WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1986

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ENROLLED

SENATE BILL NO. 340

(By Senator Tinkham, Mr. President et al.)

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PASSED March 6, 1986

In Effect from Passage
ENROLLED

Senate Bill No. 340

(By Senators Tonkovich, Mr. President (By Request) and Harman)

[Passed March 6, 1986; in effect from passage.]

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 the commercial whitewater advisory board; providing
for the restructure of the board; setting forth a limitation
on the allocations; and establishing the date of termination
of the board.

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 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
2 the number of persons engaging in the sport of white-
3 water rafting has resulted in overcrowding, safety and
4 ecological problems along areas and portions of rivers
5 and waters in this state necessitating the study, investi-
6 gation 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
as portions of rivers and waters, to restrict, deny or post-
pone 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 there-
to, which rafting, outfitting or activities take place along
the rivers or waters of this state. The director shall desig-
nate 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 the periods of time within which
such investigations and studies are to be conducted. The
director shall first investigate and study those white-
water zones which the director finds to present serious
problems requiring immediate regulation, including with-
out limitation, safety hazards and problems of overcrowd-
ing or environmental misuse.

(c) Upon the filing of a written notice to be entered
upon the records of the department containing the desig-
nation 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 out-
fitters 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 white-
water zone designated in the notice and the rules
and regulations applicable to such zone are prom-
ulgated 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 white-
water 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; the commissioner
of the department of commerce; the superintendent of the
New River Gorge National Park or his designee; three
residents of the state who represent the consumers of
commercial whitewater rafting in the state, one of whom
shall represent the private river users; and three persons
representing three different licensed commercial white-
water outfitters currently operating within the state:
Provided, That one person shall represent the small com-
mercial whitewater rafting outfitters in West Virginia
which are those outfitters who have a license allotment, 
as of the first day of July, one thousand nine hundred 
eighty-five, of less than one hundred persons on streams 
or rivers where total use is limited; and three residents 
of the state who represent the consumers of commercial 
whitewater rafting in the state: Provided, however, That 
for purposes of the appointment of the commercial white-
water outfitters and consumer members of the board, there 
shall be designated three regions within the state as fol-
lows: Region one, the counties of Jackson, Roane, Calhoun, 
Gilmer, Lewis, Upshur, Randolph, Tucker, Barbour, 
Preston, Taylor, Monongalia, Marion, Harrison, Dodd-
ridge, 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 Jeff-
erson; region three, the counties of Mason, Putnam, Ka-
awah, Clay, Braxton, Webster, Nicholas, Fayette, Sum-
mers, Monroe, Mercer, Raleigh, Wyoming, McDowell, 
Mingo, Logan, Boone, Wayne, Cabell and Lincoln. The 
director shall appoint one member representing commer-
cial whitewater outfitters operating in each of the three 
regions. The director shall likewise appoint a citizen con-
sumer 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 regula-
tions 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 require-
ments 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 or 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) The board shall set the number of persons transported in rafts, pursuant to subdivision three, subsection (f) of this section, at not less than the allocation in effect on the first day of July, one thousand nine hundred eighty-five.

(h) 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.

(i) 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-eight.

(j) The commercial whitewater advisory board shall terminate and cease to exist as an entity on the first day of July, one thousand nine hundred eighty-eight.
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 from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 26th day of March, 1986.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/13/86
Time 12:33 p.m.