WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

ENROLLED

SENATE BILL NO. 411

(By Mr. Williams)

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 granted and assigned to the director in this chapter and elsewhere by law, the director is hereby authorized and empowered to:

5 (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
each county in which the timber is located. The timber so advertised shall be sold at not less than the appraised value to the highest responsible bidder, who shall give bond for the proper performance of the sales contract as the director shall designate; but the director shall have the right to reject any and all bids and to readvertise for bids. If the foregoing provisions of this section have been complied with, and no bid equal to or in excess of the appraised value of the timber is received, the director may, at any time, during a period of six months after the opening of the bids, sell the timber in such manner as he deems appropriate, but the sale price shall not be less than the appraised value of the timber advertised. No contract for sale of timber made pursuant to this section shall extend for a period of more than ten years. And all contracts heretofore entered into by the state for the sale of timber shall not be validated by this section if the same be otherwise invalid. The proceeds arising from the sale of the timber so sold, shall be paid to the treasurer of the state of West Virginia, and shall be credited to the department and used exclusively for the purposes of this chapter: Provided, That nothing contained herein shall prohibit the sale of timber which otherwise would be removed from rights-of-way necessary for and strictly incidental to the extraction of minerals;

(14) Sell or lease, with the approval in writing of the governor, coal, oil, gas, sand, gravel and any other minerals that may be found in the lands under the jurisdiction and control of the director, except those lands that are designated as state parks. The director, before making sale or lease 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 each county in which such lands are located. The minerals so advertised shall be sold or leased to the highest responsible bidder, who shall give bond for the proper performance of the sales contract or lease as the director shall designate; but the director shall have the right to reject any and all bids and to readvertise the bids. The proceeds arising from any such sale or lease shall be paid to the treasurer of the state of West Virginia and shall be credited to the department and used exclusively for the purposes of this chapter;
(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;
(16) Cooperate with departments and agencies of state, local and federal governments in the conservation of natural resources and the beautification of the state;
(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;
(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;
(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;
(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;
(21) Purchase as provided by law all equipment necessary for the conduct of his department;
(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;
(23) Encourage and cooperate with other public and private organizations or groups in their efforts to publicize the attractions of the state;
(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
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
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

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 ........................................, 1983

Governor