

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1969



ENROLLED

Com. Sub. for
HOUSE BILL No. 555

(By ~~Mr.~~ *Originating on the Committee on
Agriculture and Natural Resources*)



PASSED Feb. 26, 1969

In Effect Ninety days from Passage



FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE _____

#555

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COMMITTEE SUBSTITUTE
FOR
House Bill No. 555

(Originating in the Committee on Agriculture and Natural
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[Passed February 26, 1969; in effect ninety days from passage.]

AN ACT to amend chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article two-b, relating to weather modification.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2B. WEATHER MODIFICATION.

§29-2B-1. Declaration of policy.

1 The public interest, health, safety, welfare and neces-

2 sity require that scientific experimentation in the field
3 of artificial nucleation, and that scientific efforts to de-
4 velop and increase natural precipitation of rain, snow,
5 moisture, or water in any form contained in the atmos-
6 phere, within the state, be encouraged in order to de-
7 velop, conserve, and protect the natural water resources
8 of the state and to safeguard life and property.

§29-2B-2. Definitions.

1 As used in this article:

2 (a) "Director" means the director of aeronautics.

3 (b) "Commission" means the West Virginia aeronau-
4 tics commission.

5 (c) "Operation" means the performance of weather
6 modification and control activities pursuant to a single
7 contract entered into for the purpose of producing, or
8 attempting to produce a certain modifying effect within
9 one geographical area over one continuing time interval
10 not exceeding one year, or, if the performance of weather
11 modification and control activities is to be undertaken
12 individually or jointly by a person or persons to be bene-
13 fited and not undertaken pursuant to a contract, "opera-

14 tion" means the performance of weather modification
15 and control activities entered into for the purpose of
16 producing, or attempting to produce, a certain modifying
17 effect within one geographical area over one continuing
18 time interval not exceeding one year.

19 (d) "Person" means any individual, firm, association,
20 organization, partnership, company, corporation, private
21 or public, political subdivision, or other public agency.

22 (e) "Research and development" means theoretical
23 analysis, exploration and experimentation and the ex-
24 tension of investigative findings and theories of a scien-
25 tific or technical nature into practical application for ex-
26 perimental and demonstration purposes, including the ex-
27 perimental production and testing of models, devices,
28 equipment, materials and processes.

29 (f) "Weather modification and control" means chang-
30 ing or controlling, or attempting to change or control,
31 by artificial methods the natural development of any or
32 all atmospheric cloud forms and precipitation forms
33 which occur in the troposphere.

§29-2B-3. Administration by director and commission.

1 The director shall administer this article under the

2 supervision of the commission.

§29-2B-4. When license, registration required.

1 (a) No person, without first securing a license from
2 the commission, shall cause or attempt to cause conden-
3 sation or precipitation of rain, snow, moisture, or water
4 in any form contained in the atmosphere.

5 (b) No person without registering with the commis-
6 sion shall have in his possession any cloud seeding equip-
7 ment unless he is an employee of or under contract with
8 a person conducting a weather modification and control
9 operation who has been granted a license by the com-
10 mission.

§29-2B-5. Application for license.

1 (a) Any person desiring to do any of the acts specified
2 in section four may file with the director an application
3 in writing for a license. Each application shall be accom-
4 panied by a filing fee fixed by the commission but not to
5 exceed one hundred dollars, and shall be on a form to be
6 supplied for such purpose by the director.

7 (b) Every application shall set forth all of the fol-
8 lowing:

9 (1) The name and post office address of the ap-
10 plicant.

11 (2) The previous education, experience, and
12 qualifications of the applicant, or, if the applicant is other
13 than an individual, the previous education, experience,
14 and qualifications of the persons who will be in control
15 of and charged with the operations of the applicant. Pre-
16 vious experience includes subcontracting or counseling
17 services.

18 (3) A general description of the operations which
19 the applicant intends to conduct and the method and type
20 of equipment including all nucleating agents, that the
21 applicant proposes to use. Aircraft must be listed by
22 numbers and pilots' names.

23 (4) A statement listing all employees, who are
24 residents of West Virginia or who will be directly em-
25 ployed in the intended operation, or both.

26 (5) A bond or insurance covering any damage the
27 licensee may cause through his operations in an amount
28 of fifteen thousand dollars or other evidence of financial
29 responsibility shall be furnished and executed at the time

30 of the grant of the license: **Provided, however,** That no
31 bond shall be required of any person who shall cause or
32 attempt to cause condensation or precipitation of rain,
33 snow, moisture or water in any form contained in the
34 atmosphere over any landing strip or runway of any
35 airport, or any approach thereto, in an effort to improve
36 the visibility above the landing strip, runway, or ap-
37 proach thereto.

38 (6) Every applicant shall have a resident agent
39 within this state.

40 (c) Upon the filing of the application upon a form
41 supplied by the director and containing the information
42 prescribed by this article and accompanied by the re-
43 quired filing fee and bond or insurance, the director may
44 issue a license to the applicant entitling the applicant to
45 conduct the operations described in the application for
46 the calendar year for which the license is issued, unless
47 the license is sooner revoked or suspended or modified.

48 (d) A license may be renewed annually upon ap-
49 plication to the director, accompanied by a renewal fee
50 fixed by the commission but not to exceed one hundred

51 dollars, on or before the last day of January of the
52 calendar year for which the license is renewed.

§29-2B-6. Registration of equipment.

1 Every person not desiring a license who owns or pos-
2 sseses cloud seeding equipment shall promptly register
3 the same with the director on a form furnished by him.

§29-2B-7. Publication.

1 (a) Prior to undertaking any operation authorized
2 by the license, the licensee shall file with the director
3 and cause to be published a notice of intention. The
4 licensee shall then confine his activities for that operation
5 substantially within the time and area limits set forth
6 in the notice of intention.

7 (b) The notice of intention shall set forth all of the
8 following:

9 (1) The name and address of the licensee.

10 (2) The nature and object of the intended opera-
11 tion and the person or persons on whose behalf it is to
12 be conducted.

13 (3) The area in which and the approximate time
14 during which the operation will be conducted.

15 (4) The area which will be affected by the opera-
16 tion as near as the same may be determined in advance.

17 (c) The notice of intention required by this section
18 shall be published as a Class III legal advertisement and
19 the publication area shall be the county wherein the opera-
20 tion is to be conducted and in which the affected area is
21 located, or, if the operation is to be conducted in more
22 than one county or if the affected area is located in more
23 than one county or is located in a county other than the
24 one in which the operation is to be conducted, then such
25 notice shall be published in like manner in a newspaper
26 having a general circulation within each of such counties.

27 (d) Proof of publication shall be filed by the licensee
28 with the director within fifteen days from the date of
29 the last publication of the notice. Proof of publication
30 shall be by copy of the notice as published, attached to
31 and made a part of the affidavit of the publisher or fore-
32 man of the newspaper publishing the notice.

§29-2B-8. Emergencies; publication.

1 (a) Notwithstanding any provision of this article to
2 the contrary, the director may grant a licensee permission

3 to undertake an emergency nucleation project, without
4 prior compliance by the licensee with the provisions of
5 section seven, subsection (a), if the same appears to the
6 commissioner to be necessary or desirable in aid of ex-
7 tinguishment of fires.

8 (b) Notwithstanding any provision of this article to
9 the contrary, upon request of the county commissioners
10 of a county or of the governing body of a city, borough,
11 town or township, and upon the submission of such sup-
12 porting evidence as the commission may require, the com-
13 mission may grant a licensee permission to undertake a
14 nucleation project for the purpose of alleviating a drought
15 emergency, without prior compliance by the licensee with
16 the provisions of section seven, subsection (a) requiring
17 publication of notice of intention, if such project appears
18 to the department to be necessary or desirable.

19 (c) Nothing contained in this section shall be con-
20 strued as to relieve the licensee in the cases set forth in
21 subsection (a) or (b) of this section from compliance
22 with the provisions of section seven requiring publication
23 of notice of intention and filing of proof of such publica-

24 tion, as soon after the granting of permission by the
25 director as is practicable. In lieu thereof the licensee
26 may furnish equivalent transmission of notice of inten-
27 tion by radio or television, and proof thereof, as soon
28 after the granting of permission by the director as is
29 practicable.

§29-2B-9. Records.

1 (a) Every licensee shall keep and maintain a record
2 of all operations conducted by him pursuant to his license
3 showing the method employed, the type of equipment
4 used, the times and places of operation of the equipment,
5 the name and post office address of each person partici-
6 pating or assisting in the operation other than the licensee,
7 and such other information as may be required by the
8 commission, and shall report the same to the director
9 immediately upon the completion of each operation.

10 (b) Each licensee shall further prepare and maintain
11 an evaluation statement for each operation which shall
12 include a report as to estimated precipitation, defining
13 the gain or loss occurring from nucleation activities,
14 together with supporting data therefor. This statement,

15 together with such other pertinent information as the
16 commission may require, shall be sent to the commission
17 upon completion and be available to inspection by the
18 commission or director at all times on the licensee's
19 premises.

20 (c) The commission shall require written reports con-
21 cerning each operation conducted by a licensee under
22 this article.

23 (d) All information on an operation shall be sub-
24 mitted to the commission before any information on
25 such operation may be released to the public.

26 (e) The reports and records in the custody of the
27 commission shall be open for public examination as pub-
28 lic documents.

§29-2B-10. Research projects; safety.

1 (a) Research work within the province of this statute
2 shall be permitted only when authorized by the com-
3 mission.

4 (b) Government and armed forces projects within the
5 province of this statute must meet all the requirements
6 of this article.

7 (c) No nucleating agent may be used in concentra-
8 tions dangerous to man or causes environmental pollu-
9 tion as determined by the state department of health.

§29-2B-11. Enforcement.

1 In order to enforce the provisions of this article, the
2 West Virginia state police shall, on request of the com-
3 mission, assign at least one trooper and one investigator
4 to an area where unlawful cloud seeding is suspected.
5 If such police request the same, the commission shall
6 assign an airplane and pilot. Air samples shall be taken
7 by the West Virginia air pollution control commission
8 if requested by the state police or the commission. For
9 such enforcement purposes, the state department of health
10 shall furnish such technical services as the commission
11 or director may request.

§29-2B-12. License suspensions; revocations.

1 Any license may be revoked, suspended or modified if
2 the commission finds, after due notice to the licensee and
3 a hearing thereon, that the licensee has failed or refused
4 to comply with any of the provisions of this article. The
5 proceedings herein referred to shall be conducted in

6 accordance with the provisions of article one, chapter
7 twenty-nine-a of the code of West Virginia, one thousand
8 nine hundred thirty-one, as amended, known as the "West
9 Virginia Administrative Procedures Act" and the com-
10 mission shall have all the powers granted therein.

§29-2B-13. Damage compensation.

1 Any licensee who causes a drought as determined by
2 the commission shall compensate farmers for damages.
3 Any licensee who by causing heavy downpours or storms
4 which cause damage to lands as determined by the com-
5 mission shall compensate farmers and property owners
6 for such damages.

§29-2B-14. Acts not authorized.

1 (a) Nothing contained in this article shall authorize
2 any person to carry out a cloud seeding operation from
3 West Virginia to seed in another state where such cloud
4 seeding is prohibited.
5 (b) Nothing contained in this article shall be con-
6 strued to authorize the suppression of lightning.

§29-2B-15. Penalties.

1 (a) Any airplane pilot who flies an airplane with

2 numbers invisible to escape identification under this ar-
3 ticle shall be guilty of misdemeanor, and, upon convic-
4 tion thereof, have his license revoked for a period of five
5 years.

6 (b) Any airport owner or operator who knowingly
7 boards cloud seeding planes to seed clouds or who operates
8 as a cloud seeder without a license shall be guilty of a
9 misdemeanor, and, upon conviction thereof, have his
10 airport permit revoked for one year and be sentenced to
11 pay a fine of not more than five hundred dollars and
12 for a second or subsequent offense, he shall be sentenced
13 to pay a fine of not more than one thousand dollars.

14 (c) Any person knowingly having in his possession
15 without registering the same with the commission any
16 cloud seeding equipment shall, on conviction thereof, be
17 sentenced to pay a fine of ten thousand dollars.

18 (d) Any person who makes any false statement to
19 secure a license under this article shall, on conviction
20 thereof, have his license revoked permanently.

21 (e) Any person who violates any other provision of
22 this article shall be guilty of a misdemeanor, and, upon

23 conviction thereof, shall be fined not more than one thou-
24 sand dollars, or imprisoned in the county jail not more
25 than one year, or both fined and imprisoned.

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 House.

Takes effect ninety days from passage.

Thomas Myers

Clerk of the Senate

C. A. Blankenship

Clerk of the House of Delegates

Thos. S. ...

President of the Senate

Gov. F. Quinn

Speaker House of Delegates

The within is approved this the 7th
day of March, 1968.

Arch. D. Shaare, Jr.

Governor



PRESENTED TO THE
GOVERNOR

Date 3/3/69

Time 3:05 p.m.

RECEIVED

MAR 10 10 45 AM '69

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA