WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984

ENROLLED
SENATE BILL NO. 184

(By Mr. Williams)

PASSED February 15, 1984
In Effect ninety days from Passage
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AN ACT to amend and reenact section twenty-three-a, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to extending the completion date for the investigation and study of commercial whitewater rafting, outfitting and activities related thereto to July one, one thousand nine hundred eighty-five.

Be it enacted by the Legislature of West Virginia:

That section twenty-three-a, article two, 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 2. WILDLIFE RESOURCES.

§20-2-23a. Special studies of whitewater rafting zones to be conducted; creation of advisory commission to promulgate rules and regulations; special fees imposed; time limitation.

1 (a) The Legislature finds that the recent increase in the number of persons engaging in the sport of whitewater rafting has resulted in overcrowding, safety and ecological problems along areas and portions of rivers and waters in this state necessitating the study, investigation and regulation of whitewater rafting to promote the safe and equitable enjoyment of this sport by all persons seeking to engage in it as recreational activity. The Legislature further
finds it desirable to require the director of the department
of natural resources, pending such study and investigation
and the promulgation of necessary rules and regulations
applicable to such areas and portions of rivers and waters,
to restrict, deny or postpone the issuance of licenses to
additional commercial whitewater outfitters seeking to
operate in such areas and portions of rivers and waters in
this state until the promulgation of such rules and
regulations applicable thereto and to provide for the
creation of an advisory board to promulgate such rules and
regulations.

(b) The director shall investigate and study commercial
whitewater rafting, outfitting and activities related
thereto, which rafting, outfitting or activities take place
along the rivers or waters of this state. The director shall
designate any such rivers or waters or any portions thereof,
which herein are referred to as "whitewater zones" for
which commercial whitewater rafting, outfitting and
activities are to be investigated and studied, and shall
determine the order and periods of time within which such
investigations and studies are to be conducted. The director
shall first investigate and study those whitewater zones
which the director finds to present serious problems
requiring immediate regulation, including without
limitation, safety hazards and problems of overcrowding or
environmental misuse.

(c) Upon the filing of a written notice to be entered upon
the records of the department containing the designation
and reasonable description of the whitewater zone to be
investigated and studied pursuant to subsection (b) above,
the director may not issue licenses to additional commercial
whitewater outfitters seeking to operate in or for the
whitewater zone described in the notice. This limitation on
additional licenses shall continue until the director has
completed investigation and study of the whitewater zone
designated in the notice and the rules and regulations
applicable to such zone are promulgated in accordance with
this section: Provided, That the director may issue
additional licenses for such whitewater zones during the
study period and prior to the promulgation of the rules and
regulations applicable to a zone, if the director finds that
such license would not interfere with the conduct of the
pending investigation and study, and the issuance of such additional license is in the best interests of persons seeking to enjoy whitewater rafting and the interests of the state in promotion of tourism and the recreational and ecological use of the state's natural resources.

(d) The annual license fees set forth in section twenty-six of this article for commercial whitewater outfitters and such annual fee shall be two hundred fifty dollars for each commercial whitewater outfitter. In addition to such annual license fee, each commercial whitewater outfitter, operating within a whitewater zone under investigation and study as provided in subsection (c) of this section, shall pay to the director the sum of two hundred fifty dollars as a special study fee which shall be paid within three months after the date of the notice and designation of the whitewater zone to be studied. The annual license fee and the special study fee may be used to offset and pay for the expenses and costs of such investigations and studies and the promulgation of rules and regulations pursuant to this section.

(e) Upon official designation by the director of the first whitewater zone to be studied as provided in subsection (b) of this section, the director shall appoint a commercial whitewater advisory board. Such board shall consist of two staff employees of the department, three persons representing three different licensed commercial whitewater outfitters currently operating within the state, and three residents of the state who represent the consumers of commercial whitewater rafting in the state: Provided, That, for purposes of the appointment of the commercial whitewater outfitters and consumer members of the board, there shall be designated three regions within the state as follows: region one, the counties of Jackson, Roane, Calhoun, Gilmer, Lewis, Upshur, Randolph, Tucker, Barbour, Preston, Taylor, Monongalia, Marion, Harrison, Doddridge, Ritchie, Wirt, Wood, Pleasants, Tyler, Wetzel, Marshall, Ohio, Brooke and Hancock; region two, the counties of Greenbrier, Pocahontas, Pendleton, Hardy, Grant, Mineral, Hampshire, Morgan, Berkeley and Jefferson; region three, the counties of Mason, Putnam, Kanawha, Clay, Braxton, Webster, Nicholas, Fayette, Summers, Monroe, Mercer, Raleigh, Wyoming, McDowell,
Mingo, Logan, Boone, Wayne, Cabell and Lincoln. The director shall appoint one member representing commercial whitewater outfitters operating in each of the three regions. The director shall likewise appoint a citizen consumer member from each of the three regions. The director shall serve as an ex officio member of the board and shall serve as chairperson at meetings.

(f) The commercial whitewater advisory board shall participate in the investigations and studies conducted by the director. The board shall meet upon the call of the chairperson or a majority of the members of the board and shall meet within a reasonable time after completion of the director's investigation and study relative to each designated whitewater zone. At such meetings the board shall review all data, materials and relevant findings compiled by the director relating to the investigation and study then under consideration and, as soon as practicable thereafter, the board shall promulgate rules and regulations to govern and apply to that designated whitewater zone. Such rules and regulations shall include, but not be limited to, the following: (1) Minimum safety requirements for equipment; (2) criteria for increasing or limiting the number of commercial whitewater outfitters operating in whitewater zones; (3) standards for the size and number of rafts and numbers of persons transported in rafts; and (4) qualifications of guides. Board members shall be paid all reasonable and necessary expenses incurred in the exercise of their duties.

(g) Upon promulgation of such rules and regulations, the director shall immediately commence enforcement of the rules and regulations promulgated by the board relative to the designated whitewater zone. The promulgation of such rules and regulations and any revision thereof shall be subject to the provisions of chapter twenty-nine-a of this code.

(h) The director shall commence the first investigation and study no later than the first day of July, one thousand nine hundred eighty-one. All activities pursuant to all investigations and studies, or as may be required for the promulgation of rules and regulations hereunder, shall be completed no later than the first day of July, one thousand nine hundred eighty-five.
(i) The commercial whitewater advisory board shall terminate and cease to exist as an entity one year following a finding made by the director that all studies and investigations and the promulgation of rules and regulations applicable to the last designated whitewater zone have been completed.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Donald J. Carallo
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Jared C. William
Clerk of the Senate

Donald L. Hoog
Clerk of the House of Delegates

Warren E. McDougal
President of the Senate

J. M. See Jr.
Speaker House of Delegates

The within is approved this the 24 day of F.S., 1984.

John R. Henry
Governor