WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1998

--- • ---

ENROLLED

House Bill No. 4005
(By Mr. Speaker, Mr. Kiss, and Delegate Ashley)
[By Request of the Executive]

--- • ---

Passed March 14, 1998
In Effect Ninety Days from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4005

(By Mr. Speaker, Mr. Kiss, and Delegate Ashley)

[By Request of the Executive]

[Passed March 14, 1998; in effect ninety days from passage.]

AN ACT to amend and reenact section four, article three, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the authority and duties of the director of the division of forestry with regard to forest fires, and limiting the liability of certain persons for activities performed in connection with fighting forest fires under the supervision of the director.

Be it enacted by the Legislature of West Virginia:

That section four, article three, 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 3. FORESTS AND WILDLIFE AREAS.

§20-3-4. Authority and duties of director of the division of forestry and others as to forest fires; expenditures for forest fire control; limited liability of certain persons fighting forest fires.

1 Upon receiving notice of any fire which is injuring or endangering forest land within the state, the director of the

2
division of forestry or his or her duly authorized representatives shall employ all necessary means to confine, extinguish or suppress the fire. For these purposes, any temporary or permanent employee of the division of forestry or any other agency of the state and any volunteer shall, under the general supervision of the director of the division of forestry, have the right and authority to enter upon public or private lands, to destroy fences thereon, to plow such lands, and in case of extreme emergency, to set backfires thereon. No person performing or reasonably attempting to perform any of the activities authorized by the preceding sentence under the general supervision of the director of the division of forestry, whether as a temporary or permanent employee of the division of forestry or any other agency of the state or as a volunteer, shall be liable in damages for the death of or injury to any person or for damage to any property as a result of his or her performance of such activities to an extent greater than the applicable limits of any liability insurance coverage available to such person under any liability insurance policy or policies issued to the division of forestry, any other agency of the state involved in suppressing the forest fire, any volunteer fire department of which such person was a member and which volunteer fire department was responding to the forest fire at the time of the incident alleged to have caused such death, personal injury or property damage, or any combination thereof. The limitation of liability established by the preceding sentence shall not apply if the death, personal injury or property damage alleged was caused by such person's willful or criminal misconduct, gross negligence or reckless misconduct, or by a conscious, flagrant indifference to the rights or safety of any person harmed by such conduct. The director of the division of forestry and any duly authorized representative may employ persons to detect fires which may injure or endanger forest land and may likewise summon or employ persons to assist in extinguishing such fires, who shall be paid for the actual time so employed, at a rate per hour to be determined by the director of the division of forestry: Provided, That the rate per hour shall not exceed the rate per hour paid for any comparable labor or skills by the...
the division of forestry. Any person so summoned who
shall fail or refuse to assist in extinguishing any such fire
shall, unless such failure or refusal to assist is due to
physical inability, be guilty of a misdemeanor.

Expenditures for detecting, confining, extinguishing
or suppressing fires described in this section shall be
charged against the state. The director of the division of
forestry or his or her representative shall prepare, as soon
as practicable, a sworn statement with the names of all
persons who were summoned or employed to assist in
fighting such fires, the time so spent by each, as well as the
names of persons who furnished equipment, subsistence or
supplies, or transportation therefor, and the amount of
money due each for such services, subsistence, supplies or
transportation. Requisitions shall be issued and payment
of the sums due shall be made in the same manner as is
provided for the making of other expenditures by the
director of the division of forestry.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Take effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 27th day of March, 1998.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/21/98
Time 10:15 AM