

1 **H. B. 4609**

2
3 (By Delegate Manypenny)

4 [Introduced February 17, 2014; referred to the
5 Committee on Agriculture and Natural Resources then the
6 Judiciary.]

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10 A BILL to amend and reenact §20-1-7 of the Code of West Virginia,
11 1931, as amended, relating to restricting swimming on Tygart
12 Lake in the Pleasant Creek Wildlife Management Area to within
13 fifty feet of the boat launch area in either direction.

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

15 That §20-1-7 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

17 **ARTICLE 1. ORGANIZATION AND ADMINISTRATION.**

18 **§20-1-7. Additional powers, duties and services of director.**

19 (a) In addition to all other powers, duties and
20 responsibilities granted and assigned to the director in this
21 chapter and elsewhere by law, the director is hereby authorized and
22 empowered to:

23 (1) With the advice of the commission, prepare and administer,

1 through the various divisions created by this chapter, a long-range
2 comprehensive program for the conservation of the natural resources
3 of the state which best effectuates the purpose of this chapter and
4 which makes adequate provisions for the natural resources laws of
5 the state;

6 (2) Sign and execute in the name of the state by the Division
7 of Natural Resources any contract or agreement with the federal
8 government or its departments or agencies, subdivisions of the
9 state, corporations, associations, partnerships or individuals;

10 (3) Conduct research in improved conservation methods and
11 disseminate information matters to the residents of the state;

12 (4) Conduct a continuous study and investigation of the habits
13 of wildlife and, for purposes of control and protection, to
14 classify by regulation the various species into such categories as
15 may be established as necessary;

16 (5) Prescribe the locality in which the manner and method by
17 which the various species of wildlife may be taken, or chased,
18 unless otherwise specified by this chapter;

19 (6) Hold at least six meetings each year at such time and at
20 such points within the state, as in the discretion of the Natural
21 Resources Commission may appear to be necessary and proper for the
22 purpose of giving interested persons in the various sections of the
23 state an opportunity to be heard concerning open season for their
24 respective areas, and report the results of the meetings to the

1 Natural Resources Commission before such season and bag limits are
2 fixed by it;

3 (7) Suspend open hunting season upon any or all wildlife in
4 any or all counties of the state with the prior approval of the
5 Governor in case of an emergency such as a drought, forest fire
6 hazard or epizootic disease among wildlife. The suspension shall
7 continue during the existence of the emergency and until rescinded
8 by the director. Suspension, or reopening after such suspension,
9 of open seasons may be made upon twenty-four hours' notice by
10 delivery of a copy of the order of suspension or reopening to the
11 wire press agencies at the State Capitol;

12 (8) Supervise the fiscal affairs and responsibilities of the
13 division;

14 (9) Designate such localities as he or she shall determine to
15 be necessary and desirable for the perpetuation of any species of
16 wildlife;

17 (10) Enter private lands to make surveys or inspections for
18 conservation purposes, to investigate for violations of provisions
19 of this chapter, to serve and execute warrants and processes, to
20 make arrests and to otherwise effectively enforce the provisions of
21 this chapter;

22 (11) Acquire for the state in the name of the Division of
23 Natural Resources by purchase, condemnation, lease or agreement, or
24 accept or reject for the state, in the name of the Division of

1 Natural Resources, gifts, donations, contributions, bequests or
2 devises of money, security or property, both real and personal, and
3 any interest in such property, including lands and waters, which he
4 or she deems suitable for the following purposes:

5 (a) For state forests for the purpose of growing timber,
6 demonstrating forestry, furnishing or protecting watersheds or
7 providing public recreation;

8 (b) For state parks or recreation areas for the purpose of
9 preserving scenic, aesthetic, scientific, cultural, archaeological
10 or historical values or natural wonders, or providing public
11 recreation;

12 (c) For public hunting, trapping or fishing grounds or waters
13 for the purpose of providing areas in which the public may hunt,
14 trap or fish, as permitted by the provisions of this chapter and
15 the rules issued hereunder;

16 (d) For fish hatcheries, game farms, wildlife research areas
17 and feeding stations;

18 (e) For the extension and consolidation of lands or waters
19 suitable for the above purposes by exchange of other lands or
20 waters under his or her supervision;

21 (f) For such other purposes as may be necessary to carry out
22 the provisions of this chapter;

23 (12) Capture, propagate, transport, sell or exchange any
24 species of wildlife as may be necessary to carry out the provisions

1 of this chapter;

2 (13) Sell timber for not less than the value thereof, as
3 appraised by a qualified appraiser appointed by the director, from
4 all lands under the jurisdiction and control of the director,
5 except those lands that are designated as state parks and those in
6 the Kanawha State Forest. The appraisal shall be made within a
7 reasonable time prior to any sale, reduced to writing, filed in the
8 office of the director and shall be available for public
9 inspection. The director must obtain the written permission of the
10 Governor to sell timber when the appraised value is more than
11 \$5,000. The director shall receive sealed bids therefor, after
12 notice by publication as a Class II legal advertisement in
13 compliance with the provisions of article three, chapter fifty-nine
14 of this code and the publication area for such publication shall be
15 each county in which the timber is located. The timber so
16 advertised shall be sold at not less than the appraised value to
17 the highest responsible bidder, who shall give bond for the proper
18 performance of the sales contract as the director shall designate;
19 but the director shall have the right to reject any and all bids
20 and to readvertise for bids. If the foregoing provisions of this
21 section have been complied with and no bid equal to or in excess of
22 the appraised value of the timber is received, the director may, at
23 any time, during a period of six months after the opening of the
24 bids, sell the timber in such manner as he or she deems

1 appropriate, but the sale price shall not be less than the
2 appraised value of the timber advertised. No contract for sale of
3 timber made pursuant to this section shall extend for a period of
4 more than ten years. And all contracts heretofore entered into by
5 the state for the sale of timber shall not be validated by this
6 section if the same be otherwise invalid. The proceeds arising
7 from the sale of the timber so sold shall be paid to the Treasurer
8 of the State of West Virginia and shall be credited to the division
9 and used exclusively for the purposes of this chapter: *Provided,*
10 That nothing contained herein shall prohibit the sale of timber
11 which otherwise would be removed from rights-of-way necessary for
12 and strictly incidental to the extraction of minerals;

13 (14) Sell or lease, with the approval in writing of the
14 Governor, coal, oil, gas, sand, gravel and any other minerals that
15 may be found in the lands under the jurisdiction and control of the
16 director, except those lands that are designated as state parks.
17 The director, before making sale or lease thereof, shall receive
18 sealed bids therefor, after notice by publication as a Class II
19 legal advertisement in compliance with the provisions of article
20 three, chapter fifty-nine of this code, and the publication area
21 for such publication shall be each county in which such lands are
22 located. The minerals so advertised shall be sold or leased to the
23 highest responsible bidder, who shall give bond for the proper
24 performance of the sales contract or lease as the director shall

1 designate; but the director shall have the right to reject any and
2 all bids and to readvertise for bids. The proceeds arising from
3 any such sale or lease shall be paid to the Treasurer of the State
4 of West Virginia and shall be credited to the division and used
5 exclusively for the purposes of this chapter;

6 (15) Exercise the powers granted by this chapter for the
7 protection of forests and regulate fires and smoking in the woods
8 or in their proximity at such times and in such localities as may
9 be necessary to reduce the danger of forest fires;

10 (16) Cooperate with departments and agencies of state, local
11 and federal governments in the conservation of natural resources
12 and the beautification of the state;

13 (17) Report to the Governor each year all information relative
14 to the operation and functions of the division and the director
15 shall make such other reports and recommendations as may be
16 required by the Governor, including an annual financial report
17 covering all receipts and disbursements of the division for each
18 fiscal year, and he or she shall deliver such report to the
19 Governor on or before December 1, next after the end of the fiscal
20 year so covered. A copy of such report shall be delivered to each
21 house of the Legislature when convened in January next following;

22 (18) Keep a complete and accurate record of all proceedings,
23 record and file all bonds and contracts taken or entered into and
24 assume responsibility for the custody and preservation of all

1 papers and documents pertaining to his or her office, except as
2 otherwise provided by law;

3 (19) Offer and pay, in his or her discretion, rewards for
4 information respecting the violation, or for the apprehension and
5 conviction of any violators, of any of the provisions of this
6 chapter;

7 (20) Require such reports as he or she may deem to be
8 necessary from any person issued a license or permit under the
9 provisions of this chapter, but no person shall be required to
10 disclose secret processes or confidential data of competitive
11 significance;

12 (21) Purchase as provided by law all equipment necessary for
13 the conduct of the division;

14 (22) Conduct and encourage research designed to further new
15 and more extensive uses of the natural resources of this state and
16 to publicize the findings of such research;

17 (23) Encourage and cooperate with other public and private
18 organizations or groups in their efforts to publicize the
19 attractions of the state;

20 (24) Accept and expend, without the necessity of appropriation
21 by the Legislature, any gift or grant of money made to the division
22 for any and all purposes specified in this chapter and he or she
23 shall account for and report on all such receipts and expenditures
24 to the Governor;

1 (25) Cooperate with the state historian and other appropriate
2 state agencies in conducting research with reference to the
3 establishment of state parks and monuments of historic, scenic and
4 recreational value and to take such steps as may be necessary in
5 establishing such monuments or parks as he or she deems advisable;

6 (26) Maintain in his or her office at all times, properly
7 indexed by subject matter and also in chronological sequence, all
8 rules made or issued under the authority of this chapter. Such
9 records shall be available for public inspection on all business
10 days during the business hours of working days;

11 (27) Delegate the powers and duties of his or her office,
12 except the power to execute contracts not related to land and
13 stream management, to appointees and employees of the division, who
14 shall act under the direction and supervision of the director and
15 for whose acts he or she shall be responsible;

16 (28) Conduct schools, institutions and other educational
17 programs, apart from or in cooperation with other governmental
18 agencies, for instruction and training in all phases of the natural
19 resources programs of the state;

20 (29) Authorize the payment of all or any part of the
21 reasonable expenses incurred by an employee of the division in
22 moving his or her household furniture and effects as a result of a
23 reassignment of the employee: *Provided*, That no part of the moving
24 expenses of any one such employee shall be paid more frequently

1 than once in twelve months; and

2 (30) Promulgate rules, in accordance with the provisions of
3 chapter twenty-nine-a of this code, to implement and make effective
4 the powers and duties vested in him or her by the provisions of
5 this chapter and take such other steps as may be necessary in his
6 or her discretion for the proper and effective enforcement of the
7 provisions of this chapter.

8 (b) The director shall restrict swimming on Tygart Lake in the
9 Pleasant Creek Wildlife Management Area to within fifty feet of the
10 boat launch area in either direction.

NOTE: The purpose of this bill is to restrict swimming on Tygart Lake in the Pleasant Creek Wildlife Management Area to within fifty feet of the boat launch area in either direction.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.