition, construction, improvement, mainte-
8 nance, operation, repair and insurance of the project, the

9 conservation and application of all moneys, the insurance
10 of moneys on hand or on deposit, and the rights and remedies of the trustee and the holders of the bonds, as may
11 be agreed upon with the original purchasers of such bonds,
12 and including therein provisions restricting the individual
13 right of action of bondholders as is customary in trust
14 agreements respecting bonds and debentures of corporations, protecting and enforcing the rights and remedies
15 of the trustee and the bondholders, and providing for
16 approval by the original purchasers of the bonds of the
17 appointment of consulting architects, and of the security
18 given by those who contract to construct the project, and
19 by any bank or trust company in which the proceeds of
20 bonds or rentals shall be deposited, and for approval by
21 the consulting architects of all contracts for construction.
22 All expenses incurred in carrying out such agreement
23 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

4 or gift received by the director for any project financed
5 by the issuance of park development revenue bonds shall
6 be paid to the treasurer of the state of West Virginia, who
7 shall not commingle such funds with any other moneys,
8 but shall deposit them in a separate bank account or ac-
9 counts. The moneys in such accounts shall be paid out on
10 check of the treasurer on requisition of the director, or of
11 such other person as the director may authorize to make
12 such requisition. All deposits of such moneys shall, if re-
13 quired by the treasurer or the director, be secured by
14 obligation of the United States, of the state of West Vir-
15 ginia, or of the director, of a market value equal at all
16 times to the amount of the deposit, and all banking insti-
17 tutions are authorized to give such deposits.

Sec. 8. *Authority of Director to Pledge Revenue as*
2 *Security.*—The director shall have authority to pledge all
3 revenue derived from any project as security for any
4 bonds issued under this article to defray the cost of such
5 project. In any case in which the director may deem it
6 advisable, he shall also have the authority to pledge the
7 revenue derived from any existing recreational facilities

8 under his control, or any state park or forest, as additional
9 security for the payment of any bonds issued under the
10 provisions of this article to pay the cost of any park de-
11 velopment project.

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

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

9 by this article or are required by the constitution of the
10 state.

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

Sec. 11. *Highway Beautification; Violations; Evidence;*
2 *Enforcement; Penalties.*—The director of the department
3 of natural resources in cooperation with the state road
4 commissioner, the department of public safety, the United
5 States forestry service, and other law enforcement agen-
6 cies of local, state and federal governments, shall be re-
7 sponsible for administration and enforcement of all laws
8 and regulations relating to maintenance of cleanliness and
9 improvement of appearances on and along highways,
10 roads, streets, alleys and other public areas and ways of
11 the state and shall make recommendations to the director
12 from time to time concerning means and methods of ac-
13 complishing state highway beautification consistent with
14 the provisions of this chapter.

15 It shall be unlawful to place, deposit, dump or throw,
16 or cause to be placed, deposited, dumped or thrown, any
17 litter, garbage, refuse, trash, cans, bottles, papers, ashes,
18 cigarette or cigar butts, carcass of any dead animal, offal
19 or any other offensive or unsightly matter in or upon any
20 public or private highway, road, street or alley, or upon
21 the surface of any land within one hundred yards thereof
22 without the consent of the owner, or in or upon any
23 private property into or upon which the public is admitted
24 by easement or license, or upon any private property
25 without the consent of the owner, or in or upon any public
26 park or other public property other than in such place
27 as may be set aside for such purpose by the governing
28 body having charge thereof.

29 If any such materials be thrown, cast, dumped or dis-
30 charged from a motor vehicle in violation of the provi-
31 sions hereof, such action shall be deemed prima facie
32 evidence that the owner and driver of such motor vehicle
33 intended to violate the provisions of this section.

34 The state commissioner of motor vehicles, upon regis-
35 tering a motor vehicle or issuing an operator's or chauff-

36 feur's license, shall issue to the owner or licensee, as the
37 case may be, a copy of this section.

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

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

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

Sec. 12. *Correlation of Projects and Services.*—The
2 chief of the division of parks shall correlate and coordinate

3 his park and recreation programs, projects and develop-
4 ments with the functions and services of other offices and
5 divisions of the department and other agencies of the
6 state government so as to provide, consistent with the
7 provisions of this chapter, suitable and adequate facilities,
8 landscaping, personnel and other services at and about
9 fish hatcheries, game farms, wildlife research areas, feed-
10 ing stations, historic and scenic monuments and markers,
11 and other institutions and activities of the state.

PART II. MOTORBOATING

Sec. 13. *Motorboats and Other Terms Defined.*—As used

2 in this section and subsequent sections of this article,
3 unless the context clearly requires a different meaning:

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

7 (2) “Motorboat” means any vessel propelled by ma-
8 chinery, whether or not such machinery is the principal
9 source of propulsion, but shall not include a vessel which
10 has a valid marine document issued by the bureau of
11 customs of the United States government or any federal

12 agency successor thereto, nor to a vessel powered by a
13 motor of five horsepower or less; and

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

Sec. 14. *Motorboat Numbers; Applications, Fees and*
2 *Records; Procedures.*—Every motorboat, as herein de-
3 fined, operating upon public waters within the territorial
4 limits of this state, shall be numbered as herein provided.
5 (a) The owner of each motorboat requiring numbering
6 by this state shall file an application for a number with
7 the director on forms approved by him. The application
8 shall be signed by the owner of the motorboat and shall
9 be accompanied by a fee of five dollars. All such fees
10 shall be deposited in the state treasury to the credit of the
11 state general fund. Upon receipt of the application in
12 approved form, the director shall enter the same upon

13 the records of his office and issue to the applicant a num-
14 ber awarded to the motorboat and the name and address
15 of the owner. The owner shall paint on or attach to each
16 side of the bow of the motorboat the identification number
17 in such manner as may be prescribed by rules and regu-
18 lations of the director in order that it may be clearly
19 visible. The number shall be maintained in legible con-
20 dition. The certificate of number shall be pocket size and
21 shall be available at all times for inspection on the motor-
22 boat for which issued, whenever such motorboat is in
23 operation;

24 (b) The owner of any motorboat already covered by a
25 number in full force and effect which has been awarded
26 to it pursuant to then operative federal law or a federally-
27 approved numbering system of another state shall record
28 the number prior to operating the motorboat on the
29 waters of this state in excess of the ninety-day reciprocity
30 period provided for in section sixteen of this article.
31 Such recordation shall be in the manner and pursuant to
32 the procedure required for the award of a number under

33 subsection (a) of this section, except that no additional
34 or substitute number shall be issued;

35 (c) Should the ownership of a motorboat change, a new
36 application form with fee shall be filed with the director
37 and a new certificate of number shall be awarded in the
38 same manner as provided for in an original award of
39 number;

40 (d) In the event that an agency of the United States
41 government shall have in force an overall system of
42 identification numbering for motorboats within the United
43 States, the numbering system employed pursuant to this
44 article by the commission shall be in conformity there-
45 with;

46 (e) The director may designate as issuing agent the
47 clerk of any county court and such other persons in each
48 county, as he deems advantageous to provide for the
49 issuance of certificates of number in accordance with the
50 provisions of this article. For services rendered in issuing
51 such certificates, and collecting and paying over such
52 numbering fees, each issuing agent, other than a state or
53 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,

75 such owner shall, upon application and payment of a fee
76 of two dollars, be granted a renewal of such certificate of
77 number for an additional one-year period;

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

89 (i) Any holder of a certificate of number shall notify
90 the director within fifteen days, if his address no longer
91 conforms to the address appearing on the certificate and
92 shall, as a part of such notification, furnish the director
93 with his new address. The director may provide in his
94 rules and regulations for the surrender of the certificate
95 bearing the former address and its replacement with a

96 certificate bearing the new address or for the alteration
97 of an outstanding certificate to show the new address of
98 the holder;

99 (j) No number other than the number awarded to a
100 motorboat or granted reciprocity pursuant to this article
101 shall be painted, attached or otherwise displayed on
102 either side of the bow of such motorboat; and

103 (k) It shall be the duty of the director on or before
104 January thirtieth of each year, commencing with the year
105 one thousand nine hundred sixty, to forward to the asses-
106 sor of each county a list of the names and addresses of
107 all persons, firms and corporations owning vessels and
108 operating the same or other boats registered with the
109 director under the provisions of this article. In furnishing
110 this information to each county assessor, the director shall
111 include in his report such information as is made avail-
112 able to him in the reports and registrations he receives as
113 to make, model, value and cost price of such vessels and
114 other equipment required to be registered for use by said
115 owner or operator thereof under the provisions of this
116 article: *Provided, however,* That the director need not

117 furnish such information to the assessor if the cost price
118 of such vessel does not exceed two hundred dollars nor
119 the cost of the motor does not exceed one hundred
120 seventy-five dollars.

Sec. 15. *Motorboat Classification; Required Lights and*
2 *Equipment; Rules and Regulations; Pilot Rules.*—(a)

3 Motorboats subject to the provisions of this article shall
4 be divided into four classes as follows:

5 Class A. Less than sixteen feet in length;

6 Class 1. Sixteen feet or over and less than twenty-six
7 feet in length;

8 Class 2. Twenty-six feet or over and less than forty
9 feet in length;

10 Class 3. Forty feet or over;

11 (b) Classes 1, 2 and 3 motorboats in all weathers from
12 sunset to sunrise shall carry and exhibit the following
13 lights when under way, and during such time no other
14 lights which may be mistaken for those prescribed shall
15 be exhibited.

16 (1) Every motorboat of Class 1 shall carry the follow-
17 ing lights:

18 First. A bright white light aft to show all around the
19 horizon;

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

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

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

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

35 Third. On the starboard side a green light so con-
36 structed as to show an unbroken light over an arc of the
37 horizon of ten points of the compass, so fixed as to throw
38 the light from right ahead to two points abaft the beam

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

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

55 (4) Every white light prescribed by this section shall
56 be of such character as to be visible at a distance of at
57 least two miles. Every colored light prescribed by this
58 section shall be of such character as to be visible at a
59 distance of at least one mile. The word "visible" in this

60 subsection, when applied to lights, shall mean visible on
61 a dark night with clear atmosphere.

62 (5) When propelled by sail and machinery any motor-
63 boat shall carry the lights required by this section for a
64 motorboat propelled by machinery only.

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

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

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

76 (f) Every motorboat shall carry at least one life pre-
77 server, or life belt, or ring buoy, or other device of the
78 sort prescribed by regulations of the commission for each
79 person on board, so placed as to be readily accessible:
80 *Provided*, That every motorboat carrying passengers for

81 hire shall carry so placed to be readily accessible at least
82 one life preserver of the sort prescribed by the regulations
83 of the director for each person on board.

84 (g) Every motorboat shall be provided with such
85 number, size, and type of fire extinguishers, capable of
86 promptly and effectually extinguishing burning gasoline,
87 as may be prescribed by the regulations of the director,
88 which fire extinguishers shall be at all times kept in con-
89 dition for immediate and effective use and shall be so
90 placed as to be readily accessible.

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

98 (i) Every motorboat shall have the carburetor or
99 carburetors of every engine therein (except outboard
100 motors) using gasoline as fuel, equipped with such effi-
101 cient flame arrestor, backfire trap, or other similar device

102 as may be prescribed by the regulations of the director.

103 (j) Every such motorboat and every such vessel, except
104 open boats using as fuel any liquid of a volatile nature,
105 shall be provided with such means as may be prescribed
106 by the regulations of the director for properly and effi-
107 ciently ventilating the bilges of the engine and fuel
108 tank compartments so as to remove any explosive or in-
109 flammable gases.

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

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

121 (m) No person shall operate or give permission for the

122 operation of a vessel which is not equipped as required by
123 this section or modification thereof.

Sec. 16. *Motorboats Exempted from Numbering.*—A

2 motorboat shall not be required to be numbered under
3 this article if it is:

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

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

11 (3) Motorboats used exclusively for racing while par-
12 ticipating in races, and the preparation therefor, which
13 have been authorized pursuant to the provisions of sec-
14 tion twenty-two of this article.

Sec. 17. *Dealer and Manufacturer Motorboat Rules and*

2 *Requirements.*—Dealers' and manufacturers' certificate of
3 number, containing the word "manufacturer" or "dealer",
4 as appropriate, may be used in connection with the opera-
5 tion of any motorboat in the possession of such dealer or

6 manufacturer, when the boat is being used for demon-
7 strative purposes. Application for a dealer's or manu-
8 facturer's certificate of number shall be made upon a
9 form provided by the director, and shall contain such
10 information as may be required by the director. Upon
11 receipt of the application and upon the payment of a fee
12 of five dollars for the initial certificate of number, and
13 five dollars for each additional certificate of number, the
14 director shall issue to the applicant a manufacturer's or
15 dealer's certificate of number which shall contain the
16 word "manufacturer" or "dealer" in lieu of a description
17 of the boat. The manufacturer or dealer may have the
18 number awarded to him printed upon or attached to a
19 removable sign or signs to be temporarily but firmly
20 mounted upon or attached to the boat being demonstrated,
21 so long as the display meets the requirements of the pro-
22 visions of this article and regulations issued hereunder.

Sec. 18. *Boat Liveries*.—(a) The owner of a boat livery
2 shall cause to be kept a record of the name and address
3 of the person or persons hiring any vessel which is de-
4 signed or permitted by him to be operated as a motor-

5 boat, the identification number thereof, and the departure
6 date and time, and the expected time of return. The
7 record shall be preserved for at least six months.

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

Sec. 19. *Motorboat Muffling.*—The exhaust of every
2 internal combustion engine used on any motorboat shall
3 be effectively muffled by equipment so constructed and
4 used as to muffle the noise of the exhaust in a reasonable
5 manner. The use of cutouts is prohibited, except for
6 motorboats competing in a regatta or boat race approved
7 as provided in section twenty-two of this article, and for
8 such motorboats while on trial runs, during a period not
9 to exceed seventy-two hours immediately preceding such
10 regatta or race and for such motorboats while competing
11 in official trials for speed records during a period not to

12 exceed seventy-two hours immediately following such
13 regatta or race.

Sec. 20. *Care in Handling Watercraft; Reports.*—(a)

2 No person shall operate any motorboat or vessel, or
3 manipulate any water skis, surfboard, or similar device
4 in a reckless or negligent manner so as to endanger the
5 life, limb, or property of any person.

6 (b) No person shall operate any motorboat or vessel,
7 or manipulate any water skis, surfboard, or similar de-
8 vice while intoxicated or under the influence of any nar-
9 cotic drug, barbiturate or marijuana.

10 (c) It shall be the duty of the operator of a vessel in-
11 volved in a collision, accident, or other casualty, so far
12 as he can do so without serious danger to his own vessel,
13 crew, and passengers (if any), to render to other persons
14 affected by the collision, accident, or other casualty such
15 assistance as may be practicable and as may be necessary
16 in order to save them from or minimize any danger
17 caused by the collision, accident, or other casualty, and
18 also to give his name, address and identification of his
19 vessel in writing to any person injured and to the owner

20 of any property damaged in the collision, accident, or
21 other casualty.

22 (d) In the case of a collision, accident, or other casualty
23 involving a vessel, the operator thereof, if the collision,
24 accident, or other casualty results in death or injury to
25 a person or damage to property in excess of one hundred
26 dollars, shall file with the director a full description of
27 the collision, accident, or other casualty, including such
28 information as the director may, by regulation, require.
29 In accordance with any request duly made by an author-
30 ized official or agency of the United States, any informa-
31 tion compiled or otherwise available to the director pur-
32 suant to subsection (d) of this section shall be transmitted
33 to such official or agency of the United States.

Sec. 21. *Handling Water Skis and Surfboards.*—(a) No
2 person shall operate a vessel on any waters of this state
3 towing a person or persons on water skis, surfboard, or
4 similar device, nor shall any person engage in water ski-
5 ing, surfboarding, or similar activity at any time between
6 the hours from one hour after sunset to one hour before
7 sunrise.

8 (b) The provisions of subsection (a) of this section do
9 not apply to a performer engaged in a professional exhibi-
10 tion, or a person or persons engaged in an activity author-
11 ized under section twenty-two of this article.

12 (c) No person shall operate or manipulate any vesse!,
13 tow rope or other device by which the direction or loca-
14 tion of water skis, surfboard, or similar device may be
15 affected or controlled in such a way as to cause water
16 skis, surfboard, or similar device, or any person thereon
17 to collide with or strike against any object or person.

Sec. 22. *Regattas, Races and Exhibitions; Applications*

2 *and Permits.*—(a) The department may authorize the
3 holding of regattas, motorboat or other boat races, marine
4 parades, tournaments or exhibitions on any waters of this
5 state. It shall adopt and may, from time to time, amend
6 regulations concerning the safety of motorboats and other
7 vessels and persons thereon, either observers or par-
8 ticipants. Whenever a regatta, motorboat or other boat
9 race, marine parade, tournament or exhibition is proposed
10 to be held, the person in charge thereof, shall, at least
11 fifteen days prior thereto, file an application with the

12 director for permission to hold such regatta, motorboat
13 or other boat race, marine parade, tournament or exhibi-
14 tion. The application shall set forth the date, time and lo-
15 cation where it is proposed to hold such regatta, motor-
16 boat or other boat race, marine parade, tournament or
17 exhibition, and it shall not be conducted without author-
18 ization of the director in writing.

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

Sec. 23. Incapable Operator; Owner Responsibility.—

2 No person who is the owner of any motorboat, or has such
3 in his charge or control shall act or permit the same to be
4 operated by any person who, by reason of any physical or
5 mental disability, is incapable of operating such motor-
6 boat under all the prevailing circumstances.

Sec. 24. General Rules and Regulations for Motorboat-

2 *ing; Special Rules.*—The director is hereby authorized
3 and empowered to prescribe and to enforce:

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

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

Sec. 25. *Local Rules and Regulations.*—(a) The pro-
2 visions of this article, and of other applicable laws of this
3 state shall govern the operation, equipment, numbering
4 and all other matters relating thereto whenever any vessel
5 shall be operated on the waters of this state, or when any

6 activity regulated by this article shall take place thereon,
7 but nothing in this article shall be construed to prevent
8 the adoption of any ordinance or local law relating to
9 operation and equipment of vessels the provisions of
10 which are identical to the provisions of this article,
11 amendments thereto or regulations issued thereunder:
12 *Provided*, That such ordinances or local laws shall be
13 operative only so long as and to the extent that they con-
14 tinue to be identical to provisions of this article, amend-
15 ments thereto or regulations issued thereunder.

16 (b) Any subdivision of this state may, at any time, but
17 only after public notice, make formal application to the
18 director for special rules and regulations with reference
19 to the operation of vessels on any waters within its terri-
20 torial limits and shall set forth therein the reasons which
21 make such special rules or regulations necessary or ap-
22 propriate.

23 (c) The director is hereby authorized to make special
24 rules and regulations with reference to the operation of
25 vessels on any waters within the territorial limits of any
26 subdivision of this state.

Article 5. Water Resources.

Section 1. *Division of Water Resources; Duties and*
2 *Functions.*—The division of water resources, herein cre-
3 ated and established, shall have within its jurisdiction
4 and supervision the state water resources board, the Ohio
5 river valley water sanitation commission from the state
6 of West Virginia, the interstate commission on the Poto-
7 mac river basin from the state of West Virginia, and the
8 administration and enforcement of all laws relating to
9 slack-water dams, stream and water areas beautification,
10 and the conservation, development, protection, enjoyment
11 and use of the water resources of the state consistent with
12 the provisions of this chapter. The chief of the division
13 shall be primarily responsible for the execution and ad-
14 ministration of the provisions of this article as an integral
15 part of the natural resources program of the state and
16 shall organize and staff his division so as to accomplish
17 these ends in an orderly, efficient and economical man-
18 ner. The division chief shall give consideration to other
19 functions and services of the department and, wherever
20 practicable, shall coordinate the plans and programs of

21 his division with the functions and services of other divi-
22 sions, offices and activities of the department.

PART I. WATER RESOURCES BOARD

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

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

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

11 (c) “Domestic use” shall mean any use of water re-
12 sources by occupants of land for personal need and for
13 household purposes, including (1) uses for drinking, bath-
14 ing, cooking and sanitation; (2) uses for maintaining
15 poultry and animals kept for household sustenance; (3)
16 uses for maintaining household pets, and (4) uses for
17 heating and cooling private residences and for maintain-

18 ing noncommercial lawns, gardens, or orchards appurte-
19 nant to private residences;

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

22 (e) "Pollution" shall mean the discharge of deposit,
23 directly or indirectly, of sewage, industrial wastes or
24 other substances, in such condition, manner or quantity
25 as may contaminate or alter the physical, chemical or
26 biological properties of any of the waters of the state to
27 such extent as to render such waters directly or indirectly
28 detrimental to the public health or unreasonably and ad-
29 versely affect such waters for present or future domestic,
30 commercial, industrial, agricultural, recreational or other
31 legitimate uses; and

32 (f) "Person" shall mean any and all persons natural
33 or artificial, including any municipal or private corpora-
34 tion organized or existing under the laws of this or any
35 other state or country, any county court, governmental
36 institution, agency or political subdivision as well as any
37 firm or association.

Sec. 3. *Water Resources Board; Creation, Composition,*

2 *and Organization.*—A state water resources board is here-
3 by created and established as successor to the state water
4 commission and the state water resources commission.
5 It shall be a public corporation and as such may sue and
6 be sued, plead and be impleaded, contract and be con-
7 tracted with and shall have and use a common seal.

8 The board shall be composed of the state director of
9 health, the superintendent of the state geological and eco-
10 nomic survey, the director of the department of natural
11 resources and four other members to be appointed by the
12 governor with the advice and consent of the senate. The
13 director of the department of natural resources shall be
14 the chairman of the board. Members of the commission
15 in office at the effective date of this section shall continue
16 in office as members of the board until the new appointees
17 have been appointed and qualified. The terms of office of
18 the members of the board to be appointed by the governor
19 shall be for six years. The first appointments made under
20 the provisions of this section shall be as follows: Two
21 members for three years and two members for six years;

22 as these terms expire the offices shall be filled for six-
23 year terms. The members of the board shall receive no
24 salary or remuneration for their services as such board
25 members but they shall be reimbursed, out of moneys
26 appropriated for such purposes, all sums which they nec-
27 essarily shall expend in the discharge of their duties as
28 members of such board. The director of the division of
29 sanitary engineering in the state health department shall
30 perform such services as the board may request of him in
31 connection with its duties hereunder and he shall be reim-
32 bursed, out of moneys appropriated for such purposes, all
33 sums which he necessarily shall expend in the perform-
34 ance of such services. Nothing contained in this article,
35 however, shall be construed to limit or interfere with the
36 power of the state health department to select, employ
37 and direct the director of the division of sanitary engi-
38 neering of said department, or any employee thereof who
39 in any way may perform any services for the board. The
40 college of engineering at West Virginia university, under
41 the direction of the dean thereof, shall, insofar as it can,
42 without interference with its usual and regular activities,

43 aid and assist the board in the study and research of ques-
44 tions connected with pollution of waters. The dean of the
45 college of engineering shall be reimbursed out of moneys
46 appropriated for such purposes, any and all sums which
47 he necessarily shall expend in the performance of any
48 services he may render to the board under the provisions
49 hereof.

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

Sec. 4. *Board Functions, Services and Reports.*—The
2 board shall make surveys and investigations of the water
3 resources of the state and, as soon as practicable, shall
4 inventory the water resources of the state and to the ex-
5 tent 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.

27 The board may request and, upon its request, shall be
28 entitled to receive from any agency of the state or any
29 political subdivision thereof, or from any other person
30 who engages in a commercial use or controls any of the
31 water resources of the state such necessary information
32 and data as will assist the board in obtaining a complete
33 picture of the water resources of the state and their exist-
34 ing control and commercial uses. The board shall reim-
35 burse such agencies, political subdivisions and other per-
36 sons for any expenses which would not otherwise have
37 been incurred in making such information and data avail-
38 able to the board.

39 The board shall study questions arising in connection
40 with stream flow and pollution of waters in the state and
41 make reports and recommendations in respect thereto;
42 and, in cooperation with the college of engineering at
43 West Virginia university, make research, investigate
44 and scientific experiments in efforts to discover economical
45 and practical methods for elimination, disposal and treat-
46 ment of industrial wastes and the control and correction
47 of stream pollution; and to this end the board may co-

48 operate with any public or private agency and receive
49 therefrom, on behalf of the state, and for deposit in the
50 state treasury, any money which such agency may con-
51 tribute as its part of the expense thereof, and gifts, dona-
52 tions or contributions received as aforesaid may be ex-
53 pended according to the requirements or directions of the
54 donor or contributor without the necessity of an appro-
55 priation therefor, except that an accounting thereof shall
56 be made in the fiscal reports of the board.

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

6 (1) To enter into compacts and agreements concerning
7 this state's share of waters in watercourses where a por-
8 tion of such waters are contained within the territorial
9 limits of a neighboring state or states, subject to the ap-
10 proval of the legislature;

11 (2) To cooperate with federal officers and agencies,
12 other state agencies and officers, interstate agencies, and

13 other interested persons in the conservation, improvement
14 and development of water resources, and to this end the
15 board may receive money from such agencies and persons,
16 on behalf of the state: *Provided*, That all moneys received
17 as provided in this subsection shall be paid into a special
18 fund which is hereby created in the state treasury and
19 shall be expended, under the direction of the board, solely
20 for the purpose or purposes for which the grant, gift, or
21 contribution shall have been made;

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

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

32 (5) To hold public hearings pursuant to rules and
33 regulations established by the board, to obtain the neces-

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

11 pollution or the substantial reduction of the pollution of
12 any of the waters of the state and directing the applicant
13 to put the said land to use for such purpose within a
14 reasonable time after the acquisition of title or the right
15 of possession thereof.

Sec. 7. *Cooperation with Other Governments and Agen-*
2 *cies.*—The board is hereby designated as the water polu-
3 tion agency for this state for all purposes of the Water
4 Pollution Control Act, Public Law 845, 80th Congress (62
5 Stat. 1155) approved June thirtieth, one thousand nine
6 hundred forty-eight, hereinafter called the “federal act”,
7 and is hereby authorized to take all action necessary or
8 appropriate to secure to this state the benefits of said act.
9 In carrying out the purposes of this section the board, in
10 addition to any other action which may be necessary or
11 appropriate, is authorized to cooperate with the surgeon
12 general of the United States public health service and
13 other agencies of the federal government, other states,
14 interstate agencies and other interested parties in all
15 matters relating to water pollution, including the develop-
16 ment of programs for eliminating or reducing pollution
17 and improving the sanitary conditions of waters, on be-

18 half of this state to apply for and receive funds made
19 available to the board under the aforesaid federal act by
20 any agency of the federal government: *Provided*, That all
21 moneys received from any federal agency as herein pro-
22 vided shall be paid into the state treasury and shall be
23 expended, under the direction of the board, solely for the
24 purpose or purposes for which the grant or grants shall
25 have been made; to approve projects for which applica-
26 tion for loans or grants under the federal act is made by
27 any municipality (including any city, town, district or
28 other public body created by or pursuant to the laws of
29 this state and having jurisdiction over disposal of sewage,
30 industrial wastes or other substances) or agency of this
31 state or by any interstate agency; to participate through
32 its authorized representatives in proceedings under the
33 federal act to recommend measures for abatement of
34 water pollution originating in this state; to give consent
35 on behalf of this state to requests by the federal security
36 administrator to the attorney general of the United States
37 for the bringing of suits for abatement of such pollution;
38 and to consent to the joinder as a defendant in such suit

39 of any person who is alleged to be discharging matter
40 contributing to the pollution, abatement of which is
41 sought in such suit. Whenever a federal law requires the
42 approval or recommendation of a state agency or any
43 political subdivision of the state in any matter relating
44 to the water resources of the state, the board, subject to
45 approval of the legislature, is hereby designated as the
46 sole agency to give the approval or recommendation re-
47 quired by the federal law, unless the federal law spe-
48 cifically requires the approval or recommendation of some
49 other state agency or political subdivision of the state.

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

8 No person shall, without first securing a permit from
9 the board, construct, install or operate a new sewer, dis-
10 posal system or treatment works; extensions, modifica-

11 tions or additions to new or existing disposal systems or
12 treatment works; extensions, modifications or additions
13 to industrial or commercial establishments or the opera-
14 tion thereof, or make or cause to be made any new outlet,
15 or to add to the load from any existing outlet; which
16 would cause a material pollution of the waters of the state.
17 For the purposes herein, the board may issue temporary
18 or conditional permits and renew, change, modify, amend
19 or revoke the same. Any person who is denied a permit
20 by the board, or who has such permit revoked or modified
21 shall be afforded an opportunity for hearing in connection
22 therewith, as hereinafter provided, upon written appli-
23 cation filed with the board within twenty days of receipt
24 of such denial, revocation or modification, which notice
25 shall be communicated to the board by registered mail,
26 addressed to its chairman or secretary, and upon any
27 other persons affected, personally or by registered mail.
28 All such applications for permits primarily relating to
29 sewage shall be submitted to the state department of
30 health in such form as shall have been approved by both
31 the board and the department of health. After the deci-

32 sion by the state department of health in regard thereto
33 and the reasons have been noted therein, the application,
34 the notation of the health department's decision and other
35 papers making up the file shall be forwarded by the de-
36 partment of health to the board. The board's permit or
37 other decision shall be returned with the entire file to the
38 state department of health, which shall notify the appli-
39 cant in writing of the decisions of both the health depart-
40 ment and the board, enclosing certificates where granted,
41 and shall deliver to the board a copy of such notification.

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

51 Any person causing the pollution of any water, or al-
52 leged to be causing the pollution of any water, may be

53 cited by the board on its own motion, or by any member
54 thereof, or the executive secretary on his own motion, to
55 appear not less than fifteen nor more than thirty days
56 from the date of service of such citation at a place desig-
57 nated by it, within the county wherein the pollution is
58 alleged to have occurred or is being caused, then and there
59 to show cause, if any shall exist, why said board should
60 not issue an order regulating such pollution, and any per-
61 sons affected by such pollution may by petition intervene
62 as a party complainant or respondent in any proceeding
63 instituted by or before the board. Such citation may be
64 issued by the board or any member thereof, or its execu-
65 tive secretary, and may be served and returned in the
66 same manner as process in any civil action, or it may be
67 served by sending a copy thereof by registered mail ad-
68 dressed to the person causing, or alleged to be causing,
69 any pollution of any water, at his, their or its usual, or
70 last known, post office address. The hearings herein pro-
71 vided may be conducted by the board, any member there-
72 of, or its executive secretary, or any person authorized to
73 take depositions by the laws of this state: *Provided*, That

74 where any such hearing is not conducted by the board,
75 all the testimony shall be reduced to writing as provided
76 by law applicable to the taking of depositions, the cost
77 thereof to be borne by the party presenting the same, and
78 all findings in connection therewith shall be made by the
79 board at a meeting to be called by its chairman not less
80 than thirty days after conclusion of its hearing. Any
81 member of the board or its executive secretary may issue
82 any subpoena, administer oaths and cause the attendance
83 of witnesses, the production of evidence and testimony in
84 any proceeding, subject to the same conditions as are pro-
85 vided by the general statutes for the attendance of wit-
86 nesses and the production of evidence and testimony in
87 civil actions.

Sec. 9. *Pollution Orders; Procedure; Enforcement.*—

2 After a full hearing the board shall make its finding of
3 facts, and if it finds that any person is polluting any of the
4 waters of the state, or that the construction, installation
5 or operation of any new sewer, disposal system or treat-
6 ment works, extensions, modifications or additions to new
7 or existing disposal systems or treatment works, exten-

8 sions, modifications or additions to industrial or com-
9 mercial establishments or the operation thereof, or any
10 new outlet or additional load from any existing outlet
11 would cause a material pollution of the waters of the state,
12 and that the same should be prevented, eliminated, con-
13 trolled or reduced, considering the purposes of this article,
14 the amount and effect of such pollution, the practicality
15 and physical and economic feasibility of eliminating, con-
16 trolling or reducing such pollution, the health and wel-
17 fare of the public and other present and future uses of
18 the waters of the state, it shall make and enter an order
19 directing such person to cease such pollution, or shall
20 make and enter an order denying any permit being sought
21 under the provision of section eight of this article, and
22 such person shall have thirty days after notice of the
23 entry of such final order to notify the board that he will
24 comply therewith or will install, use and operate some
25 practical and reasonably available system or means which
26 will so eliminate, control or reduce such pollution, having
27 regard for the rights and interests of all persons con-
28 cerned, and if such person does not so comply with such

29 order, thereafter the board may cause the enforcement
30 of any order issued by it to cease such pollution and, as
31 well all other orders entered by it in matters subject to
32 its jurisdiction, by application to the circuit court of any
33 county wherein the alleged pollution originated or nat-
34 urally flows or to any judge of such court if the same
35 shall be in vacation, to enjoin any persons from causing
36 or continuing such pollution, which application shall be
37 brought and the proceedings thereon conducted by the
38 attorney general through his assistant as provided in sec-
39 tion thirteen of article one of this chapter or by the pros-
40 ecuting attorney of the county wherein such proceedings
41 may be pending, or by special counsel employed by any
42 intervening complainant petitioner. If any person noti-
43 fies the board that he will comply with such final order
44 by installing, using and operating some practical and
45 available system to so eliminate, control or reduce such
46 pollution, and makes application for an extension of time,
47 the board within reasonable limits may grant such ex-
48 tension of time. The person against whom such order
49 shall be issued shall, before proceeding to install any sys-

50 tem or means, submit to the board, for its consideration
51 and approval, a plan or statement describing the system
52 or means which is proposed to be used or operated; if any
53 person shall desire to make any substantial change in any
54 system or means used or operated, such person shall, be-
55 fore making such change, file with the board for its con-
56 sideration and approval a plan or statement describing
57 such proposed change, together with application for the
58 action of the board thereon and in respect thereto. The
59 board shall, in any case, enter an order approving or dis-
60 approving any such system or means proposed to be used
61 or operated, or permit or refuse to permit the proposed
62 change in any system or means adopted, used or operated,
63 and shall make and enter all such orders as the board
64 deems proper and necessary. Any order of the board may,
65 at any time after at least twenty days' notice in writing
66 to any person affected thereby and any intervening pe-
67 titioner, and after a hearing thereon, be modified or re-
68 voked by an order entered by the board and the board
69 shall forthwith cause an attested copy of any order en-
70 tered by it to be served upon all persons affected thereby

71 in the same manner as writs or summons in civil actions
72 may be served, or by sending the same by registered mail
73 to such person, or intervener, at his, their or its usual or
74 last known post office address.

Sec. 10. *Compliance with Orders; Finances and Funds;*

2 *Procedures.*—Any person, corporation, municipal corpora-
3 tion, partnership or legal entity, upon whom a final order
4 of the board as herein provided is served, which order
5 shall not have been set aside by a court of competent
6 jurisdiction upon complaint filed as herein provided or
7 upon whom a final order is served as modified to conform
8 with a judgment of such court directing modification,
9 shall, within thirty days after receipt of such order, or
10 after judgment affirming such order is entered, take steps
11 for the acquisition or construction of such plants, ma-
12 chinery or works, or for such repair, alteration or exten-
13 sion of existing plants, machinery or works, as may be
14 necessary for the disposition or treatment of the organic
15 or inorganic matter which is causing or contributing to,
16 or is about to cause or contribute to, a polluted condition
17 of such water or waters, or shall take such other steps as

18 may be necessary to comply with said final order of the
19 board. If the offender be a municipal corporation, the
20 cost of acquisition, construction, repair, alteration or ex-
21 tension of the necessary plant, machinery or works, or
22 taking such other steps as may be necessary to comply
23 with said order, shall be paid out of funds on hand avail-
24 able for such purpose, or out of the general funds of such
25 municipal corporation, not otherwise appropriated; or if
26 there be not sufficient funds on hand or unappropriated,
27 then the necessary funds shall be raised by issuance of
28 bonds, such bond issue to be subject to the approval of
29 the state sinking fund commission and the attorney gen-
30 eral of the state of West Virginia.

31 If the estimated cost of the steps necessary to be taken
32 by such municipal corporation to comply with such final
33 order of the board is such that the bond issue necessary
34 to finance such project would not raise the total outstand-
35 ing bonded indebtedness of such municipal corporation in
36 excess of the constitutional limit imposed upon such in-
37 debtedness by the constitution of this state, then and in
38 that event the necessary bonds may be issued as a direct

39 obligation of such municipal corporation, and retired by a
40 general tax levy to be levied against all property within
41 the limit of such municipal corporation listed and assessed
42 for taxation. If the amount of such bonds necessary to be
43 issued would raise the total outstanding bonded indebted-
44 ness of such municipal corporation above said constitu-
45 tional limitation on such indebtedness, or if such municipal
46 corporation by its governing body shall determine against
47 the issuance of direct obligation bonds, then such municipi-
48 pal corporation shall issue revenue bonds and provide for
49 the retirement thereof in the same manner and subject
50 to the same conditions as provided for the issuance and
51 retirement of bonds in chapter twenty-five, acts of the
52 legislature, first extraordinary session, one thousand nine
53 hundred thirty-three: *Provided, however,* That the pro-
54 visions of section six of the above mentioned act, allowing
55 objections to be filed with the governing body, and pro-
56 viding that a written protest of thirty per cent or more
57 of the owners of real estate shall require a four-fifths vote
58 of the governing body for issuance of said revenue bonds,
59 shall not apply to bond issues proposed by any municipal

60 corporation to comply with the final order issued by the
61 board, under the authority of this article, and such objec-
62 tions or submission of written protest shall not be author-
63 ized, nor shall the same, if had, operate to justify or excuse
64 failure to comply with such final order of the board.

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

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

2 ---The construction, acquisition, improvement, equipment,
3 custody, operation, repair and maintenance of any plants,
4 machinery or works by any municipal corporation, in
5 compliance with a final order of the board, as herein pro-
6 vided, other than the financing thereof, and the rights,
7 powers and duties, of such municipal corporation and the
8 respective officers and departments thereof, whether the

9 same shall be financed by the issuance of revenue or direct
10 obligation bonds, shall be governed by the provisions of
11 said chapter twenty-five, acts of the legislature, first ex-
12 traordinary session, one thousand nine hundred thirty-
13 three.

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

2 It shall be the duty of each individual offender and of each
3 member of a partnership, and of each member of the
4 governing body of a municipal corporation, and of each
5 member of the board of directors or other governing body
6 of a private corporation, association or other legal entity,
7 against whom a final order has been issued, as herein pro-
8 vided, to begin appropriate action or proceedings to com-
9 ply with such order, within thirty days from the receipt
10 thereof, if no action has been commenced in the circuit
11 court of the county where such violation is alleged to
12 exist to set aside or vacate such order, as provided in this
13 article, or, in case such action has been brought, within
14 thirty days from the date of judgment affirming such
15 order, or from the date of the receipt of such order, as
16 modified in conformity with the judgment of such court.

17 Failure of the governing body in the case of a municipal
18 corporation, or of the board of directors or any other gov-
19 erning body of any private corporation, association or
20 other legal entity, to provide for the financing and con-
21 struction of such works as may be necessary to carry out
22 said order by appropriate ordinance or resolution, shall
23 constitute failure to begin appropriate action or proceed-
24 ings to comply with such order, as above provided. Any
25 individual offender, or member of a partnership, or any
26 officer or member of the board of directors or a private
27 corporation, association, or other legal entity, or any
28 mayor, councilman or member of sanitary board as pro-
29 vided for in said chapter twenty-five, acts of the legisla-
30 ture, first extraordinary session, one thousand nine hun-
31 dred thirty-three, of any municipal corporation, who fails
32 or refuses to discharge any duty imposed upon him by
33 this act or by such final order of the board, or any duty
34 imposed upon him by reason of any ordinance of the gov-
35 erning body of any municipal corporation, or resolution
36 of the board of directors or other governing body of any
37 private corporation, association or other legal entity, pur-

38 suant to this act or to such final order, shall be deemed
39 guilty of a misdemeanor, and, upon conviction thereof,
40 shall be fined in any sum of not less than twenty-five
41 dollars nor more than one hundred dollars, to which, in
42 the discretion of the court, may be added imprisonment in
43 the county jail for any period not to exceed ninety days.
44 Each day that such failure or refusal to discharge such
45 duties continues, shall be and constitute a separate and
46 additional offense for the purposes of this section.

Sec. 13. *Time Extension; Procedures; Penalties.*—The
2 board shall have the authority, in its discretion, to extend
3 the time fixed in any final order issued by it, within which
4 any offender is ordered to correct or abate a condition of
5 pollution of any water or waters, upon written petition
6 filed with the board not less than thirty days prior to the
7 time fixed in such order, when it shall appear that a good
8 faith effort to comply with said order is being made, and
9 that it shall be impossible for such an offender to complete
10 the project of work undertaken within the time so fixed:
11 *Provided, however,* That when it shall appear from such
12 petition aforesaid that due to wartime or other govern-

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

19 Any person, corporation, municipal corporation, part-
20 nership, association or other legal entity, who shall fail
21 or refuse to correct or abate such polluted condition in
22 compliance with such order within the time fixed or
23 within the time additionally granted as herein provided,
24 shall be subject to a penalty of one hundred dollars for
25 each day that such polluted condition continues to exist
26 after the time so fixed, or additionally granted, which may
27 be recovered in a civil suit brought in the name of the
28 state of West Virginia and which penalty shall be in
29 addition to the penalty provided in section twelve of this
30 article. It shall be the duty of the attorney general to
31 prosecute all actions for penalties under this section, and
32 all penalties so recovered shall be paid into the state treas-
33 ury to the credit of the state fund as general revenue. The

34 penalties accruing for any two or more days under the
35 provisions of this section may be recovered in one com-
36 plaint and may be joined in one paragraph of said
37 complaint.

Sec. 14. *Judicial Review*.—Any party feeling aggrieved
2 by the entry of a final order by the board, affecting him
3 or it, may present a petition in writing to the circuit court
4 of the county wherein the pollution originated or nat-
5 urally flows, or to the judge of such court in vacation,
6 within thirty days after the entry of such order, praying
7 that such final order may be set aside or modified. The
8 applicant shall deliver a copy of such petition to the sec-
9 retary of the board before presenting the same to the
10 court or judge. The court or judge shall fix a time for the
11 hearing on the application, but such hearing, unless by
12 agreement by the parties, shall not be held sooner than
13 five days after its presentation; and notice of the time and
14 place of such hearing shall be forthwith delivered to the
15 secretary of the board, so that the board may be repre-
16 sented at such hearing by one or more of its members or
17 by counsel. For such hearing the board shall file with the

18 clerk of said court all papers, documents, evidence and
19 records or certified copies thereof as were before the board
20 at the hearing or investigation resulting in the entry of
21 the order from which the petitioner appeals. The board
22 shall file with the court before the day fixed for the final
23 hearing a written statement of its reasons for the entry
24 of such order, and after arguments by counsel the court
25 shall by order entered of record, affirm, modify or set
26 aside in whole or in part the order of the board. Upon
27 such judicial review, the findings of fact made by the
28 board shall have like weight to that accorded to the find-
29 ings of fact of a trial chancellor or at any equity pro-
30 cedure. The supreme court of appeals of the state shall
31 have jurisdiction to review the order of the circuit court
32 upon application of either party or any intervener. The
33 prosecuting attorney of the county wherein the proceed-
34 ings in the circuit court are had, or the attorney general
35 through his assistant as provided in section thirteen of
36 article one of this chapter, shall represent the board and
37 the attorney general of the state shall represent it in any
38 proceedings in the supreme court of appeals and any inter-

39 vener may be represented by counsel specially employed.

PART II. SLACK-WATER DAMS

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

2 —The state road commissioner, in constructing public
3 highways, bridges and culverts, as provided by law, and
4 any municipal corporation constructing or improving pub-
5 lic streets, viaducts, bridges and culverts, either severally
6 or jointly, upon request of the director of the department
7 of natural resources and with the approval of the state
8 road commissioner, may construct and maintain slack-
9 water dams in connection with such public highways,
10 streets, bridges, culverts or viaducts so as to create reser-
11 voirs, ponds, water parks, basins, lakes or other incidental
12 works to conserve the water supply of the state.

Sec. 14. *Dam Construction Initiated; Costs; Plans.*—The

2 director may request the public authority having charge
3 of the construction of state highways, highway bridges,
4 and culverts or municipal streets, viaducts, bridges and
5 culverts for the construction of slack-water dams in con-
6 nection with the construction of any such public highway,
7 street, bridge, viaduct or culvert whenever, in his opinion,

8 the construction of such dam is desirable and feasible for
9 the economical creation and construction of reservoirs,
10 ponds, water parks, basins, lakes or other incidental works
11 for the conservation of the water supply of the state.

12 The public authority having charge of such construction
13 may approve such request when, in its opinion, the con-
14 struction of such dams will not unnecessarily delay or
15 hinder the construction of the public highway, street,
16 bridge, viaduct or culvert, or will not interfere with its
17 value or use for highway purposes.

18 If such request is approved, the director, in cooperation
19 with the state road commissioner and the public authority
20 participating in the project, shall make a survey and pre-
21 pare plans, specifications and estimates for the construc-
22 tion of such dams, reservoir, pond, water park, basin,
23 lake or other incidental works in connection there-
24 with.

25 Upon approval of the plans and specifications and de-
26 termination to proceed with the project, the director shall
27 enter into an agreement with the public authority on the
28 distribution of the cost and expense of the construction of

29 such dams and incidental works in connection therewith.
30 The portion of the cost to be paid by the department shall
31 be paid from any funds appropriated for or paid into the
32 department and available for such purpose. No public
33 authority shall proceed with the construction of such a
34 project unless the plans have complied with the other
35 requirements of law relative to the construction of dams
36 and the director shall have satisfied the public authority
37 that sufficient funds are available for the completion of
38 the dam.

39 Such dams shall be constructed under and subject to
40 any laws governing the construction of state, county or
41 municipal highways, streets, viaducts, bridges or culverts.
42 Any public authority undertaking construction pursuant
43 to this article shall proceed in the same manner as pro-
44 vided for the construction of public highways or street
45 improvements.

46 Nothing herein contained shall require the public au-
47 thority so concerned to delay or postpone the construction
48 of the principal public improvement, though approval of
49 the combined project may have been given.

Sec. 17. *Requests to Director for Dam Construction;*

2 *Costs; Procedure.*—Any department or division of the
3 state government or any county, municipal corporation,
4 park board or district or any organization, club, corpora-
5 tion, or private person may petition the director for the
6 construction of dams and reservoir projects in connection
7 with the construction of any public highway, bridge, cul-
8 vert, street or viaduct.

9 Upon receipt of such a petition and its approval by the
10 director, the director shall proceed as authorized by sec-
11 tion sixteen of this article. If the public authority having
12 charge of the construction of such public highway, street,
13 bridge, viaduct or culvert approves the request, then the
14 director shall enter into an agreement with the public
15 authority, organization or persons petitioning for the con-
16 struction of such dam or reservoir on the apportionment
17 of the cost and expense of construction. The cost and ex-
18 pense of such dam project shall include the cost of clear-
19 ing and grubbing and the cost of property and damages
20 incidental thereto. Such agreement shall also contain pro-
21 visions for the proper maintenance and repair of such

22 projects after completion and also apportion the revenue
23 derived therefrom between the department and the pe-
24 titioner.

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

19 treasury to the credit of the project shall likewise be
20 refunded.

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

Sec. 20. *Dam Supervision, Maintenance and Manage-*
2 *ment.*—The director shall have the supervision, care and
3 control of all dams, reservoirs, ponds, water parks, basins,
4 lakes or other incidental works constructed pursuant to
5 this article and shall maintain and keep them in repair.
6 The cost of such maintenance and repair shall be paid
7 from any funds appropriated to the department for that
8 purpose or paid into the state treasury as agreed upon
9 with the public or contracting authorities cooperating in
10 the construction of such projects.

11 Such projects may also be maintained by any department
12 or division of state government or other public author-
13 ities leasing or operating the projects, through agreements

14 made with said director. All rentals derived from the
15 leases of such projects shall be used by said director in
16 the maintenance or repair of all such projects. The costs
17 and expenses of the reconstruction of any such projects
18 shall be distributed, unless otherwise agreed, on the same
19 basis and pro rata share of the costs and expenses as was
20 paid by the contracting authorities to the cost of the orig-
21 inal project: *Provided, however,* That the state road com-
22 mission shall not be required to contribute any portion
23 of the cost of maintaining or repairing any dam, reservoir,
24 pond, water park, basin, lake, or other incidental work
25 when the maintenance of the road, bridge, or culvert
26 would not have required such expenditure if it were not
27 for the installation of the project or projects by this article
28 contemplated.

Sec. 21. *Titles and Leases to Lands; Management and*
2 *Funds.*—The title or lease to any such lands, waters or
3 riparian rights shall be taken by the department, subject
4 to the approval of the governor and the attorney general,
5 in the name of the state. The lease rentals or purchase
6 price of any such lands, waters or riparian rights, as well

7 as all costs and expenses of constructing any such reser-
8 voirs, ponds, water parks, basins, lakes or other incidental
9 works on such lands, may be paid for from any funds
10 appropriated for the use of or paid into the department
11 and available for such purpose. The director may accept
12 contributions to such funds from individuals, associations,
13 clubs, organizations and corporations to effectuate the
14 purposes of this article.

Sec. 22. Future Plans for Road and Other Construction;

2 *Coordination.*—Upon request by the director, the state
3 road commissioner or other public authority shall furnish
4 such director plans under way or contemplated for the
5 construction of new public highways, bridges, culverts,
6 viaducts, or streets; and thereupon, it shall become the
7 duty of the director to coordinate the plans of the depart-
8 ment, if any, with the state road commission or other pub-
9 lic authority to the end that such additional project shall
10 not cause a delay in or interfere with the construction of
11 the principal project, and to the end that such additional
12 project shall, in all respects, be in conformity with recog-
13 nized road construction standards and practices.

PART III. HUSBANDRY OF WATER AREAS

Sec. 23. *Water Areas Beautification; Investigations;*

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

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

2 *Penalties.*—It shall be unlawful to place, deposit, dump or
3 throw, or cause to be placed, deposited, dumped or thrown,
4 any litter, garbage, refuse, trash, cans, bottles, papers,
5 ashes, carcass of any dead animal, offal or any other offen-
6 sive or unsightly matter into any river, stream, creek,
7 lake or pond, or upon the surface of any land within one

8 hundred yards thereof or in such location that high water
 9 or normal drainage conditions will cause material desig-
 10 nated in this section to be washed into any river, stream,
 11 creek, lake or pond.

12 No portion of this section shall be construed to restrict
 13 a private owner or lessee in the use of his own private
 14 property or leased property or to prohibit the disposal of
 15 materials designated in this section in any manner author-
 16 ized by law. But if any owner, renter or lessee, private or
 17 otherwise, knowingly permits such material, heretofore
 18 designated in this section, to be deposited, dumped or
 19 thrown in such location that high water or normal drain-
 20 age conditions will cause such material to wash into any
 21 river, stream, creek, lake or pond, it shall be deemed prima
 22 facie evidence that such owner, renter, or lessee intended
 23 to violate this section. The provisions of this section shall
 24 not apply to persons, firms or corporations subject to the
 25 jurisdiction of the state water resources board under pro-
 26 visions of this article.

27 In addition to enforcement by the director, provisions
 28 of this section may be enforced by the United States for-

29 estry service and all other proper law enforcement
30 agencies.

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

Article 6. Reclamation.

Section 1. *Division of Reclamation; Duties and Func-*
2 *tions; State Agriculturist, His Compensation and Duties.—*

3 The division of reclamation, herein created and estab-
4 lished, shall have within its jurisdiction and supervision
5 all lands and areas of the state surfaced mined or suscep-
6 tible of being surfaced mined for the removal of coal and
7 other minerals and all other lands and areas of the state
8 deforested, burned over, barren or otherwise denuded,
9 unproductive, and subject to soil erosion and waste, except
10 land being utilized in the production of agricultural com-
11 modities. Included within such lands and areas shall be

12 lands seared and denuded by chemical operations and
13 processes abandoned coal mining areas, swamplands, lands
14 and areas subject to flowage easements and backwaters
15 from river locks and dams, and river, stream, lake and
16 pond shore areas subject to soil erosion and waste. The
17 jurisdiction and supervision exercised by the division
18 shall be consistent with other provisions of this chapter,
19 shall be in cooperation with other offices and divisions of
20 the department, and shall not interfere with or encroach
21 upon powers, functions and services lawfully within the
22 jurisdiction of the government of the United States.

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

27 Upon request of the director of the department of nat-
28 ural resources, the director of the West Virginia agricul-
29 tural experiment station at West Virginia University shall
30 select and designate a competent and qualified person to
31 be state agriculturist who shall serve in a liaison and ad-
32 visory capacity between the experiment station and the

33 department in agricultural reclamation programs and
34 projects. The state agriculturist shall be a graduate of an
35 accredited school or college of agriculture, shall have had
36 at least five years' practical experience in agricultural
37 work. The director of the experiment station shall fix the
38 state agriculturist's salary, which shall be paid from uni-
39 versity funds, and shall arrange on the university campus
40 for adequate office facilities, stenographic and clerical
41 assistance, and such other supplies and materials as
42 needed by the state agriculturist. When performing serv-
43 ices for the department of natural resources, his travel
44 expenses shall be paid from department funds. The state
45 agriculturist shall study and develop agricultural recla-
46 mation programs and projects consistent with the pro-
47 visions of this chapter, and, under the supervision and
48 direction of the directors of the experiment station and
49 the department of natural resources, shall plan, effect and
50 prosecute programs, projects and activities for the recla-
51 mation and restoration of lands of the^{*}state for agricul-
52 tural uses and purposes.

Sec. 2. *Surface Mining of Coal.*—The terms surface

2 mining or strip mining of coal, as herein used, shall mean
3 the mining of coal by any method from an open cut or
4 open pit from which the overburden or surface materials
5 have been removed or stripped so as to expose the coal in
6 place. The term shall not be construed to include con-
7 ventional deep mining and auger mining.

8 Surface mining of coal, as an industrial enterprise and
9 occupation, shall be within the jurisdiction and subject to
10 regulations of the state department of mines, as provided
11 in article two-a, chapter twenty-two of this code, but the
12 department of natural resources shall have jurisdiction
13 and control over issuance of all surface mining permits,
14 land and soil aspects of all surface mining operations, and
15 the restoration and reclamation of all lands and areas sur-
16 face mined, partially surface mined, and affected by ad-
17 jacent or nearby surface mining operations.

18 Personnel of the department of mines and of the de-
19 partment of natural resources shall correlate and coordi-
20 nate their respective departmental programs and records
21 so as to effect an orderly and harmonious administration
22 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

8 storm and seepage waters from such surface to a perma-
9 nent stream or stream bed with as little erosion as pos-
10 sible; (4) remove all metal, lumber and other refuse re-
11 sulting from the operation; (5) regrade, in a manner ap-
12 proved by the director and the agriculturist, the over-
13 burden or other strata removed from the coal so as to
14 refill any ditches, trenches or excavations made in the
15 mining operation, in order to minimize the hazards of
16 floods, pollution of streams and water, accumulation of
17 stagnant water, and the loss of soil for agricultural, for-
18 estry or grazing purposes, but any lands upon which
19 stripping operations are conducted, which are not used
20 for agricultural or grazing purposes, and in the opinion
21 of the agriculturist, are not adapted therefor, shall be
22 exempted from the provisions of this requirement by
23 the director in the exercise of his sound discretion;
24 and (6) to plant trees, shrubs, grasses or vines upon
25 the land affected in such a manner so as to establish a
26 satisfactory cover on the land in compliance with rules
27 and regulations approved and adopted by the director or
28 to offer to deposit with the soil conservation district, in

29 which the operation covered by such permit is located, a
30 sufficient amount of money to reclaim the area of the
31 permit, as estimated by the district. If the offer is ac-
32 cepted by the district and the deposit made with the dis-
33 trict, and approved by the director, the district then as-
34 sumes the responsibility for the reclamation work. If the
35 district assumes responsibility for the reclamation work,
36 the director shall release the bonds.

37 If the operator, landowner or coal owner, including
38 the lessee, desires to conduct drift mining upon the prem-
39 ises, he may designate drift locations, and also outside
40 haulage ways along the exposed face of the coal, at which
41 places it will not be necessary to replace the overburden
42 on the haulage way to the coal until such mining is com-
43 pleted.

44 For failure to do all the things required of the operator
45 within one year after the completion of the mining opera-
46 tion on the land covered by the permit, and after receipt
47 of a thirty-day notice in writing from the director, which
48 notice may be sent by registered or certified mail, that
49 any one or more of such things have not been done, the

50 permit covering the particular operation and any other
51 surface mining permits that may have been issued to the
52 operator involved shall be revoked by the director and the
53 performance bond shall be forfeited, unless such operator
54 shall comply with the provisions of this section within
55 said thirty-day period.

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

Sec. 5. Bond Forfeitures; Procedures; Funds and Uses.

2 —Upon default in the performance of the conditions of
3 the performance bond, the director shall give notice to
4 the attorney general and it shall be his duty to collect the
5 forfeiture without delay.

6 All such forfeitures, heretofore or hereafter collected,
7 as provided in this article, shall be deposited with the
8 state treasurer in a special fund to be designated "Surface
9 Mining Reclamation Fund" to the credit of the department
10 and shall be expended to reclaim and rehabilitate land
11 affected in accordance with the provisions of this article.

12 It shall then be the duty of the director with the knowl-
13 edge and concurrence of the agriculturist to reclaim and
14 rehabilitate land affected in accordance with the pro-
15 visions of section four of this article. Insofar as reasonably
16 practicable, the moneys in the fund shall be expended
17 upon the lands upon which the permit was issued and for
18 which the bond was given. The department may, when
19 deemed necessary, avail itself of any services which may
20 be provided by the state or federal government.

21 The auditor shall issue his warrant for any or all money
22 in the special fund created by this section upon written
23 request of the director. The special fund heretofore desig-
24 nated "Strip Mining Fund" shall be included in and made
25 a part of the "Surface Mining Reclamation Fund" herein
26 provided for.

Sec. 6. *Validity of Existing Permits and Bonds; Con-*
2 *tinuity.*—The provisions of chapter eighty-four of the acts
3 of the legislature of West Virginia, regular session, one
4 thousand nine hundred thirty-nine, shall continue to be
5 in full force and govern in all respects every existing
6 right for surface mining operations, every outstanding

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

2 satisfactory completion of all requirements of law under
3 the permit granted to any operator pursuant to the pro-
4 visions hereof, the director of the department of natural
5 resources shall issue to the operator a certificate releasing
6 and discharging the bond and surety thereon.

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

Article 7. Law Enforcement, Procedures and Penalties.

Section 1. *Chief Conservation Officer Duties; Conserva-*
2 *tion Officers; Special Conservation Officers.*—The depart-

3 ment's law enforcement policies, practices and program
4 shall be under the immediate supervision and direction
5 of the department law enforcement officer selected by the
6 director and designated as chief conservation officer as
7 provided in article one hereof.

8 Under the supervision of the director, the chief con-
9 servation officer shall organize, develop and maintain law
10 enforcement practices, means and methods geared, timed
11 and adjustable to seasonal, emergency and other needs
12 and requirements of the department's comprehensive
13 natural resources program. All department personnel
14 detailed and assigned to law enforcement duties and
15 services hereunder shall be known and designated as
16 conservation officers and shall be under the immediate
17 supervision and direction of the chief conservation officer.
18 All such conservation officers shall be trained, equipped
19 and conditioned for duty and services wherever and when-
20 ever required by department law enforcement needs.

21 The chief conservation officer, acting under supervision
22 of the director, is authorized to select and appoint special
23 conservation officers for limited or extended periods of

24 time for effective enforcement of the provisions of this
25 chapter when considered necessary because of seasonal,
26 emergency or other unusual circumstances. The special
27 conservation officers shall be selected from qualified merit
28 system personnel and shall otherwise comply with other
29 requirements and qualifications of conservation officers,
30 except in emergency situations and circumstances when
31 the director may designate such officers, without regard
32 to such requirements and qualifications, to meet imme-
33 diate law enforcement needs.

34 The term conservation officer, as used in this chapter,
35 shall mean and include personnel which may be desig-
36 nated and described in other provisions of this code as
37 game protectors, game wardens, fire wardens and by other
38 like or similar names.

39 Conservation officers shall be subject to seasonal or
40 other assignment and detail to duty whenever and wher-
41 ever required by the functions, services and needs of the
42 department.

Sec. 2. *Conservation Officer Qualifications; Oath; Uni-*
2 *forms.*—In addition to merit system qualifications and re-

3 quirements, persons selected as conservation officers shall
4 have reached their twenty-first birthday and shall not
5 have reached their forty-fifth birthday at the time of ap-
6 pointment, of height between five feet nine inches and
7 six feet six inches, with weight proportioned to height, in
8 good physical condition and of good moral character. Each
9 person so selected shall be certified by the judge of the
10 circuit court, the sheriff and the prosecuting attorney of
11 the county in which he resides to be a person of good
12 moral character, temperate in habits and without criminal
13 record. Whenever possible and practicable, preference in
14 selection of conservation officers shall be given honorably
15 discharged United States military personnel. Each con-
16 servation officer, before entering upon the discharge of
17 his duties, shall take and subscribe to the oath of office
18 prescribed in article four, section five of the constitution
19 of West Virginia, which executed oath shall be filed with
20 the director.

21 The director shall prescribe the kind, style and material
22 of uniforms to be worn by conservation officers. Uniforms

23 and other equipment furnished to the conservation offi-
24 cers shall be and remain the property of the state.

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

Sec. 4. *Conservation Officer Powers and Duties.*—Con-
2 servation officers and all other persons authorized to en-
3 force the provisions of this chapter shall be under the
4 supervision and direction of the director in the perform-
5 ance of their duties as herein provided. The authority,
6 powers and duties of the conservation officers shall be
7 state-wide and they shall have authority to:

8 (1) Arrest on sight, without warrant or other court
9 process, any person or persons detected by them in the
10 violation of any of the provisions of this chapter, but no

11 such arrests shall be made where any form of adminis-
 12 trative procedure is prescribed by this chapter for the
 13 enforcement of any of the particular provisions contained
 14 herein;

15 (2) Carry such arms and weapons as may be pre-
 16 scribed by the director in the course and performance of
 17 their duties, upon giving the bond required by provisions
 18 of section five, article seven, chapter sixty-one of this
 19 code, but no license or other authorization shall be re-
 20 quired of such officers for this privilege;

21 (3) Search and examine, in manner provided by law,
 22 any boat, vehicle, automobile, conveyance, express or rail-
 23 road car, fish box, fish bucket or creel, game bag or game
 24 coat, or any other place in which hunting and fishing
 25 paraphernalia, wild animals, wild birds, fish, amphibians
 26 or other forms of aquatic life could be concealed, packed
 27 or conveyed whenever they have reason to believe that
 28 they would thereby secure or discover evidence of the
 29 violation of any provision of this chapter;

30 (4) Execute and serve any search warrant, notice or
 31 any process of law issued under the authority of this

32 chapter or any law relating to wildlife, forests, and all
33 other natural resources, by a justice of the peace, any
34 court having jurisdiction thereof, or the water resources
35 board, in the same manner, with the same authority, and
36 to and with the same legal effect, as any constable or sher-
37 iff can serve or execute such warrant, notice or process;

38 (5) Require the operator of any motor vehicle or other
39 conveyance, on or about the public highways or roadways,
40 or in or near the fields and streams of this state, to stop
41 for the purpose of allowing such officers to conduct game-
42 kill surveys;

43 (6) Summon aid in making arrests, seizures or exe-
44 cuting any warrants, notices or processes, and shall have
45 the same rights and powers as sheriffs have in their re-
46 spective counties in so doing;

47 (7) Enter private lands or waters within the state
48 while engaged in the performance of their official duties
49 hereunder: *Provided, however,* That in connection with
50 all surveys, examinations, investigations and studies
51 needed in the gathering of facts concerning water re-
52 sources and their use or pollution thereof under article

53 five of this chapter, such conservation officers and all
54 other persons authorized to enforce the provisions of this
55 chapter, shall act pursuant to and under the direction of
56 the state water resources board, and such officers and
57 other persons shall be subject to the provisions of sub-
58 section four, section five of article five of this chapter; and
59 (8) Do all things necessary to carry into effect the
60 provisions of this chapter.

Sec. 5. *Enforcement Processes.*—The director shall be
2 charged with the duty and responsibility of enforcing the
3 provisions of this chapter and to this end may call upon
4 the attorney general, the prosecuting attorneys of the sev-
5 eral counties, the department of public safety and all
6 other law enforcement officers of the state. He shall have
7 authority to compel compliance with and to prevent vio-
8 lations and threatened violations of any provisions of this
9 chapter, lawful rules and regulations promulgated here-
10 under, and cease and desist orders issued pursuant hereto.
11 He may invoke the processes of any court for coercive,
12 remedial or preventive relief by injunction, mandamus
13 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.

20 Whenever a person is convicted of a violation of this
21 chapter a second time, the property seized at the time of
22 arrest shall in any case be declared forfeited to the state
23 and shall be sold in the manner provided by this section.

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

Sec. 9. *Offenses Generally; Penalties.*—Any person vio-
2 lating any of the provisions of this chapter, or rules and
3 regulations promulgated under the provisions of this
4 chapter, the punishment for which is not prescribed, shall
5 be guilty of a misdemeanor, and, upon conviction thereof,
6 shall for each offense be fined not less than twenty nor
7 more than three hundred dollars, or confined in jail not
8 less than ten nor more than one hundred days, or be both
9 fined and imprisoned within the limitations aforesaid;
10 and, in the case of a violation by a corporation, every
11 officer or agent thereof directing or engaging in such vio-
12 lation shall be guilty of a misdemeanor and, upon convic-

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.

Article 8. General and Miscellaneous Provisions.

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

12 of director of the department of natural resources as in
13 this chapter provided.

14 Wherever in this code and elsewhere in law the terms
15 “state water commission” and “state water resources com-
16 mission” are used and referenced, they shall be read, un-
17 derstood and construed to mean and refer to the state
18 water resources board established and continued in this
19 chapter as an activity of the department of natural re-
20 sources.

21 Any litigation instituted, entered into or pending to
22 which any of the governmental corporations and agencies
23 abolished by this chapter are named parties may be con-
24 tinued and prosecuted to completion in such party names
25 or, at the option of the litigants and by leave of court,
26 such party names may be amended or changed to corre-
27 spond with the names of the successor governmental cor-
28 porations and agencies as in this chapter provided.

29 All contracts, compacts and agreements, heretofore en-
30 tered into by any of the governmental corporations and
31 agencies hereby abolished, shall continue to be the obli-
32 gations of the respective successor corporations and agen-

33 cies as in this chapter provided. No provision of this
34 chapter shall be construed as impairing the obligation of
35 any contract.

Sec. 2. *Transfer of Records, Appropriations, Facilities*

2 *and Other Properties and Assets.*—As of the effective date
3 of this chapter, the records, funds, unexpended appropri-
4 ations, facilities, equipment and real and personal prop-
5 erties and assets of every kind and character belonging
6 to, owned by or in the custody and control of any govern-
7 mental corporation, agency, office or activity abolished or
8 transferred to and absorbed in the department of natural
9 resources by the provisions of this chapter shall be by
10 each such governmental corporation, agency, office or
11 activity transferred and delivered to the department of
12 natural resources or to the identifiable successor to the
13 abolished corporation, agency, office or activity as in this
14 chapter established and constituted. It is the intent and
15 purpose of the provisions of this section that continuity
16 in the governmental operations, functions and services
17 affected by this transition shall not be interrupted or
18 impeded.

Sec. 3. *Construction.*—The provisions of this chapter
2 shall be liberally construed to effect the objects and pur-
3 poses hereof. The provisions of the chapter shall be con-
4 strued to be separable and severable and in the event any
5 clause, sentence or provision hereof shall for any reason
6 be construed or held to be unconstitutional or invalid
7 such unconstitutionality or invalidity shall not affect or
8 impair the remaining provisions hereof.

Sec. 4. *Effective Date.*—The provisions of this chapter
2 shall become effective on the first day of July, one thou-
3 sand nine hundred sixty-one.

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

Harmon Davis, Jr.
Chairman Senate Committee

Mrs. M. M. Withrow
Chairman House Committee

Originated in the Senate.

Takes effect

passage.

July 10th 1961
William Dwyer
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Harvard Carson
President of the Senate

Julius W. Singleton Jr.
Speaker House of Delegates

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

W. M. Barron
Governor