WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

ENROLLED

SENATE BILL NO. 411

(By Mr. Williams)

PASSED March 12, 1983

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, duties and services of the director of the department of natural resources; regulation of native, wild and cultivated 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 I. ORGANIZATION AND ADMINISTRATION.

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

1 In addition to all other powers, duties and responsibilities granted and assigned to the director in this chapter and elsewhere by law, the director is hereby authorized and empowered to:

2 (1) With the advice of the commission, prepare and administer, through the various divisions created by this chapter, a long-range comprehensive program for the conservation of the natural resources of the state which best effectuates the purpose of this chapter and which makes adequate provisions for the natural resources laws of the state;
(2) Sign and execute in the name of the state by the "department of natural resources" any contract or agreement with the federal government or its departments or agencies, subdivisions of the state, corporations, associations, partnerships or individuals;

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

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

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

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

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

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

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

(10) Enter private lands to make surveys or inspections for conservation purposes, to investigate for violations of provisions of this chapter, to serve and execute warrants and processes, to make arrests and to otherwise effectively enforce the provisions of this chapter;
(11) Acquire for the state in the name of the "department of natural resources" by purchase, condemnation, lease or agreement, or accept or reject for the state, in the name of the department of natural resources, gifts, donations, contributions, bequests or devises of money, security or property, both real and personal, and any interest in such property, including lands and waters, which he deems suitable for the following purposes:

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

(b) For state parks or recreation areas for the purpose of preserving scenic, aesthetic, scientific, cultural, archaeological or historical values or natural wonders, or providing public recreation;

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

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

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

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

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

(13) Sell, with the approval in writing of the governor, timber for not less than the value thereof, as appraised by a qualified appraiser appointed by the director, from all lands under the jurisdiction and control of the director, except those lands that are designated as state parks and those in the Kanawha state forest. The appraisal shall be made within a reasonable time prior to any sale, reduced to writing, filed in the office of the director and shall be available for public inspection. When the appraised value of the timber to be sold is more than five hundred dollars, the director, before making sale thereof, shall receive sealed bids therefor, after notice by publication as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be
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98 each county in which the timber is located. The timber so
99 advertised shall be sold at not less than the appraised value to
100 the highest responsible bidder, who shall give bond for the
101 proper performance of the sales contract as the director shall
102 designate; but the director shall have the right to reject any
103 and all bids and to readvertise for bids. If the foregoing
104 provisions of this section have been complied with, and no
105 bid equal to or in excess of the appraised value of the timber
106 is received, the director may, at any time, during a period of
107 six months after the opening of the bids, sell the timber in
108 such manner as he deems appropriate, but the sale price shall
109 not be less than the appraised value of the timber advertised.
110 No contract for sale of timber made pursuant to this section
111 shall extend for a period of more than ten years. And all
112 contracts heretofore entered into by the state for the sale of
113 timber shall not be validated by this section if the same be
114 otherwise invalid. The proceeds arising from the sale of the
115 timber so sold, shall be paid to the treasurer of the state of
116 West Virginia, and shall be credited to the department and
117 used exclusively for the purposes of this chapter: Provided,
118 That nothing contained herein shall prohibit the sale of
119 rights-of-way necessary for and strictly incidental to the
120 extraction of minerals;
121 (14) Sell or lease, with the approval in writing of the
122 governor, coal, oil, gas, sand, gravel and any other minerals
123 that may be found in the lands under the jurisdiction and
124 control of the director, except those lands that are designated
125 as state parks. The director, before making sale or lease
126 thereof, shall receive sealed bids therefor, after notice by
127 publication as a Class II legal advertisement in compliance
128 with the provisions of article three, chapter fifty-nine of this
129 code, and the publication area for such publication shall be
130 each county in which such lands are located. The minerals so
131 advertised shall be sold or leased to the highest responsible
132 bidder, who shall give bond for the proper performance of the
133 sales contract or lease as the director shall designate; but the
134 director shall have the right to reject any and all bids and to
135 readvertise the bids. The proceeds arising from any such sale
136 or lease shall be paid to the treasurer of the state of West
137 Virginia and shall be credited to the department and used
138 exclusively for the purposes of this chapter;
140 (15) Exercise the powers granted by this chapter for the protection of forests, and regulate fires and smoking in the woods or in their proximity at such times and in such localities as may be necessary to reduce the danger of forest fires;
145 (16) Cooperate with departments and agencies of state, local and federal governments in the conservation of natural resources and the beautification of the state;
148 (17) Report to the governor each year all information relative to the operation and functions of his department and he shall make such other reports and recommendations as may be required by the governor, including an annual financial report covering all receipts and disbursements of the department of each fiscal year, and he shall deliver such report to the governor on or before the first day of December next after the end of the fiscal year so covered. A copy of such report shall be delivered to each house of the Legislature when convened in January next following;
158 (18) Keep a complete and accurate record of all proceedings, record and file all bonds and contracts taken or entered into, and assume responsibility for the custody and preservation of all papers and documents pertaining to his office, except as otherwise provided by law;
163 (19) Offer and pay, in his discretion, rewards for information respecting the violation, or for the apprehension and conviction of any violators, of any of the provisions of this chapter;
167 (20) Require such reports as he may deem to be necessary from any person issued a license or permit under the provisions of this chapter, but no person shall be required to disclose secret processes or confidential data of competitive significance;
172 (21) Purchase as provided by law all equipment necessary for the conduct of his department;
174 (22) Conduct and encourage research designed to further new and more extensive uses of the natural resources of this state and to publicize the findings of such research;
177 (23) Encourage and cooperate with other public and private organizations or groups in their efforts to publicize the attractions of the state;
180 (24) Accept and expend, without the necessity of appropriation by the Legislature, any gift or grant of money made to the department for any and all purposes specified in
(25) Cooperate with the state historian and other appropriate state agencies in conducting research with reference to the establishment of state parks and monuments of historic, scenic and recreational value, and to take such steps as may be necessary in establishing such monuments or parts as he deems advisable;

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

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

(28) Conduct schools, institutions and other educational programs, apart from or in cooperation with other governmental agencies, for instruction and training in all phases of the natural resources programs of the state;

(29) Authorize the payment of all or any part of the reasonable expenses incurred by an employee of the department in moving his household furniture and effects as a result of a reassignment of the employee: Provided, That no part of the moving expenses of any one such employee shall be paid more frequently than once in twelve months;

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

(31) Regulate the digging, possession and sale of native, wild or cultivated ginseng: Provided, That the digging season for wild, native or cultivated ginseng shall begin on the fifteenth day of August and end on the thirtieth day of November of each year unless otherwise authorized by the
director. Ginseng dealers shall: (a) Obtain a ginseng dealer's permit from the director of the department of natural resources; (b) keep on forms provided by the director accurate records for all ginseng acquired showing the year harvested, the date acquired by the dealer, county of origin, weight and whether wild or cultivated; and (c) have all records and all acquired ginseng inspected by the director at official ginseng inspection stations for the purpose of certifying the dealer's records and issuing a certificate documenting the inspection and the weight of the ginseng. All ginseng dug in West Virginia must be certified by the director before being transported or shipped out of the state. No person shall have in his possession uncertified green ginseng from the first day of April through the fourteenth day of August.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Donald Asello
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within....................this the........

day of..................March........., 1983

Governor

John H. Dugan