

No. 68

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989



**ENROLLED**  
*Committee Substitute for*  
SENATE BILL NO. 68

(By Senator Parker, et al)



PASSED April 7, 1989  
In Effect from Passage

**ENROLLED**

COMMITTEE SUBSTITUTE  
FOR

**Senate Bill No. 68**

(SENATORS PARKER, CHERNENKO, BRACHENRICH AND HAWSE,  
*Original sponsors*)

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[Passed April 7, 1989; in effect from passage.]

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AN ACT to amend article one-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section three-a, relating to ginseng; providing criminal penalties for the illegal possession of uncertified green ginseng out of season.

*Be it enacted by the Legislature of West Virginia:*

That article one-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section three-a, to read as follows:

**ARTICLE 1A. DIVISION OF FORESTRY.**

**§19-1A-3a. Providing criminal penalties for the illegal possession of uncertified ginseng.**

1 (a) The division of forestry of the department of  
2 commerce, labor and environmental resources shall  
3 have jurisdiction to regulate the digging, possession  
4 and sale of native, wild or cultivated ginseng: *Pro-*

5 *vided*, That the digging season for wild, native or  
6 cultivated ginseng shall begin on the fifteenth day of  
7 August and end on the thirtieth day of November of  
8 each year unless otherwise authorized by the director.  
9 Ginseng dealers shall: (1) Obtain a ginseng dealer's  
10 permit from the director; (2) keep on forms provided  
11 by the director accurate records for all ginseng  
12 acquired showing the year harvested, the date  
13 acquired by the dealer, county of origin, weight and  
14 whether wild or cultivated; and (3) have all records  
15 and all acquired ginseng inspected by the director at  
16 official ginseng inspection stations for the purpose of  
17 certifying the dealer's records and issuing a certificate  
18 documenting the inspection and the weight of the  
19 ginseng. All ginseng dug in West Virginia must be  
20 certified by the director before being transported or  
21 shipped out of the state. No person shall have in his  
22 possession uncertified green ginseng from the first day  
23 of April through the fourteenth day of August.

24 (b) A person convicted of possession of uncertified  
25 green ginseng from the first day of April through the  
26 fourteenth day of August shall be punished as follows:

27 (A) *First offense conviction.* — Upon a first offense  
28 conviction:

29 (i) When the value of the ginseng is two hundred  
30 dollars or less, the defendant is guilty of a misde-  
31 meanor and shall be fined not more than four hun-  
32 dred dollars.

33 (ii) When the value of the ginseng exceeds two  
34 hundred dollars, the defendant is guilty of a misde-  
35 meanor and shall be fined not less than four hundred  
36 dollars, nor more than six hundred dollars, and such  
37 fine may not be suspended; or the defendant shall be  
38 imprisoned in the county jail not more than thirty  
39 days; or both fined and imprisoned.

40 (B) *Second offense conviction.* — Upon a second  
41 offense conviction:

42 (i) When the value of the ginseng is two hundred  
43 dollars or less, the defendant is guilty of a misde-

44 meanor and shall be fined not less than two hundred  
45 dollars nor more than six hundred dollars, and such  
46 fine may not be suspended; or the defendant shall be  
47 imprisoned in the county jail not more than sixty  
48 days; or both fined and imprisoned.

49 (ii) When the value of the ginseng exceeds two  
50 hundred dollars, the defendant shall be guilty of a  
51 misdemeanor and fined not less than six hundred  
52 dollars, nor more than one thousand dollars, and shall  
53 be imprisoned in the county jail for not less than sixty  
54 days nor more than six months. At least thirty days  
55 shall be spent in confinement and not subject to  
56 probation.

57 (B) *Third offense conviction.* — Upon a third or  
58 subsequent conviction, regardless of the value of the  
59 ginseng, the defendant shall be guilty of a felony and  
60 shall be fined not less than six hundred dollars nor  
61 more than six thousand dollars, and shall be impri-  
62 soned in the penitentiary not less than one year nor  
63 more than two years, or, be confined in the county jail  
64 not more than one year.

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

*Frederick L. Parker*  
.....  
Chairman Senate Committee

*Bernard V. Kelly*  
.....  
Chairman House Committee

Originated in the Senate.

In effect from passage.

*Judd C. Nichols*  
.....  
Clerk of the Senate

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

*Samuel J. ...*  
.....  
President of the Senate

*Robert ...*  
.....  
Speaker House of Delegates

The within *is approved* this the *24<sup>th</sup>*  
day of *April*, 1989  
*Yaston Caperton*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR  
Date 4/14/89  
Time 4:32