

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1968

ENROLLED

SENATE BILL NO. 14

(By Mr. *Cason*, Mr. President, *and Mrs. Baker*)

PASSED..... *February 3,*..... 1968

In Effect..... *Jan*..... Passage



FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 2-16-68

#14

ENROLLED

Senate Bill No. 14

(By MR. CARSON, MR. PRESIDENT, AND MRS. BAKER)

[Passed February 3, 1968; in effect from passage.]

AN ACT to amend chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twelve-b, relating to West Virginia participating in a pest control compact with other states.

Be it enacted by the Legislature of West Virginia:

That chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twelve-b, to read as follows:

ARTICLE 12B. INTERSTATE COMPACT ON PEST CONTROL.

§19-12B-1. Pest control compact.

- 1 The pest control compact is hereby enacted into law
- 2 and entered into with all other jurisdictions legally join-

3 ing therein in accordance with its terms, in the form sub-
4 stantially as follows:

PEST CONTROL COMPACT

ARTICLE I. FINDINGS.

1 The party states find that:

2 (a) In the absence of the higher degree of cooperation
3 among them possible under this compact, the annual loss
4 of approximately seven billion dollars from the depreda-
5 tions of pests is virtually certain to continue, if not to
6 increase.

7 (b) Because of varying climatic, geographic and
8 economic factors, each state may be affected differently
9 by particular species of pests; but all states share the in-
10 ability to protect themselves fully against those pests
11 which present serious dangers to them.

12 (c) The migratory character of pest infestations makes
13 it necessary for states both adjacent to and distant from
14 one another, to complement each other's activities when
15 faced with conditions of infestation and reinfestation.

16 (d) While every state is seriously affected by a sub-
17 stantial number of pests, and every state is susceptible

18 of infestation by many species of pests not now causing
19 damage to its crop and plant life and products, the fact
20 that relatively few species of pests present equal danger
21 to or are of interest to all states makes the establishment
22 and operation of an Insurance Fund, from which indi-
23 vidual states may obtain financial support for pest control
24 programs of benefit to them in other states and to which
25 they may contribute in accordance with their relative
26 interests, the most equitable means of financing cooper-
27 ative pest eradication and control programs.

ARTICLE II. DEFINITIONS.

1 As used in this compact, unless the context clearly re-
2 quires a different construction:

3 (a) "State" means a state, territory or possession of
4 the United States, the District of Columbia, and the Com-
5 monwealth of Puerto Rico.

6 (b) "Requesting state" means a state which revokes
7 the procedures of the compact to secure the undertak-
8 ing or intensification of measures to control or eradicate
9 one or more pests within one or more other states.

10 (c) "Responding state" means a state requested to
11 undertake or intensify the measures referred to in sub-
12 division (b) of this article.

13 (d) "Pest" means any invertebrate animal, pathogen,
14 parasitic plant or similar or allied organism which can
15 cause disease or damage in any crops, trees, shrubs, grasses
16 or other plants of substantial value.

17 (e) "Insurance fund" means the pest control insurance
18 fund established pursuant to this compact.

19 (f) "Governing board" means the administrators of
20 this compact representing all of the party states when
21 such administrators are acting as a body in pursuance
22 of authority vested in them by this compact.

23 (g) "Executive committee" means the committee es-
24 tablished pursuant to Article V (e) of this compact.

ARTICLE III. THE INSURANCE FUND.

1 There is hereby established the pest control insur-
2 ance fund for the purpose of financing other than normal
3 pest control operations which states may be called upon
4 to engage in pursuant to this compact. The insurance fund
5 shall contain moneys appropriated to it by the party

6 states and any donations and grants accepted by it. All
7 appropriations, except as conditioned by the rights and
8 obligations of party states expressly set forth in this
9 compact, shall be unconditional and may not be restricted
10 by the appropriating state to use in the control of any
11 specified pest or pests. Donations and grants may be con-
12 ditional or unconditional: *Provided*, That the insurance
13 fund shall not accept any donation or grant whose terms
14 are inconsistent with any provision of this compact.

**ARTICLE IV. THE INSURANCE FUND, INTERNAL OPERATIONS
AND MANAGEMENT.**

1 (a) The insurance fund shall be administered by a
2 governing board and executive committee as hereinafter
3 provided. The actions of the governing board and execu-
4 tive committee pursuant to this compact shall be deemed
5 the actions of the insurance fund.

6 (b) The members of the governing board shall be
7 entitled to one vote each on such board. No action of
8 the governing board shall be binding unless taken at a
9 meeting at which a majority of the total number of
10 votes of the governing board are cast in favor thereof.

11 Action of the governing board shall be only at a meeting
12 at which a majority of the members are present.

13 (c) The insurance fund shall have a seal which may
14 be employed as an official symbol and which may be
15 affixed to documents and otherwise used as the gov-
16 erning board may provide.

17 (d) The governing board shall elect annually, from
18 among its members, a chairman, a vice chairman, a sec-
19 retary and a treasurer. The chairman may not succeed
20 himself. The governing board may appoint an executive
21 director and fix his duties and his compensation, if any.
22 Such executive director shall serve at the pleasure of
23 the governing board. The governing board shall make
24 provision for the bonding of such of the officers and
25 employees of the insurance fund as may be appropriate.

26 (e) Irrespective of the civil service, personnel or other
27 merit system laws of any of the party states, the execu-
28 tive director, or if there be no executive director, the
29 chairman, in accordance with such procedures as the
30 bylaws may provide, shall appoint, remove or discharge
31 such personnel as may be necessary for the performance

32 of the functions of the insurance fund and shall fix the
33 duties and compensation of such personnel. The gov-
34 erning board in its bylaws shall provide for the personnel
35 policies and programs of the insurance fund.

36 (f) The insurance fund may borrow, accept or con-
37 tract for the services of personnel from any state, the
38 United States, or any other governmental agency, or
39 from any person, firm, association or corporation.

40 (g) The insurance fund may accept for any of its
41 purposes and functions under this compact any and all
42 donations, and grants of money, equipment, supplies, ma-
43 terials and services, conditional or otherwise, from any
44 state, the United States, or any other governmental
45 agency, or from any person, firm, association or cor-
46 poration, and may receive, utilize and dispose of the
47 same. Any donation, gift or grant accepted by the gov-
48 erning board pursuant to this paragraph or services bor-
49 rowed pursuant to paragraph (f) of this article shall
50 be reported in the annual report of the insurance fund.
51 Such report shall include the nature, amount and condi-
52 tions, if any, of the donation, gift, grant or services
53 borrowed and the identity of the donor or lender.

54 (h) The governing board shall adopt bylaws for the
55 conduct of the business of the insurance fund and shall
56 have the power to amend and rescind these bylaws. The
57 insurance fund shall publish its bylaws in convenient
58 form and shall file a copy thereof and a copy of any
59 amendment hereto with the appropriate agency or officer
60 in each of the party states.

61 (i) The insurance fund annually shall make to the
62 governor and legislature of each party state a report
63 covering its activities for the preceding year. The in-
64 surance fund may make such additional reports as it
65 may deem desirable.

66 (j) In addition to the powers and duties specifically
67 authorized and imposed, the insurance fund may do
68 such other things as are necessary and incidental to the
69 conduct of its affairs pursuant to this compact.

ARTICLE V. COMPACT AND INSURANCE FUND

ADMINISTRATION.

1 (a) In each party state there shall be a compact ad-
2 ministrator, who shall be selected and serve in such man-
3 ner as the laws of his state may provide, and who shall:

4 1. Assist in the coordination of activities pursuant to
5 the compact in his state; and

6 2. Represent his state on the governing board of the
7 insurance fund.

8 (b) If the laws of the United States specifically so
9 provide, or if administrative provision is made therefor
10 within the federal government, the United States may
11 be represented on the governing board of the insurance
12 fund by not to exceed three representatives. Any such
13 representative or representatives of the United States
14 shall be appointed and serve in such manner as may be
15 provided by or pursuant to federal law, but no such repre-
16 sentative shall have a vote on the governing board or on
17 the executive committee thereof.

18 (c) The governing board shall meet at least once each
19 year for the purpose of determining policies and pro-
20 cedures in the administration of the insurance fund and,
21 consistent with the provisions of the compact, supervising
22 and giving direction to the expenditure of moneys from
23 the insurance fund. Additional meetings of the governing
24 board shall be held on call of the chairman, the executive

25 committee, or a majority of membership of the governing
26 board.

27 (d) At such times as it may be meeting, the governing
28 board shall pass upon applications for assistance from the
29 the insurance fund and authorize disbursements there-
30 from. When the governing board is not in session, the
31 executive committee thereof shall act as agent of the
32 governing board, with full authority to act for it in passing
33 upon such applications.

34 (e) The executive committee shall be composed of the
35 chairman of the governing board and four additional
36 members of the governing board chosen by it so that there
37 shall be one member representing each of four geographic
38 groupings of party states. The governing board shall
39 make such geographic groupings. If there is representa-
40 tion of the United States on the governing board, one
41 such representative may meet with the executive com-
42 mittee. The chairman of the governing board shall be
43 chairman of the executive committee. No action of the
44 executive committee shall be binding unless taken at a
45 meeting at which at least four members of such com-

46 mittee are present and vote in favor thereof. Necessary
47 expenses of each of the five members of the executive
48 committee incurred in attending meetings of such com-
49 mittee, when not held at the same time and place as a
50 meeting of the governing board, shall be charges against
51 the insurance fund.

ARTICLE VI. ASSISTANCE AND REIMBURSEMENT.

1 (a) Each party state pledges to each other party state
2 that it will employ its best efforts to eradicate, or control
3 within the strictest practicable limits, any and all pests.
4 It is recognized that performance of this responsibility
5 involves:

6 1. The maintenance of pest control and eradication
7 activities of interstate significance by a party state at a
8 level that would be reasonable for its own protection in
9 the absence of this compact.

10 2. The meeting of emergency outbreaks of infestations
11 of interstate significance to no less an extent than would
12 have been done in the absence of this compact.

13 (b) Whenever a party state is threatened by a pest not
14 present within its borders but present within another

15 party state, or whenever a party state is undertaking or
16 engaged in activities for the control or eradication of a
17 pest or pests, and find that such activities are or would
18 be impracticable or substantially more difficult of success
19 by reason of failure of another party state to cope with
20 infestation or threatened infestation, that state may re-
21 quest the governing board to authorize expenditures from
22 the insurance fund for eradication or control measures to
23 be taken by one or more of such other party states at a
24 level sufficient to prevent, or to reduce to the greatest
25 practicable extent, infestation or reinfestation of the re-
26 questing state. Upon such authorization the responding
27 state or states shall take or increase such eradication or
28 control measures as may be warranted. A responding
29 state shall use moneys made available from the insurance
30 fund expeditiously and efficiently to assist in affording
31 the protection requested.

32 (c) In order to apply for expenditures from the insur-
33 ance fund, a requesting state shall submit the following
34 in writing:

35 1. A detailed statement of the circumstances which
36 occasion the request for the invoking of the compact.

37 2. Evidence that the pest on account of whose eradica-
38 tion or control assistance is requested constitutes a danger
39 to an agricultural or forest crop, product, tree, shrub,
40 grass or other plant having a substantial value to the re-
41 questing state.

42 3. A statement of the extent of the present and pro-
43 jected program of the requesting state and its subdivi-
44 sions, including full information as to the legal authority
45 for the conduct of such program or programs and the ex-
46 penditures being made or budgeted therefor, in connection
47 with the eradication, control or prevention of introduction
48 of the pest concerned.

49 4. Proof that the expenditures being made or budgeted
50 as detailed in item 3 do not constitute a reduction of the
51 effort for the control or eradication of the pest concerned
52 or, if there is a reduction, the reasons why the level of
53 program detailed in item 3 constitutes a normal level of
54 pest control activity.

55 5. A declaration as to whether, to the best of its knowl-
56 edge and belief, the conditions which in its view occasion
57 the invoking of the compact in the particular instance can
58 be abated by a program undertaken with the aid of
59 moneys from the insurance fund in one year or less, or
60 whether the request is for an installment in a program
61 which is likely to continue for a longer period of time.

62 6. Such other information as the governing board may
63 require consistent with the provisions of this compact.

64 (d) The governing board or executive committee shall
65 give due notice of any meeting at which an application
66 for assistance from the insurance fund is to be considered.
67 Such notice shall be given to the compact administrator
68 of each party state and to such other officers and agencies
69 as may be designated by the laws of the party states. The
70 requesting state and any other party state shall be entitled
71 to be represented and present evidence and argument at
72 such meeting.

73 (e) Upon the submission as required by paragraph (c)
74 of this article and such other information as it may have
75 or acquire, and upon determining that an expenditure of

76 funds is within the purposes of this compact and justified
77 thereby, the governing board or executive committee shall
78 authorize support of the program. The governing board
79 or executive committee may meet at any time or place for
80 the purpose of receiving and considering an application.
81 Any and all determinations of the governing board or
82 executive committee, with respect to an application, to-
83 gether with the reasons therefor shall be recorded and
84 subscribed in such manner as to show and preserve the
85 votes of the individual members thereof.

86 (f) A requesting state which is dissatisfied with a de-
87 termination of the executive committee shall upon notice
88 in writing given within twenty days of the determination
89 with which it is dissatisfied, be entitled to receive a review
90 thereof at the next meeting of the governing board. De-
91 termination of the executive committee shall be review-
92 able only by the governing board at one of its regular
93 meetings, or at a special meeting held in such manner as
94 the governing board may authorize.

95 (g) Responding states required to undertake or in-
96 crease measures pursuant to this compact may receive

97 moneys from the insurance fund, either at the time or
98 times when such state incurs expenditures on account of
99 such measures, or as reimbursement for expenses in-
100 curred and chargeable to the insurance fund. The govern-
101 ing board shall adopt and, from time to time, may amend
102 or revise procedures for submission of claims upon it and
103 for payment thereof.

104 (h) Before authorizing the expenditure of moneys
105 from the insurance fund pursuant to an application of a
106 requesting state, the insurance fund shall ascertain the
107 extent and nature of any timely assistance or participation
108 which may be available from the federal government and
109 shall request the appropriate agency or agencies of the
110 federal government for such assistance and participation.

111 (i) The insurance fund may negotiate and execute a
112 memorandum of understanding or other appropriate
113 instrument defining the extent and degree of assistance
114 or participation between and among the insurance fund,
115 cooperating federal agencies, states and any other entities
116 concerned.

ARTICLE VII. ADVISORY AND TECHNICAL COMMITTEES.

1 The governing board may establish advisory and tech-
2 nical committees composed of state, local, and federal
3 officials, and private persons to advise it with respect to
4 any one or more of its functions. Any such advisory or
5 technical committee, or any member or members thereof
6 may meet with and participate in its deliberations. Upon
7 request of the governing board or executive committee
8 an advisory or technical committee may furnish informa-
9 tion and recommendations with respect to any applica-
10 tion for assistance from the insurance fund being con-
11 sidered by such board or committee and the board or
12 committee may receive and consider the same: *Provided,*
13 That any participant in a meeting of the governing
14 board or executive committee held pursuant to Article
15 VI(d) of the compact shall be entitled to know the sub-
16 stance of any such information and recommendations, at
17 the time of the meeting if made prior thereto or as a part
18 thereof or, if made thereafter, no later than the time at
19 which the governing board or executive committee makes
20 its disposition of the application.

ARTICLE VIII. RELATIONS WITH NONPARTY JURISDICTIONS.

1 (a) A party state may make application for assistance
2 from the insurance fund in respect of a pest in a nonparty
3 state. Such application shall be considered and disposed
4 of by the governing board or executive committee in the
5 same manner as an application with respect to a pest
6 within a party state, except as provided in this article.

7 (b) At or in connection with any meeting of the
8 governing board or executive committee held pursuant to
9 Article VI(d) of this compact a nonparty state shall be
10 entitled to appear, participate, and receive information
11 only to such extent as the governing board or executive
12 committee may provide. A nonparty state shall not be
13 entitled to review of any determination made by the
14 executive committee.

15 (c) The governing board or executive committee shall
16 authorize expenditures from the insurance fund to be
17 made in a nonparty state only after determining that the
18 conditions in such state and the value of such expendi-
19 tures to the party states as a whole justify them. The
20 governing board or executive committee may set any con-

21 ditions which it deems appropriate with respect to the
22 expenditure of moneys from the insurance fund in a
23 nonparty state and may enter into such agreement or
24 agreements with nonparty states and other jurisdictions
25 or entities as it may deem necessary or appropriate to
26 protect the interests of the insurance fund with respect
27 to expenditures and activities outside of party states.

ARTICLE IX. FINANCE.

1 (a) The insurance fund shall submit to the executive
2 head or designated officer or officers of each party state
3 a budget for the insurance fund for such period as may
4 be required by the laws of that party state for presenta-
5 tion to the legislature thereof.

6 (b) Each of the budgets shall contain specific recom-
7 mendations of the amount or amounts to be appropriated
8 by each of the party states. The requests for appropria-
9 tions shall be apportioned among the party states as
10 follows: One-tenth of the total budget in equal shares
11 and the remainder in proportion to the value of agri-
12 cultural and forest crops and products, excluding animals
13 and animal products, produced in each party state. In

14 determining the value of such crops and products the
15 insurance fund may employ such source or sources of
16 information as in its judgment present the most equit-
17 able and accurate comparisons among the party states.
18 Each of the budgets and requests for appropriations shall
19 indicate the source or sources used in obtaining informa-
20 tion concerning value of products.

21 (c) The financial assets of the insurance fund shall be
22 maintained in two accounts to be designated respectively
23 as the "Operating Account" and the "Claims Account."
24 The operating account shall consist only of those assets
25 necessary for the administration of the insurance fund
26 during the next ensuing two-year period. The claims
27 account shall contain all moneys not included in the
28 operating account and shall not exceed the amount reason-
29 ably estimated to be sufficient to pay all legitimate claims
30 on the insurance fund for a period of three years. At any
31 time when the claims account has reached its maximum
32 limit or would reach its maximum limit by the addition
33 of moneys requested for appropriation by the party states,
34 the governing board shall reduce its budget requests on

35 a pro rata basis in such manner as to keep the claims ac-
36 count within such maximum limit. Any moneys in the
37 claims account by virtue of conditional donations, grants
38 or gifts shall be included in calculations made pursuant to
39 this paragraph only to the extent that such moneys are
40 available to meet demands arising out of claims.

41 (d) The insurance fund shall not pledge the credit of
42 any party state. The insurance fund may meet any of its
43 obligations in whole or in part with moneys available to
44 it under Article IV(g) of this compact, providing that the
45 governing board takes specific action setting aside such
46 moneys prior to incurring any obligation to be met in
47 whole or in part in such manner. Except where the in-
48 surance fund makes use of moneys available to it under
49 Article IV(g) hereof, the insurance fund shall not incur
50 any obligation prior to the allotment of moneys by the
51 party states adequate to meet the same.

52 (e) The insurance fund shall keep accurate accounts
53 of all receipts and disbursements. The receipts and dis-
54 bursements of the insurance fund shall be subject to the
55 audit and accounting procedures established under its

56 bylaws. However, all receipts and disbursements of funds
57 handled by the insurance fund shall be audited yearly by
58 a certified or licensed public accountant and a report of
59 the audit shall be included in and become part of the
60 annual report of the insurance fund.

61 (f) The accounts of the insurance fund shall be open at
62 any reasonable time for inspection by duly authorized
63 officers of the party states and by any persons authorized
64 by the insurance fund.

ARTICLE X. ENTRY INTO FORCE AND WITHDRAWAL.

1 (a) This compact shall enter into force when enacted
2 into law by any five or more states. Thereafter, this
3 compact shall become effective as to any other state upon
4 its enactment thereof.

5 (b) Any party state may withdraw from this compact
6 by enacting a statute repealing the same, but no such with-
7 drawal shall take effect until two years after the execu-
8 tive head of the withdrawing state has given notice in
9 writing of the withdrawal to the executive heads of all
10 other party states. No withdrawal shall affect any lia-
11 bility already incurred by or chargeable to a party state
12 prior to the time of such withdrawal.

ARTICLE XI. CONSTRUCTION AND SEVERABILITY.

1 This compact shall be liberally construed so as to effec-
2 tuate the purposes thereof. The provisions of this com-
3 pact shall be severable and if any phrase, clause, sentence
4 or provision of this compact is declared to be contrary
5 to the constitution of any state or of the United States
6 or the applicability thereof to any government, agency,
7 person or circumstance is held invalid, the validity of
8 the remainder of this compact and the applicability
9 thereof to any government, agency, person or circum-
10 stance shall not be affected thereby. If this compact shall
11 be held contrary to the constitution of any state partici-
12 pating herein, the compact shall remain in full force and
13 effect as to the remaining party states and in full force
14 and effect as to the state affected as to all severable
15 matters.

§19-12B-2. Appropriations for insurance fund.

1 Consistent with law and within available appropria-
2 tions, the departments, agencies and officers of this state
3 may cooperate with the insurance fund established by
4 the pest control compact.

§19-12B-3. Filing of bylaws and amendments.

1 Pursuant to Article IV (h) of the compact, copies of
2 bylaws and amendments thereto shall be filed with the
3 commissioner and the department of agriculture.

§19-12B-4. Compact administrator.

1 The compact administrator of this state shall be the
2 commissioner of agriculture. The duties of the compact
3 administrator shall be deemed a regular part of the duties
4 of his office.

§19-12B-5. Request for assistance.

1 Within the meaning of Article VI (b) or VIII (a), a re-
2 quest or application for assistance from the insurance
3 fund may be made by the governor or the commissioner
4 of agriculture whenever in their judgment the conditions
5 qualifying this state for such assistance exist and it would
6 be in the best interest of this state to make such request.

§19-12B-6. Disposition of compact grants and reimbursements.

1 The department, agency, or officer expending or be-
2 coming liable for an expenditure on account of a control
3 or eradication program undertaken or intensified pursuant
4 to the compact shall have credited to his account in the

5 state treasury the amount or amounts of any payments
6 made to this state to defray the cost of such program, or
7 any part thereof, or as reimbursement thereof.

§19-12B-7. Executive head.

1 As used in the compact, with reference to this state, the
2 term "executive head" shall mean the governor.

§19-12B-8. Effective date.

1 This article shall take effect from passage.

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

William Tompos
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Howard Meyer
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

H. Lubens DeKorte
Speaker House of Delegates

The within approved this the 14
day of February, 1968.

Archie C. Smith
Governor



PRESENTED TO THE
GOVERNOR

Date 2/9/68

Time 11:40 AM

RECEIVED

FEB 13 1 03 PM '68

DEPT OF STATE
STATE OF MISSISSIPPI