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
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 commerce, labor and environmental resources shall have jurisdiction to regulate the digging, possession and sale of native, wild or cultivated ginseng: Pro-
vided, That the digging season for wild, native or cultivated ginseng shall begin on the fifteenth day of August and end on the thirtieth day of November of each year unless otherwise authorized by the director. Ginseng dealers shall: (1) Obtain a ginseng dealer's permit from the director; (2) keep on forms provided by the director accurate records for all ginseng acquired showing the year harvested, the date acquired by the dealer, county of origin, weight and whether wild or cultivated; and (3) have all records and all acquired ginseng inspected by the director at official ginseng inspection stations for the purpose of certifying the dealer's records and issuing a certificate documenting the inspection and the weight of the ginseng. All ginseng dug in West Virginia must be certified by the director before being transported or shipped out of the state. No person shall have in his possession uncertified green ginseng from the first day of April through the fourteenth day of August.

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

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

(i) When the value of the ginseng is two hundred dollars or less, the defendant is guilty of a misdemeanor and shall be fined not more than four hundred dollars.

(ii) When the value of the ginseng exceeds two hundred dollars, the defendant is guilty of a misdemeanor and shall be fined not less than four hundred dollars, nor more than six hundred dollars, and such fine may not be suspended; or the defendant shall be imprisoned in the county jail not more than thirty days; or both fined and imprisoned.

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

(i) When the value of the ginseng is two hundred dollars or less, the defendant is guilty of a misde-
meanor and shall be fined not less than two hundred
dollars nor more than six hundred dollars, and such
fine may not be suspended; or the defendant shall be
imprisoned in the county jail not more than sixty
days; or both fined and imprisoned.

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

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

Todd C. Huckle
Clerk of the Senate

Donald L. Vogt
Clerk of the House of Delegates

Sam J. Foree
President of the Senate

Robert E. Mitchell
Speaker House of Delegates

The within bill is approved this the 21st day of April, 1989.

Gaston Caperton
Governor