WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1969

ENROLLED
Com. Sub. for
HOUSE BILL No.

(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
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-
sity require that scientific experimentation in the field of artificial nucleation, and that scientific efforts to develop and increase natural precipitation of rain, snow, moisture, or water in any form contained in the atmosphere, within the state, be encouraged in order to develop, conserve, and protect the natural water resources of the state and to safeguard life and property.


As used in this article:

(a) “Director” means the director of aeronautics.

(b) “Commission” means the West Virginia aeronautics commission.

(c) “Operation” means the performance of weather modification and control activities pursuant to a single contract entered into for the purpose of producing, or attempting to produce a certain modifying effect within one geographical area over one continuing time interval not exceeding one year, or, if the performance of weather modification and control activities is to be undertaken individually or jointly by a person or persons to be benefited and not undertaken pursuant to a contract, “opera-
"Modification and control" means the performance of weather modification and control activities entered into for the purpose of producing, or attempting to produce, a certain modifying effect within one geographical area over one continuing time interval not exceeding one year.

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

(e) "Research and development" means theoretical analysis, exploration and experimentation and the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials and processes.

(f) "Weather modification and control" means changing or controlling, or attempting to change or control, by artificial methods the natural development of any or all atmospheric cloud forms and precipitation forms which occur in the troposphere.

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

The director shall administer this article under the
§29-2B-4. When license, registration required.

(a) No person, without first securing a license from the commission, shall cause or attempt to cause condensation or precipitation of rain, snow, moisture, or water in any form contained in the atmosphere.

(b) No person without registering with the commission shall have in his possession any cloud seeding equipment unless he is an employee of or under contract with a person conducting a weather modification and control operation who has been granted a license by the commission.

§29-2B-5. Application for license.

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

(b) Every application shall set forth all of the following:
(1) The name and post office address of the applicant.

(2) The previous education, experience, and qualifications of the applicant, or, if the applicant is other than an individual, the previous education, experience, and qualifications of the persons who will be in control of and charged with the operations of the applicant. Previous experience includes subcontracting or counseling services.

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

(4) A statement listing all employees, who are residents of West Virginia or who will be directly employed in the intended operation, or both.

(5) A bond or insurance covering any damage the licensee may cause through his operations in an amount of fifteen thousand dollars or other evidence of financial responsibility shall be furnished and executed at the time
of the grant of the license: Provided, however, That no
bond shall be required of any person who shall cause or
try to cause condensation or precipitation of rain,
snow, moisture or water in any form contained in the
atmosphere over any landing strip or runway of any
airport, or any approach thereto, in an effort to improve
the visibility above the landing strip, runway, or ap-
proach thereto.

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

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

(d) A license may be renewed annually upon ap-
plication to the director, accompanied by a renewal fee
fixed by the commission but not to exceed one hundred
dollars, on or before the last day of January of the
calendar year for which the license is renewed.

§29-2B-6. Registration of equipment.

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


(a) Prior to undertaking any operation authorized

by the license, the licensee shall file with the director and cause to be published a notice of intention. The licensee shall then confine his activities for that operation substantially within the time and area limits set forth in the notice of intention.

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

(1) The name and address of the licensee.

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

(3) The area in which and the approximate time during which the operation will be conducted.
(4) The area which will be affected by the operation as near as the same may be determined in advance.

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

(d) Proof of publication shall be filed by the licensee with the director within fifteen days from the date of the last publication of the notice. Proof of publication shall be by copy of the notice as published, attached to and made a part of the affidavit of the publisher or foreman of the newspaper publishing the notice.

§29-2B-8. Emergencies; publication.

(a) Notwithstanding any provision of this article to the contrary, the director may grant a licensee permission
to undertake an emergency nucleation project, without prior compliance by the licensee with the provisions of section seven, subsection (a), if the same appears to the commissioner to be necessary or desirable in aid of extinguishment of fires.

(b) Notwithstanding any provision of this article to the contrary, upon request of the county commissioners of a county or of the governing body of a city, borough, town or township, and upon the submission of such supporting evidence as the commission may require, the commission may grant a licensee permission to undertake a nucleation project for the purpose of alleviating a drought emergency, without prior compliance by the licensee with the provisions of section seven, subsection (a) requiring publication of notice of intention, if such project appears to the department to be necessary or desirable.

(c) Nothing contained in this section shall be construed as to relieve the licensee in the cases set forth in subsection (a) or (b) of this section from compliance with the provisions of section seven requiring publication of notice of intention and filing of proof of such publica-
tion, as soon after the granting of permission by the
director as is practicable. In lieu thereof the licensee
may furnish equivalent transmission of notice of inten-
tion by radio or television, and proof thereof, as soon
after the granting of permission by the director as is
practicable.


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

(c) The commission shall require written reports concerning each operation conducted by a licensee under this article.

(d) All information on an operation shall be submitted to the commission before any information on such operation may be released to the public.

(e) The reports and records in the custody of the commission shall be open for public examination as public documents.

§29-2B-10. Research projects; safety.

(a) Research work within the province of this statute shall be permitted only when authorized by the commission.

(b) Government and armed forces projects within the province of this statute must meet all the requirements of this article.
(c) No nucleating agent may be used in concentrations dangerous to man or causes environmental pollution as determined by the state department of health.


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

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

1 Any license may be revoked, suspended or modified if the commission finds, after due notice to the licensee and a hearing thereon, that the licensee has failed or refused to comply with any of the provisions of this article. The proceedings herein referred to shall be conducted in
accordance with the provisions of article one, chapter twenty-nine-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, known as the “West Virginia Administrative Procedures Act” and the commission shall have all the powers granted therein.


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


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


1 (a) Any airplane pilot who flies an airplane with
numbers invisible to escape identification under this article shall be guilty of misdemeanor, and, upon conviction thereof, have his license revoked for a period of five years.

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

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

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

(e) Any person who violates any other provision of this article shall be guilty of a misdemeanor, and, upon
conviction thereof, shall be fined not more than one thousand dollars, or imprisoned in the county jail not more than one year, or both fined and imprisoned.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tompoe
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

James Henry
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

Robert N. Orr
President of the Senate

Joe F. Runion
Speaker House of Delegates

The within is approved this the 7th

day of March, 1968.

Herbert Shankle Jr.
Governor