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WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1984

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ENROLLED

SENATE BILL NO. 184

(By Mr. Williams)

—•—

PASSED February 15, 1984  
In Effect ninety days from Passage



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**Senate Bill No. 184**  
(BY MR. WILLIAMS)

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[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  
2     number of persons engaging in the sport of whitewater  
3     rafting has resulted in overcrowding, safety and ecological  
4     problems along areas and portions of rivers and waters in  
5     this state necessitating the study, investigation and  
6     regulation of whitewater rafting to promote the safe and  
7     equitable enjoyment of this sport by all persons seeking to  
8     engage in it as recreational activity. The Legislature further

9 finds it desirable to require the director of the department  
10 of natural resources, pending such study and investigation  
11 and the promulgation of necessary rules and regulations  
12 applicable to such areas and portions of rivers and waters,  
13 to restrict, deny or postpone the issuance of licenses to  
14 additional commercial whitewater outfitters seeking to  
15 operate in such areas and portions of rivers and waters in  
16 this state until the promulgation of such rules and  
17 regulations applicable thereto and to provide for the  
18 creation of an advisory board to promulgate such rules and  
19 regulations.

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

35 (c) Upon the filing of a written notice to be entered upon  
36 the records of the department containing the designation  
37 and reasonable description of the whitewater zone to be  
38 investigated and studied pursuant to subsection (b) above,  
39 the director may not issue licenses to additional commercial  
40 whitewater outfitters seeking to operate in or for the  
41 whitewater zone described in the notice. This limitation on  
42 additional licenses shall continue until the director has  
43 completed investigation and study of the whitewater zone  
44 designated in the notice and the rules and regulations  
45 applicable to such zone are promulgated in accordance with  
46 this section: *Provided*, That the director may issue  
47 additional licenses for such whitewater zones during the  
48 study period and prior to the promulgation of the rules and  
49 regulations applicable to a zone, if the director finds that  
50 such license would not interfere with the conduct of the

51 pending investigation and study, and the issuance of such  
52 additional license is in the best interests of persons seeking  
53 to enjoy whitewater rafting and the interests of the state in  
54 promotion of tourism and the recreational and ecological  
55 use of the state's natural resources.

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

71 (e) Upon official designation by the director of the first  
72 whitewater zone to be studied as provided in subsection (b)  
73 of this section, the director shall appoint a commercial  
74 whitewater advisory board. Such board shall consist of two  
75 staff employees of the department, three persons  
76 representing three different licensed commercial  
77 whitewater outfitters currently operating within the state,  
78 and three residents of the state who represent the  
79 consumers of commercial whitewater rafting in the state:  
80 *Provided, That, for purposes of the appointment of the*  
81 *commercial whitewater outfitters and consumer members*  
82 *of the board, there shall be designated three regions within*  
83 *the state as follows: region one, the counties of Jackson,*  
84 *Roane, Calhoun, Gilmer, Lewis, Upshur, Randolph, Tucker,*  
85 *Barbour, Preston, Taylor, Monongalia, Marion, Harrison,*  
86 *Doddridge, Ritchie, Wirt, Wood, Pleasants, Tyler, Wetzel,*  
87 *Marshall, Ohio, Brooke and Hancock; region two, the*  
88 *counties of Greenbrier, Pocahontas, Pendleton, Hardy,*  
89 *Grant, Mineral, Hampshire, Morgan, Berkeley and*  
90 *Jefferson; region three, the counties of Mason, Putnam,*  
91 *Kanawha, Clay, Braxton, Webster, Nicholas, Fayette,*  
92 *Summers, Monroe, Mercer, Raleigh, Wyoming, McDowell,*



93 Mingo, Logan, Boone, Wayne, Cabell and Lincoln. The  
94 director shall appoint one member representing  
95 commercial whitewater outfitters operating in each of the  
96 three regions. The director shall likewise appoint a citizen  
97 consumer member from each of the three regions. The  
98 director shall serve as an ex officio member of the board and  
99 shall serve as chairperson at meetings.

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

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

128 (h) The director shall commence the first investigation  
129 and study no later than the first day of July, one thousand  
130 nine hundred eighty-one. All activities pursuant to all  
131 investigations and studies, or as may be required for the  
132 promulgation of rules and regulations hereunder, shall be  
133 completed no later than the first day of July, one thousand  
134 nine hundred eighty-five.

135 (i) The commercial whitewater advisory board shall  
136 terminate and cease to exist as an entity one year following  
137 a finding made by the director that all studies and  
138 investigations and the promulgation of rules and  
139 regulations applicable to the last designated whitewater  
140 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 Qualls*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Jedd C. Withis*  
.....  
Clerk of the Senate

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

*Warren P. McDermott*  
.....  
President of the Senate

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

The within... *in approved* ... this the *27* .....  
day of *Feb.* ....., 1984.

*John J. Ryan*  
.....  
Governor

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SECY. OF STATE