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OFFICE OF THE GOVERNOR

No: 411

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983



# ENROLLED

SENATE BILL NO. 411

(By Mr. Stillems)



PASSED March 12, 1983

In Effect ninth day for Passage



**ENROLLED**  
**Senate Bill No. 411**

(BY MR. WILLIAMS)

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[Passed March 12, 1983; in effect ninety days from passage.]

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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.

*Carroll E. Ham*  
.....  
Chairman Senate Committee

*Donald Anello*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Paul A. Willis*  
.....  
Clerk of the Senate

*Donald L. Kopp*  
.....  
Clerk of the House of Delegates

*Waverly F. McAnaw*  
.....  
President of the Senate

*John H. See, Jr.*  
.....  
Speaker House of Delegates

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

.....  
*John N. Poyne*  
.....  
Governor

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SECY. OF STATE