

No: 1096

APPROVED AND SIGNED BY THE GOVERNOR

Date 2-21-83

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983



# ENROLLED

HOUSE BILL No. 1096

(By Mr. Ballou)



Passed February 7, 1983

In Effect Ninety Days From Passage



OFFICE  
SECY. OF STATE

83 FEB 22 P 3: 18

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# H. B. 1096

(By MR. BALLOUZ)

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[Passed February 7, 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 correcting a printer's error from "parts" to "parks."

*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 ad-  
6 minister, through the various divisions created by this chapter,  
7 a long-range comprehensive program for the conservation  
8 of the natural resources of the state which best effectuates  
9 the purpose of this chapter and which makes adequate pro-  
10 visions for the natural resources laws of the state;

11 (2) Sign and execute in the name of the state by the  
12 "department of natural resources" any contract or agreement

13 with the federal government or its departments or agencies,  
14 subdivisions of the state, corporations, associations, partner-  
15 ships or individuals;

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

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

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

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

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

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

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

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

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

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

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

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

74 (d) For fish hatcheries, game farms, wildlife research  
75 areas 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  
78 or 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 writting of the governor,

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

123 (14) Sell or lease, with the approval in writing of the  
124 governor, coal, oil, gas, sand, gravel and any other minerals

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

141 (15) Exercise the powers granted by this chapter for the  
142 protection of forests, and regulate fires and smoking in the  
143 woods or in their proximity at such times and in such  
144 localities as may be necessary to reduce the danger of forest  
145 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  
153 financial report covering all receipts and disbursements of  
154 the department of each fiscal year, and he shall deliver  
155 such report to the governor on or before the first day of  
156 December next after the end of the fiscal year so covered.  
157 A 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

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 necessary  
169 from any person issued a license or permit under the pro-  
170 visions of this chapter, but no person shall be required to  
171 disclose secret processes or confidential data of competitive  
172 significance;

173 (21) Purchase as provided by law all equipment necessary  
174 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 appro-  
182 priation by the Legislature, any gift or grant of money made  
183 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 refer-  
188 ence to the establishment of state parks and monuments of  
189 historic, scenic and recreational value, and to take such steps  
190 as may be necessary in establishing such monuments or parks  
191 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 of  
197 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 depart-  
209 ment in moving his household furniture and effects as a result  
210 of a reassignment of the employee: *Provided*, That no part  
211 of the moving expenses of any one such employee shall be paid  
212 more frequently than once in twelve months;

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

222 (31) Regulate and set the digging season of native, wild  
223 ginseng: *Provided*, That the digging season for wild, native  
224 ginseng be set between the first day of December and the  
225 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

*Samuel Anello*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Todd C. Wallis*  
Clerk of the Senate

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

*Walter P. McNew*  
President of the Senate

*John M. Lee, Jr.*  
Speaker House of Delegates

The within *is approved* this the *21*  
day of *Feb.*, 1983.

*John R. Rhyne*  
Governor

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