

WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1986

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ENROLLED

HOUSE BILL No. 154

(By Mr. Del. Roop)

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Passed May 22, 1986

In Effect From Passage

ENROLLED

H. B. 154

(By Delegate Roop)

[Passed May 22, 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 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.

(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 portion 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 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; the commissioner of the department of commerce; the superintendent of the New River Gorge National Park

or his designee; and three persons representing three different licensed commercial whitewater outfitters currently operating within the state: Provided, That one person shall represent the small commercial 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, one of whom shall represent the private river users: Provided, however, 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 the members representing commercial whitewater outfitters operating in each of the three regions so that one of such members comes from each region. The director shall likewise appoint the citizen consumer members so that one of such members comes from each region. 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) The board shall set the number of persons transported in rafts, pursuant to subdivision three, subsection (f) of this

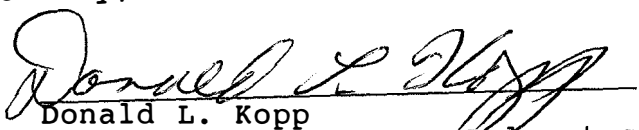
section, at not less than the allocation in effect on the first day of July, one thousand nine hundred eighty-five.

(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.

I, DONALD L. KOPP, Clerk of the House of Delegates, and as such Clerk, Keeper of the Rolls of the Legislature of West Virginia, hereby certify that the foregoing bill, H. B. 154, disapproved by the Governor on the 28th day of May, 1986, was subsequently repassed by the Legislature, notwithstanding the objections of the Governor, on the 30th day of May, 1986.


Donald L. Kopp
Clerk of the House of Delegates
and Keeper of the Rolls of the
Legislature.

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

Reece O. Williams
Chairman Senate Committee

Floyd Fuller
Chairman House Committee

Originating in the House.

Takes effect from passage.

Lodd C. Hult
Clerk of the Senate

Donald C. Kopp
Clerk of the House of Delegates

Sam Tomlinson
President of the Senate

Joseph P. Allright
Speaker of the House of Delegates

The *disapproved* this the *28th*
day of *May*, 1986.

Anders. Thuesen Jr.
Governor

PRESENTED TO THE

GOVERNOR

Date 5/23/86

Time 4:51 p.m.

RECEIVED

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OFFICE OF THE ATTORNEY GENERAL
SECRETARY OF STATE