

1746  
340  
Velo



# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986

—•—

## ENROLLED

SENATE BILL NO. 340

(By Senator *Tenkovich, Mr. President, et al.*)

—•—

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

7 the safe and equitable enjoyment of this sport by all  
8 persons seeking to engage in it as recreational activity.  
9 The Legislature further finds it desirable to require the  
10 director of the department of natural resources, pending  
11 such study and investigation and the promulgation of  
12 necessary rules and regulations applicable to such areas  
13 as portions of rivers and waters, to restrict, deny or post-  
14 pone the issuance of licenses to additional commercial  
15 whitewater outfitters seeking to operate in such areas  
16 and portions of rivers and waters in this state until the  
17 promulgation of such rules and regulations applicable  
18 thereto and to provide for the creation of an advisory  
19 board to promulgate such rules and regulations.

20 (b) The director shall investigate and study commercial  
21 whitewater rafting, outfitting and activities related there-  
22 to, which rafting, outfitting or activities take place along  
23 the rivers or waters of this state. The director shall desig-  
24 nate 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 the periods of time within which  
29 such investigations and studies are to be conducted. The  
30 director shall first investigate and study those white-  
31 water zones which the director finds to present serious  
32 problems requiring immediate regulation, including with-  
33 out limitation, safety hazards and problems of overcrowd-  
34 ing or environmental misuse.

35 (c) Upon the filing of a written notice to be entered  
36 upon the records of the department containing the desig-  
37 nation and reasonable description of the whitewater  
38 zone to be investigated and studied pursuant to  
39 subsection (b) above, the director may not issue  
40 licenses to additional commercial whitewater out-  
41 fitters seeking to operate in or for the whitewater  
42 zone described in the notice. This limitation on  
43 additional licenses shall continue until the director  
44 has completed investigation and study of the white-  
45 water zone designated in the notice and the rules  
46 and regulations applicable to such zone are prom-

47 ulgated in accordance with this section: *Provided,*  
48 That the director may issue additional licenses for such  
49 whitewater zones during the study period and prior to  
50 the promulgation of the rules and regulations applicable  
51 to a zone, if the director finds that such license would not  
52 interfere with the conduct of the pending investigation  
53 and study, and the issuance of such additional license is  
54 in the best interests of persons seeking to enjoy white-  
55 water rafting and the interests of the state in promotion  
56 of tourism and the recreational and ecological use of the  
57 state's natural resources.

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

73 (e) Upon official designation by the director of the first  
74 whitewater zone to be studied as provided in subsection  
75 (b) of this section, the director shall appoint a commercial  
76 whitewater advisory board. Such board shall consist of  
77 two staff employees of the department; the commissioner  
78 of the department of commerce; the superintendent of the  
79 New River Gorge National Park or his designee; three  
80 residents of the state who represent the consumers of  
81 commercial whitewater rafting in the state, one of whom  
82 shall represent the private river users; and three persons  
83 representing three different licensed commercial white-  
84 water outfitters currently operating within the state:  
85 *Provided,* That one person shall represent the small com-  
86 mercial whitewater rafting outfitters in West Virginia

87 which are those outfitters who have a license allotment,  
88 as of the first day of July, one thousand nine hundred  
89 eighty-five, of less than one hundred persons on streams  
90 or rivers where total use is limited; and three residents  
91 of the state who represent the consumers of commercial  
92 whitewater rafting in the state: *Provided, however,* That  
93 for purposes of the appointment of the commercial white-  
94 water outfitters and consumer members of the board, there  
95 shall be designated three regions within the state as fol-  
96 lows: Region one, the counties of Jackson, Roane, Calhoun,  
97 Gilmer, Lewis, Upshur, Randolph, Tucker, Barbour,  
98 Preston, Taylor, Monongalia, Marion, Harrison, Dodd-  
99 ridge, Ritchie, Wirt, Wood, Pleasants, Tyler, Wetzel,  
100 Marshall, Ohio, Brooke and Hancock; region two, the  
101 counties of Greenbrier, Pocahontas, Pendleton, Hardy,  
102 Grant, Mineral, Hampshire, Morgan, Berkeley and Jeff-  
103 erson; region three, the counties of Mason, Putnam, Ka-  
104 nawha, Clay, Braxton, Webster, Nicholas, Fayette, Sum-  
105 mers, Monroe, Mercer, Raleigh, Wyoming, McDowell,  
106 Mingo, Logan, Boone, Wayne, Cabell and Lincoln. The  
107 director shall appoint one member representing commer-  
108 cial whitewater outfitters operating in each of the three  
109 regions. The director shall likewise appoint a citizen con-  
110 sumer member from each of the three regions. The  
111 director shall serve as an ex officio member of the board  
112 and shall serve as chairperson at meetings.

113 (f) The commercial whitewater advisory board shall  
114 participate in the investigations and studies conducted  
115 by the director. The board shall meet upon the call of the  
116 chairperson or a majority of the members of the board  
117 and shall meet within a reasonable time after completion  
118 of the director's investigation and study relative to each  
119 designated whitewater zone. At such meetings the board  
120 shall review all data, materials and relevant findings  
121 compiled by the director relating to the investigation and  
122 study then under consideration and, as soon as practicable  
123 thereafter, the board shall promulgate rules and regula-  
124 tions to govern and apply to that designated whitewater  
125 zone. Such rules and regulations shall include, but not be  
126 limited to, the following: (1) Minimum safety require-

127 ments for equipment; (2) criteria for increasing or limit-  
128 ing the number of commercial whitewater outfitters oper-  
129 ating in whitewater zones; (3) standards for the size and  
130 number of rafts and numbers of persons transported in  
131 rafts; and (4) qualifications of guides. Board members  
132 shall be paid all reasonable and necessary expenses in-  
133 curred in the exercise of their duties.

134 (g) The board shall set the number of persons trans-  
135 ported in rafts, pursuant to subdivision three, subsection  
136 (f) of this section, at not less than the allocation in effect  
137 on the first day of July, one thousand nine hundred eighty-  
138 five.

139 (h) Upon promulgation of such rules and regulations,  
140 the director shall immediately commence enforcement of  
141 the rules and regulations promulgated by the board rela-  
142 tive to the designated whitewater zone. The promulgation  
143 of such rules and regulations and any revision thereof  
144 shall be subject to the provisions of chapter twenty-nine-a  
145 of this code.

146 (i) The director shall commence the first investigation  
147 and study no later than the first day of July, one thousand  
148 nine hundred eighty-one. All activities pursuant to all  
149 investigations and studies, or as may be required for the  
150 promulgation of rules and regulations hereunder, shall be  
151 completed no later than the first day of July, one thousand  
152 nine hundred eighty-eight.

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Bruce O. Williams  
Chairman Senate Committee

Floyd Fuller  
Chairman House Committee

Originated in the Senate.

In effect from passage.

Todd C. Walker  
Clerk of the Senate

Donald S. Kopp  
Clerk of the House of Delegates

Dan Tomlinson  
President of the Senate

Joseph P. Allright  
Speaker House of Delegates

The within disapproved this the 26<sup>th</sup>  
day of March, 1986.

Andre R. Ruff  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/13/86

Time 2:33 p.m.



RECEIVED

1936 MAR 28 PM 4:22

SECRETARY OF STATE

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 3/26/86