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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1975

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ENROLLED

SENATE BILL NO. 36

(By Mr. Gavin.....)

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PASSED February 14 1975

In Effect July 1, 1975 Passage

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FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 2/26/75

ENROLLED
Senate Bill No. 36
(By MR. GAINER)

[Passed February 14, 1975; in effect July 1, 1975.]

AN ACT to amend and reenact sections seven and seventeen, article one, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to transferring from the director of the department of natural resources to the natural resources commission the authority to fix by regulation the open hunting, trapping and fishing seasons and the bag, creel, size, age, weight and sex limits of wildlife which may be taken in this state.

Be it enacted by the Legislature of West Virginia:

That sections seven and seventeen, article one, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 1. ORGANIZATION AND ADMINISTRATION.

§20-1-7. Additional powers, duties and services of director.

1 In addition to all other powers, duties and responsi-
2 bilities granted and assigned to the director in this chap-
3 ter and elsewhere by law, the director is hereby author-
4 ized and empowered to:

5 (1) With the advice of the commission, prepare and
6 administer, through the various divisions created by this
7 chapter, a long-range comprehensive program for the
8 conservation of the natural resources of the state which
9 best effectuates the purpose of this chapter and which
10 makes adequate provisions for the natural resources laws
11 of the state;

12 (2) Sign and execute in the name of the state by the
13 "department of natural resources" any contract or agree-
14 ment with the federal government or its departments
15 or agencies, subdivisions of the state, corporations, asso-
16 ciations, partnerships or individuals;

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

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

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

27 (6) Hold at least six meetings each year at such time
28 and at such points within the state, as in the discretion
29 of the natural resources commission may appear to be nec-
30 essary and proper for the purpose of giving interested
31 persons in the various sections of the state an opportunity
32 to be heard concerning open season for their respective
33 areas, and report the results of the meetings to the natural
34 resources commission before such season and bag limits
35 are fixed by it;

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

47 (8) Supervise the fiscal affairs and responsibilities
48 of the department;

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

52 (10) Enter private lands to make surveys or inspec-
53 tions for conservation purposes, to investigate for viola-
54 tions of provisions of this chapter, to serve and execute
55 warrants and processes, to make arrests and to other-
56 wise effectively enforce the provisions of this chapter;

57 (11) Acquire for the state in the name of the "de-
58 partment of natural resources" by purchase, condem-
59 nation, lease or agreement, or accept or reject for the
60 state, in the name of the department of natural resources,

61 gifts, donations, contributions, bequests or devises of
62 money, security or property, both real and personal,
63 and any interest in such property, including lands and
64 waters, which he deems suitable for the following pur-
65 poses:

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

69 (b) For state parks or recreation areas for the pur-
70 pose of preserving scenic, esthetic, scientific, cultural,
71 archaeological or historical values or natural wonders,
72 or providing public recreation;

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

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

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

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

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

88 (13) Sell, with the approval in writing of the gov-
89 ernor, timber for not less than the value thereof, as
90 appraised by a qualified appraiser appointed by the di-
91 rector, from all lands under the jurisdiction and control
92 of the director, except those lands that are designated
93 as state parks. The appraisal shall be made within a
94 reasonable time prior to any sale, reduced to writing,
95 filed in the office of the director and shall be available
96 for public inspection. When the appraised value of the
97 timber to be sold is more than five hundred dollars, the
98 director, before making sale thereof, shall receive sealed
99 bids therefor, after notice by publication as a Class II
100 legal advertisement in compliance with the provisions
101 of article three, chapter fifty-nine of this code, and the

102 publication area for such publication shall be each county
103 in which the timber is located. The timber so ad-
104 vertised shall be sold at not less than the appraised
105 value to the highest responsible bidder, who shall give
106 bond for the proper performance of the sales contract
107 as the director shall designate; but the director shall
108 have the right to reject any and all bids and to read-
109 vertise for bids. If the foregoing provisions of this sec-
110 tion have been complied with, and no bid equal to or
111 in excess of the appraised value of the timber is re-
112 ceived, the director may, at any time, during a period
113 of six months after the opening of the bids, sell the tim-
114 ber in such manner as he deems appropriate, but the
115 sale price shall not be less than the appraised value of
116 the timber advertised. No contract for sale of timber
117 made pursuant to this section shall extend for a period
118 of more than ten years. And all contracts heretofore
119 entered into by the state for the sale of timber shall not
120 be validated by this section if the same be otherwise
121 invalid. The proceeds arising from the sale of the tim-
122 ber so sold, shall be paid to the treasurer of the state
123 of West Virginia, and shall be credited to the de-
124 partment and used exclusively for the purposes of
125 this chapter;

126 (14) Sell or lease, with the approval in writing of
127 the governor, coal, oil, gas, sand, gravel and any other
128 minerals that may be found in the lands under the juris-
129 diction and control of the director, except those lands
130 that are designated as state parks. The director, before
131 making sale or lease thereof, shall receive sealed bids
132 therefor, after notice by publication as a Class II legal
133 advertisement in compliance with the provisions of ar-
134 ticle three, chapter fifty-nine of this code, and the pub-
135 lication area for such publication shall be each county
136 in which such lands are located. The minerals so ad-
137 vertised shall be sold or leased to the highest respon-
138 sible bidder, who shall give bond for the proper per-
139 formance of the sales contract or lease as the director
140 shall designate; but the director shall have the right
141 to reject any and all bids and to readvertise the bids.
142 The proceeds arising from any such sale or lease shall

143 be paid to the treasurer of the state of West Virginia
144 and shall be credited to the department and used exclu-
145 sively for the purposes of this chapter;

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

151 (16) Cooperate with departments and agencies of
152 state, local and federal governments in the conserva-
153 tion of natural resources and the beautification of the
154 state;

155 (17) Report to the governor each year all informa-
156 tion relative to the operation and functions of his de-
157 partment and he shall make such other reports and
158 recommendations as may be required by the governor,
159 including an annual financial report covering all receipts
160 and disbursements of the department of each fiscal year,
161 and he shall deliver such report to the governor on or
162 before the first day of December next after the end of
163 the fiscal year so covered. A copy of such report shall
164 be delivered to each house of the Legislature when con-
165 vened in January next following;

166 (18) Keep a complete and accurate record of all pro-
167 ceedings, record and file all bonds and contracts taken
168 or entered into, and assume responsibility for the cus-
169 tody and preservation of all papers and documents per-
170 taining to his office, except as otherwise provided by
171 law;

172 (19) Offer and pay, in his discretion, rewards for
173 information respecting the violation, or for the appre-
174 hension and conviction of any violators, of any of the
175 provisions of this chapter;

176 (20) Require such reports as he may deem to be
177 necessary from any person issued a license or permit
178 under the provisions of this chapter, but no person shall
179 be required to disclose secret processes or confidential
180 data of competitive significance;

181 (21) Purchase as provided by law all equipment nec-
182 essary for the conduct of his department;

183 (22) Conduct and encourage research designed to
184 further new and more extensive uses of the natural re-
185 sources of this state and to publicize the findings of such
186 research;

187 (23) Encourage and cooperate with other public and
188 private organizations or groups in their efforts to pub-
189 licize the attractions of the state;

190 (24) Accept and expend, without the necessity of
191 appropriation by the Legislature, any gift or grant of
192 money made to the department for any and all purposes
193 specified in this chapter, and he shall account for and
194 report on all such receipts and expenditures to the gov-
195 ernor;

196 (25) Cooperate with the state historian and other
197 appropriate state agencies in conducting research with
198 reference to the establishment of state parks and monu-
199 ments of historic, scenic and recreational value, and to
200 take such steps as may be necessary in establishing such
201 monuments or parks as he deems advisable;

202 (26) Maintain in his office at all times, properly in-
203 dexed by subject matter, and also, in chronological se-
204 quence, all rules and regulations made or issued under
205 the authority of this chapter. Such records shall be
206 available for public inspection on all business days dur-
207 ing the business hours of working days;

208 (27) Delegate the powers and duties of his office,
209 except the power to execute contracts, to appointees and
210 employees of the department, who shall act under the
211 direction and supervision of the director and for whose
212 acts he shall be responsible;

213 (28) Conduct schools, institutes and other educational
214 programs, apart from or in cooperation with other gov-
215 ernmental agencies, for instruction and training in all
216 phases of the natural resources programs of the state;

217 (29) Authorize the payment of all or any part of the
218 reasonable expenses incurred by an employee of the
219 department in moving his household furniture and ef-
220 fects as a result of a reassignment of the employee:
221 *Provided*, That no part of the moving expenses of any
222 one such employee shall be paid more frequently than
223 once in twelve months; and

224 (30) Promulgate rules and regulations, in accordance
225 with the provisions of chapter twenty-nine-a of this code,
226 to implement and make effective the powers and duties
227 vested in him by the provisions of this chapter and take
228 such other steps as may be necessary in his discretion
229 for the proper and effective enforcement of the provi-
230 sions of this chapter: *Provided, however,* That all rules
231 and regulations relating to articles five and five-a of this
232 chapter shall be promulgated by the water resources
233 board.

§20-1-17. Natural resources commission—Organization and services.

1 Members of the natural resources commission shall
2 take and subscribe to the public officer's oath prescribed
3 by the constitution before entering upon the duties of
4 their office. All such executed oaths shall be filed in the
5 office of the secretary of state. Members of the com-
6 mission shall receive no compensation as such, but each
7 shall be reimbursed for his actual and necessary traveling
8 expenses incurred in the performance of his official
9 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
13 for 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
16 and April. Special meetings may be convened by the
17 governor, the director or by a majority of the commis-
18 sion. The meetings of the commission shall be regularly
19 held at the office of the director, but may be held at
20 other points within the state when need therefor exists
21 as explained in the call setting forth the time and place
22 of the meeting. The director shall furnish all articles
23 and supplies required by the commission in the perform-
25 ance of its duties and shall provide necessary steno-
25 graphic, secretarial and clerical assistance therefor. All
26 such materials and services shall be paid for from de-
27 partment funds.

28 The director, at any regular or special meeting of the
29 commission, may submit to the commission any program
30 or policy matters on which he wishes to obtain the ad-
31 vice, counsel and opinion of the commission and may
32 consult with members of the commission on functions,
33 services, policies and practices of the department at any
34 time. The commission shall serve as a body advisory to
35 the director and shall perform all other duties assigned
36 to it by law. It shall have the following powers and duties:

37 (1) To consider and study the entire field of legis-
38 lation and administrative methods concerning the forests
39 and their maintenance and development, the protection
40 of fish and game, the beautification of the state and its
41 highways, and the development of lands, minerals, waters
42 and other natural resources;

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

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

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

51 (5) To advise or make recommendations to the gov-
52 ernor relative to natural resources of the state;

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

56 (7) To fix by regulation which it is hereby empowered
57 to promulgate, in accordance with the provisions of chap-
58 ter twenty-nine-a of this code, the open seasons and the
59 bag, creel, size, age, weight and sex limits with respect
60 to wildlife in this state.

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

James L. Davis
Chairman Senate Committee

Florence C. Sheehan
Chairman House Committee

Originated in the Senate.

In effect July 1, 1975.

J. Willoughby
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

W. T. Butherford
President of the Senate

Levin W. M. Manna
Speaker House of Delegates

The within approved this the 25th
day of February, 1975.

Arch A. Shaw, Jr.
Governor



PRESENTED TO THE
GOVERNOR

2/19/75
2:55 p.m.