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OFFICE OF THE GOVERNOR

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983

ENROLLED

SENATE BILL NO. 411

(By Mr. Billie)

PASSED March 12 1983

In Effect ninety days from Passage



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 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
8 conservation 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,
16 partnerships 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
23 categories as may be established as necessary;

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

27 (6) Hold at least six meetings each year at such time and at
28 such points within the state, as in the discretion of the natural
29 resources commission may appear to be necessary and
30 proper for the purpose of giving interested persons in the
31 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
34 commission before such season and bag limits are fixed by it;

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40 emergency and until rescinded by the director.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

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

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

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

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

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

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

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

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

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

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

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

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

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 timber which otherwise would be removed from
120 rights-of-way necessary for and strictly incidental to the
121 extraction of minerals;

122 (14) Sell or lease, with the approval in writing of the
123 governor, coal, oil, gas, sand, gravel and any other minerals
124 that may be found in the lands under the jurisdiction and
125 control of the director, except those lands that are designated
126 as state parks. The director, before making sale or lease
127 thereof, shall receive sealed bids therefor, after notice by
128 publication as a Class II legal advertisement in compliance
129 with the provisions of article three, chapter fifty-nine of this
130 code, and the publication area for such publication shall be
131 each county in which such lands are located. The minerals so
132 advertised shall be sold or leased to the highest responsible
133 bidder, who shall give bond for the proper performance of the
134 sales contract or lease as the director shall designate; but the
135 director shall have the right to reject any and all bids and to
136 readvertise the bids. The proceeds arising from any such sale
137 or lease shall be paid to the treasurer of the state of West
138 Virginia and shall be credited to the department and used
139 exclusively for the purposes of this chapter;

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

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

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

158 (18) Keep a complete and accurate record of all
159 proceedings, record and file all bonds and contracts taken or
160 entered into, and assume responsibility for the custody and
161 preservation of all papers and documents pertaining to his
162 office, except as otherwise provided by law;

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

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

172 (21) Purchase as provided by law all equipment necessary
173 for the conduct of his department;

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

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

180 (24) Accept and expend, without the necessity of
181 appropriation by the Legislature, any gift or grant of money
182 made to the department for any and all purposes specified in

183 this chapter, and he shall account for and report on all such
184 receipts and expenditures to the governor;

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

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

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

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

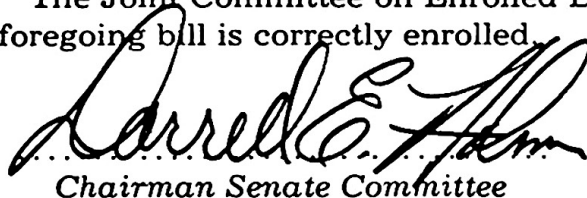
206 (29) Authorize the payment of all or any part of the
207 reasonable expenses incurred by an employee of the
208 department in moving his household furniture and effects as
209 a result of a reassignment of the employee: *Provided*, That no
210 part of the moving expenses of any one such employee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

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

221 (31) Regulate the digging, possession and sale of native,
222 wild or cultivated ginseng: *Provided*, That the digging season
223 for wild, native or cultivated ginseng shall begin on the
224 fifteenth day of August and end on the thirtieth day of
225 November of each year unless otherwise authorized by the

226 director. Ginseng dealers shall: (a) Obtain a ginseng dealer's
227 permit from the director of the department of natural
228 resources; (b) keep on forms provided by the director
229 accurate records for all ginseng acquired showing the year
230 harvested, the date acquired by the dealer, county of origin,
231 weight and whether wild or cultivated; and (c) have all
232 records and all acquired ginseng inspected by the director at
233 official ginseng inspection stations for the purpose of
234 certifying the dealer's records and issuing a certificate
235 documenting the inspection and the weight of the ginseng.
236 All ginseng dug in West Virginia must be certified by the
237 director before being transported or shipped out of the state.
238 No person shall have in his possession uncertified green
239 ginseng from the first day of April through the fourteenth day
240 of August.

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

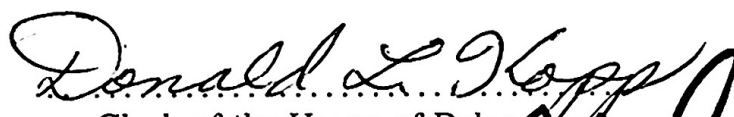

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Chairman Senate Committee

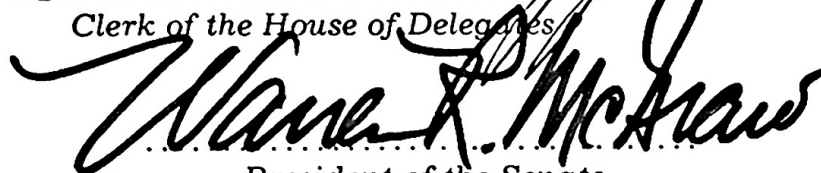

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Chairman House Committee

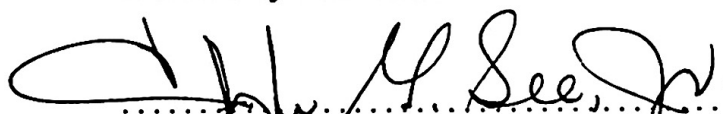
Originated in the Senate.

In effect ninety days from passage.



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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within... *is approved* this the *37*
day of *March*, 1983

..... 
Governor

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