

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1978

— ● —

ENROLLED

HOUSE BILL No. 1252

(By Mr. Ballou & Mr. Goodwin)

— ● —

PASSED March 11, 1978

In Effect ninety days from Passage

ENROLLED

H. B. 1252

(By MR. BALLOUZ and MR. GOODWIN)

[Passed March 11, 1978; in effect ninety days from passage.]

AN ACT to amend and reenact section seven, article one, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the powers and duties of the director of natural resources; and providing the director with the power to regulate and set the digging season of native, wild ginseng.

Be it enacted by the Legislature of West Virginia:

That section seven, 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 responsibilities
2 granted and assigned to the director in this chapter and
3 elsewhere by law, the director is hereby authorized and
4 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 con-
8 servation of the natural resources of the state which best
9 effectuates the purpose of this chapter and which makes
10 adequate provisions for the natural resources laws of the
11 state;

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

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

20 (4) Conduct a continuous study and investigation of the
21 habits of wildlife, and for purposes of control and protection
22 to classify by regulation the various species into such cate-
23 gories 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 taken,
26 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 of
29 the natural resources commission may appear to be necessary
30 and proper for the purpose of giving interested persons in
31 the various sections of the state an opportunity to be heard
32 concerning open season for their respective areas, and report
33 the results of the meetings to the natural resources com-
34 mission before such season and bag limits are fixed by
35 it;

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

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

48 (9) Designate such localities as he shall determine to

49 be necessary and desirable for the perpetuation of any species
50 of wildlife;

51 (10) Enter private lands to make surveys or inspections
52 for conservation purposes, to investigate for violations of
53 provisions of this chapter, to serve and execute warrants
54 and processes, to make arrests and to otherwise effectively
55 enforce the provisions of this chapter;

56 (11) Acquire for the state in the name of the "depart-
57 ment of natural resources" by purchase, condemnation, lease
58 or agreement, or accept or reject for the state, in the
59 name of the department of natural resources, gifts, dona-
60 tions, contributions, bequests or devises of money, security
61 or property, both real and personal, and any interest in
62 such property, including lands and waters, which he deems
63 suitable for the following purposes:

64 (a) For state forests for the purpose of growing timber,
65 demonstrating forestry, furnishing or protecting watersheds
66 or providing public recreation;

67 (b) For state parks or recreation areas for the purpose
68 of preserving scenic, aesthetic, scientific, cultural, archaeologi-
69 cal or historical values or natural wonders, or providing public
70 recreation;

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

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

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

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

83 (12) Capture, propagate, transport, sell or exchange any

84 species of wildlife as may be necessary to carry out the pro-
85 visions of this chapter;

86 (13) Sell, with the approval in writing of the governor,
87 timber for not less than the value thereof, as appraised by
88 a qualified appraiser appointed by the director, from all
89 lands under the jurisdiction and control of the director,
90 except those lands that are designated as state parks and those
91 in the Kanawha state forest. The appraisal shall be made with-
92 in a reasonable time prior to any sale, reduced to writing, filed
93 in the office of the director and shall be available for public in-
94 spection. When the appraised value of the timber to be sold is
95 more than five hundred dollars, the director, before making sale
96 thereof, shall receive sealed bids therefor, after notice by pub-
97 lication as a Class II legal advertisement in compliance with
98 the provisions of article three, chapter fifty-nine of this
99 code, and the publication area for such publication shall
100 be each county in which the timber is located. The timber
101 so advertised shall be sold at not less than the appraised
102 value to the highest responsible bidder, who shall give
103 bond for the proper performance of the sales contract as
104 the director shall designate; but the director shall have
105 the right to reject any and all bids and to readvertise for
106 bids. If the foregoing provisions of this section have been
107 complied with, and no bid equal to or in excess of the
108 appraised value of the timber is received, the director may,
109 at any time, during a period of six months after the opening
110 of the bids, sell the timber in such manner as he deems
111 appropriate, but the sale price shall not be less than the
112 appraised value of the timber advertised. No contract for
113 sale of timber made pursuant to this section shall extend for a
114 period of more than ten years. And all contracts heretofore en-
115 tered into by the state for the sale of timber shall not be vali-
116 dated by this section if the same be otherwise invalid. The pro-
117 ceeds arising from the sale of the timber so sold, shall be paid
118 to the treasurer of the state of West Virginia, and shall be cre-
119 dited to the department and used exclusively for the purposes
120 of this chapter: *Provided*, That nothing contained herein shall
121 prohibit the sale of timber which otherwise would be removed
122 from rights of way necessary for and strictly incidental to the
123 extraction of minerals;

124 (14) Sell or lease, with the approval in writing of the gover-
125 nor, coal, oil, gas, sand, gravel and any other minerals that may
126 be found in the lands under the jurisdiction and control of the
127 director, except those lands that are designated as state parks.
128 The director, before making sale or lease thereof, shall receive
129 sealed bids therefor, after notice by publication as a Class II
130 legal advertisement in compliance with the provisions of article
131 three, chapter fifty-nine of this code, and the publication area
132 for such publication shall be each county in which such lands
133 are located. The minerals so advertised shall be sold or leased
134 to the highest responsible bidder, who shall give bond for the
135 proper performance of the sales contract or lease as the director
136 shall designate; but the director shall have the right to reject
137 any and all bids and to readvertise the bids. The proceeds aris-
138 ing from any such sale or lease shall be paid to the treasurer of
139 the state of West Virginia and shall be credited to the depart-
140 ment and used exclusively for the purposes of this chapter;

141 (15) Exercise the powers granted by this chapter for
142 the protection of forests, and regulate fires and smoking in
143 the woods or in their proximity at such times and in such
144 localities as may be necessary to reduce the danger of
145 forest fires;

146 (16) Cooperate with departments and agencies of state,
147 local and federal governments in the conservation of natural
148 resources and the beautification of the state;

149 (17) Report to the governor each year all information
150 relative to the operation and functions of his department
151 and he shall make such other reports and recommendations as
152 may be required by the governor, including ^{an} annual financial
153 report covering all receipts and disbursements of the de-
154 partment of each fiscal year, and he shall deliver such
155 report to the governor on or before the first day of Decem-
156 ber next after the end of the fiscal year so covered. A
157 copy of such report shall be delivered to each house of
158 the Legislature when convened in January next following;

159 (18) Keep a complete and accurate record of all pro-
160 ceedings, record and file all bonds and contracts taken or
161 entered into, and assume responsibility for the custody and

✓ E. H.

162 preservation of all papers and documents pertaining to his
163 office, except as otherwise provided by law;

164 (19) Offer and pay, in his discretion, rewards for in-
165 formation respecting the violation, or for the apprehension
166 and conviction of any violators, of any of the provisions of
167 this chapter;

168 (20) Require such reports as he may deem to be neces-
169 sary from any person issued a license or permit under the
170 provisions of this chapter, but no person shall be required
171 to disclose secret processes or confidential data of competitive
172 significance;

173 (21) Purchase as provided by law all equipment neces-
174 sary for the conduct of his department;

175 (22) Conduct and encourage research designed to further
176 new and more extensive uses of the natural resources of this
177 state and to publicize the findings of such research;

178 (23) Encourage and cooperate with other public and
179 private organizations or groups in their efforts to publicize
180 the attractions of the state;

181 (24) Accept and expend, without the necessity of ap-
182 propriation by the Legislature, any gift or grant of money
183 made to the department for any and all purposes specified in
184 this chapter, and he shall account for and report on all
185 such receipts and expenditures to the governor;

186 (25) Cooperate with the state historian and other ap-
187 propriate state agencies in conducting research with reference
188 to the establishment of state parks and monuments of
189 historic, scenic and recreational value, and to take such
190 steps as may be necessary in establishing such monuments or
191 parts as he deems advisable;

192 (26) Maintain in his office at all times, properly in-
193 dexed by subject matter, and also, in chronological sequence,
194 all rules and regulations made or issued under the authority
195 of this chapter. Such records shall be available for public
196 inspection on all business days during the business hours
197 of working days;

198 (27) Delegate the powers and duties of his office, except
199 the power to execute contracts, to appointees and employees
200 of the department, who shall act under the direction and
201 supervision of the director and for whose acts he shall be
202 responsible;

203 (28) Conduct schools, institutions and other educational
204 programs, apart from or in cooperation with other govern-
205 mental agencies, for instruction and training in all phases of
206 the natural resources programs of the state;

207 (29) Authorize the payment of all or any part of the
208 reasonable expenses incurred by an employee of the de-
209 partment in moving his household furniture and effects as
210 a result of a reassignment of the employee: *Provided*,
211 That no part of the moving expenses of any one such em-
212 ployee shall be paid more frequently than once in twelve
213 months;

214 (30) Promulgate rules and regulations, in accordance with
215 the provisions of chapter twenty-nine-a of this code, to
216 implement and make effective the powers and duties vested
217 in him by the provisions of this chapter and take such other
218 steps as may be necessary in his discretion for the proper
219 and effective enforcement of the provisions of this chapter:
220 *Provided*, That all rules and regulations relating to articles
221 five and five-a of this chapter shall be promulgated by the
222 water resources board; and

223 (31) Regulate and set the digging season of native, wild
224 ginseng: *Provided*, That the digging season for wild, native
225 ginseng be set between the first day of December and the
226 fifteenth day of November of the following year.

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

James L. Davis
Chairman Senate Committee

Clarence C. Chestnut
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

J. C. Willson, Jr.
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

W. I. Bullock
President of the Senate

Donald L. Kopp
Speaker House of Delegates

The within is approved this the 23
day of March, 1978.

John D. Rhyker
Governor



APPROVED AND SIGNED BY THE GOVERNOR

RECEIVED

MAR 21 9 40 AM '78

OFFICE OF THE GOVERNOR

Date March 23, 1978

Time 11:20 p.m.

RECEIVED

78 MAR 29 11:36

OFFICE
SECY. OF STATE

~~OFFICE
SECY. OF STATE~~

~~78 MAR 29 11:36~~

~~RECEIVED~~