

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 2948**

BY DELEGATES HANSHAW, SYPOLT, ZATEZALO, WARD,

PAYNTER, HARSHBARGER, FOSTER, G., DEEM,

ANDERSON, FOSTER, N. AND FAST

[Referred to the Committee on Energy then the

Judiciary]



1 A BILL to amend and reenact §17C-17A-7 of the Code of West Virginia, 1931, as amended; to  
2 amend and reenact §19-1A-3a of said code; to amend and reenact §19-2A-4 of said code;  
3 to amend and reenact §19-9A-3 of said code; to amend and reenact §19-12D-7 of said  
4 code; to amend and reenact §19-15-2 of said code; to amend and reenact §19-34-6 of  
5 said code; to amend and reenact §19-35-3 of said code; to amend and reenact §20-3-5  
6 of said code; to amend and reenact §20-7A-5 of said code; to amend and reenact §21-10-  
7 7 of said code; to amend and reenact §21-12-7 of said code; to amend and reenact §21-  
8 15-10 of said code; to amend and reenact §24A-3-3 of said code; to amend and reenact  
9 §29-3-12 of said code; to amend and reenact §29-29-4 of said code; to amend and reenact  
10 §47-1A-10 of said code; all relating generally to establishing timelines for taking final action  
11 on certain permits.

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

1 That §17C-17A-7 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted; that §19-1A-3a of said code be amended and reenacted; that §19-2A-4 of said code  
3 be amended and reenacted; that §19-9A-3 of said code be amended and reenacted; that §19-  
4 12D-7 of said code be amended and reenacted; that §19-15-2 of said code be amended and  
5 reenacted; that §19-34-6 of said code be amended and reenacted; that §19-35-3 of said code be  
6 amended and reenacted; that §20-3-5 of said code be amended and reenacted; that §20-7A-5 of  
7 said code be amended and reenacted; that §21-10-7 of said code be amended and reenacted;  
8 that §21-12-7 of said code be amended and reenacted; that §21-15-10 of said code be amended  
9 and reenacted; that §24A-3-3 of said code be amended and reenacted; that §29-3-12 of said code  
10 be amended and reenacted; that §29-29-4 of said code be amended and reenacted; and that  
11 §47-1A-10 of said code be amended and reenacted, all to read as follows:

**CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.**

**ARTICLE 17A. REGULATION OF THE COMMERCIAL TRANSPORTATION OF COAL.**

**§17C-17A-7. Permit application procedure.**

1           The commission shall propose in accordance with provisions of article three, chapter  
2 twenty-nine-a of this code by emergency and legislative rules, filed no later than October 1, 2003,  
3 a permit application procedure for the issuance of permits pursuant to the authority contained  
4 within this article: Provided, That the commission shall take final action upon all completed permit  
5 applications within thirty days of receipt if the application is uncontested, or within ninety days if  
6 the application is contested.

**CHAPTER 19. AGRICULTURE.**

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

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

1           (a) (1) The Legislature finds that ginseng trade must be controlled in order to protect the  
2 survival of wild ginseng as evidenced by its listing in Appendix II of the Convention on International  
3 Trade in Endangered Species of Wild Fauna and Flora. It is the policy of this state to regulate the  
4 commerce in ginseng in a manner that protects the survival of wild ginseng.

5           (2) For purposes of this section:

6           (A) "Certified" means the ginseng carries a certificate of origin issued by the director which  
7 allows the export from West Virginia of ginseng legally harvested in this state;

8           (B) "Commercial use" means to sell or to use ginseng for financial gain;

9           (C) "Cultivated ginseng" means ginseng that is purposefully planted in beds under artificial  
10 shade using standard horticultural practices such as mechanical tillage, fertilization, weed control,  
11 irrigation and pesticides;

12           (D) "Dealer" means a person who purchases ginseng for purposes of commercial use;

13           (E) "Digger" means a person who digs, collects or gathers wild ginseng by searching  
14 woodlands to find the plants;

15           (F) "Director" means the Director of the Division of Forestry;

16 (G) "Division" means the Division of Forestry;

17 (H) "Export" means the movement of ginseng from state to state as well as sending it  
18 abroad;

19 (I) "Ginseng" means whole, sliced or parts of roots of cultivated ginseng, woods grown  
20 ginseng, wild simulated ginseng and wild ginseng, excluding manufactured parts, products, and  
21 derivatives, such as powders, pills, extracts, tonics, teas and confectionary;

22 (J) "Green ginseng" means a fresh wild ginseng root that has not been intentionally  
23 subjected to a drying process and from which most natural moisture has not been removed by  
24 drying.

25 (K) "Grower" means a person who purposefully plants and grows cultivated ginseng,  
26 woods-grown ginseng or wild simulated ginseng for purposes of commercial use: *Provided*, That  
27 a grower does not include a digger who plants wild ginseng seed from the wild ginseng plants he  
28 or she digs, collects or gathers;

29 (L) "Harvest" means to dig, collect or gather ginseng;

30 (M) "Person" means an individual, corporation, partnership, firm or association;

31 (N) "Rootlets" means woods-grown or wild simulated one to two-year old ginseng roots  
32 commonly sold as transplants to growers;

33 (O) "Wild ginseng" means *Panax quinquefolius* L. that is not grown or nurtured by a person  
34 regardless of the putative origin of the plants: *Provided*, That wild ginseng may originate from  
35 seeds planted by a digger at the same site from which the digger harvests the wild ginseng;

36 (P) "Wild simulated ginseng" means ginseng that is purposefully planted in the woods  
37 without a bed being prepared and without the use of any chemical weed, disease or pest control  
38 agents;

39 (Q) "Woods-grown ginseng" means ginseng that is purposefully planted in beds prepared  
40 in the woods in a manner that uses trees to provide necessary shade and which may be grown  
41 with the use of chemical or mechanical weed, disease or pest control agents.

42 (3) (A) The Division of Forestry shall regulate the growing, digging, collecting, gathering,  
43 possessing and selling of ginseng.

44 (B) The division may propose rules for legislative approval in accordance with article three,  
45 chapter twenty-nine-a of this code to implement the provisions of this section including the amount  
46 of any permit fee.

47 (C) For purposes of regulating the growing, harvesting and commercial use of ginseng, a  
48 division employee may enter upon any public or private property, other than a dwelling house, at  
49 reasonable times, in order to inspect the ginseng operation or records. A person may not obstruct  
50 or hinder the employee in the discharge of his or her enforcement duties.

51 (D) All moneys received from permit fees and civil penalties assessed pursuant to this  
52 section shall be credited to the special account within the Division of Forestry to be used for the  
53 purposes set forth in section three of this article.

54 (E) The site plats required to be submitted to the division and other information identifying  
55 the specific location of ginseng plants are not open to public inspection pursuant to article one,  
56 chapter twenty-nine-b of this code since they disclose information having a significant commercial  
57 value.

58 (b) (1) The digging season for wild ginseng begins on September 1, and ends on  
59 November 30, of each year. It is unlawful for a person to dig, collect or gather wild ginseng  
60 between December 1, and August 31 of the following year.

61 (2) A person digging, collecting or gathering wild ginseng upon the enclosed or posted  
62 lands of another person shall first obtain written permission from the landowner, tenant or agent,  
63 and shall carry the written permission on his or her person while digging, collecting or gathering  
64 wild ginseng upon the enclosed or posted lands. It is unlawful to dig, collect or gather wild ginseng  
65 from the property of another without the written permission of the landowner.

66 (3) A person digging, collecting or gathering wild ginseng shall plant the seeds from the  
67 wild ginseng plants at the time and at the site from which the wild ginseng is harvested. It is  
68 unlawful to remove wild ginseng seeds from the site of collection.

69 (4) It is unlawful to dig, collect or gather wild ginseng less than five years old.

70 (5) A person may not rescue wild ginseng plants endangered by ground-disturbing  
71 activities unless he or she has first obtained a moving permit from the division. The person shall  
72 provide the reason for moving the plants, the current location of the plants, the proposed new  
73 planting site and other information required by the division.

74 (6) It is unlawful to plant ginseng or ginseng seed and to dig, collect or gather ginseng on  
75 West Virginia public lands, except by land grant university researchers performing research or  
76 demonstration projects regarding the growing, cultivating or harvesting of ginseng: *Provided*, That  
77 it is unlawful for anyone to plant ginseng or ginseng seed and to dig, collect or gather ginseng on  
78 state wildlife management areas or on state parks.

79 (c) (1) A person may not act as a grower unless he or she has obtained a grower's permit  
80 from the division.

81 (2) Prior to planting cultivated, woods-grown or wild simulated ginseng, a grower shall:

82 (A) Submit to the director a plat of the exact planting location prepared by a licensed  
83 surveyor or a registered forester as defined in article nineteen, chapter thirty of this code, along  
84 with information verifying the name of the landowner: *Provided*, That if the grower is not the  
85 landowner, the grower shall also submit written permission from the landowner to grow and  
86 harvest cultivated, woods-grown or wild simulated ginseng on that property.

87 (B) Obtain a written determination from the director certifying that the planting area is free  
88 from wild ginseng; and

89 (C) Submit other information required by the division.

90 (3) A grower shall keep accurate and complete records on each ginseng planting on forms  
91 provided by the division. The records shall be available for inspection by a division employee and

92 shall be submitted to the division at intervals established by rule by the division. A grower shall  
93 maintain records for a period of not less than ten years. The information required to be kept shall  
94 include:

95 (A) The origin of ginseng seed, rootlets or plants;

96 (B) The location of purposefully planted cultivated, wild simulated and woods-grown  
97 ginseng and a site plat of the planting;

98 (C) The original of the director's determination that the site was free from wild ginseng at  
99 the time of planting;

100 (D) The date each site was planted;

101 (E) The number of pounds of seeds planted, or the number and age of rootlets, or both;

102 and

103 (F) Other information required by the division.

104 (4) A grower may harvest cultivated ginseng on or after the effective date of this section  
105 throughout the year.

106 (5) A grower may harvest wild simulated and woods-grown ginseng from September 1,  
107 through November 30, of each year.

108 (6) It is unlawful for a person to dig, collect or gather wild simulated and woods-grown  
109 ginseng between December 1 and August 31.

110 (7) It is unlawful to dig, collect and gather wild simulated and woods-grown ginseng less  
111 than five years old.

112 (8) A grower shall comply with the certification procedures set forth in subdivision (f) of  
113 this section.

114 (9) For planting locations in existence prior to July 1, 2005, provide proof of having  
115 purchased ginseng seed, rootlets or plants for planting for a minimum of one or more of the five  
116 years immediately prior to July 1, 2005, and sign a certification that to the best of his or her  
117 knowledge, no wild ginseng existed on the site at the time the ginseng was planted: *Provided,*



118 That no grower may certify a planting location in existence prior to July 1, 2005, under this  
119 provision after December 31, 2009.

120 (d) (1) A person may not act as a dealer unless he or she has obtained a dealer's permit  
121 from the division.

122 (2) A dealer shall keep accurate and complete records on his or her ginseng transactions  
123 on forms provided by the division. A dealer is required to maintain a record of all persons, including  
124 a digger, grower and dealer, involved in each purchase or sale transaction and shall include the  
125 name, address, permit number and a copy of each ginseng certification issued by the division. All  
126 records shall be available for inspection by a division employee. A dealer shall maintain records  
127 for a period of not less than ten years. In addition, a dealer is required to report the following  
128 information to the division monthly:

129 (A) The date of the transaction;

130 (B) The type of ginseng, whether wild, cultivated, woods-grown or wild simulated ginseng;

131 (C) Whether the ginseng is dried or green at the time of the transaction;

132 (D) The weight of the ginseng;

133 (E) The county from which the ginseng was harvested;

134 (F) The identification number from the state ginseng certification; and

135 (G) Other information required by the division.

136 (3) A dealer shall include a West Virginia export certificate, numbered by the division, with  
137 each shipment of ginseng transported out-of-state.

138 (4) A dealer may not import out-of-state ginseng into this state unless the ginseng is  
139 accompanied by a valid export certificate issued by the state of origin. A dealer must return  
140 uncertified ginseng to the state of origin within fifteen calendar days.

141 (5) It is unlawful to include false information on any certificate or record required to be  
142 completed or maintained by this section. All ginseng harvested in West Virginia must be certified  
143 by the director before being transported or shipped out-of-state.

144 (e) (1) A person may not act as a grower or act as a dealer unless he or she has been  
145 issued the appropriate permit by the division. A person must obtain a separate permit for each  
146 activity. Permit applications shall be made on forms provided by the division. The application for  
147 a permit shall be accompanied by the applicable permit fee. The division shall take final action  
148 upon all completed permit applications within thirty days of receipt if the application is  
149 uncontested, or within ninety days if the application is contested. The division shall assign a permit  
150 number to each person granted a permit and it shall keep records of the permits issued.

151 (2) Permits expire on December 31 of each year for growers and August 31 of each year  
152 for dealers. All permits must be renewed annually. Renewal forms will be mailed to current permit  
153 holders. The failure to receive a renewal form does not relieve the permit holder of the obligation  
154 to renew. The division may require a late fee when renewal is received more than sixty days after  
155 the expiration of the current permit.

156 (3) The permit holder shall notify the division of any changes in the information on the  
157 permit.

158 (f) All ginseng harvested in this state shall be certified as to type, whether wild, cultivated,  
159 woods grown or wild simulated, and to its origin, weight and lawful harvest. Other information may  
160 be required for ginseng to be certified by the division to comply with the Convention on  
161 International Trade in Endangered Species of Wild Fauna and Flora to allow for its export:  
162 *Provided*, That live one and two-year old cultivated, woods-grown or wild simulated rootlets sold  
163 by growers for propagation purposes within the United States are not regarded as harvested and  
164 are exempt from the certification requirement. All ginseng, except cultivated ginseng, must be  
165 certified or weight receipted by April 1 of the year following harvest: *Provided, however*, That no  
166 ginseng may be certified between January 1 through March 31 unless the person requesting  
167 certification displays a valid permit. It is unlawful for a person to have in his or her possession  
168 uncertified wild ginseng from April 1 through August 31.

169 (g) The director shall propose rules for legislative approval in accordance with article three,  
170 chapter twenty-nine-a of this code designed to implement the ginseng certification process.

171 (h) The division may, by order entered in accordance with the provisions of article five,  
172 chapter twenty-nine-a of this code, deny, suspend or revoke the permit of a grower or dealer and  
173 may invalidate an export certificate completed by a dealer when the division finds that a grower  
174 or dealer has violated any provision of this section or a legislatively approved rule.

175 (i) The division may assess a civil penalty against a person who violates any provision of  
176 this section or a provision of a legislatively approved rule. The division may assess a monetary  
177 penalty of not less than \$100 nor more than \$500.

178 (j) Any person violating a provision of this section is guilty of a misdemeanor and, upon  
179 conviction thereof, shall be fined not less than \$100 nor more than \$500 for the first offense, and  
180 for each subsequent offense, shall be fined not less than \$500 nor more than \$1,000, or confined  
181 in jail not more than six months, or both. The court, in imposing the sentence of a person convicted  
182 of an offense under this section, shall order the person to forfeit all ginseng involved in the offense.

183 (k) It is the duty of the prosecuting attorney of the county in which the violation occurred  
184 to represent the division, to institute proceedings and to prosecute the person charged with the  
185 violation.

## **ARTICLE 2A. PUBLIC MARKETS.**

### **§19-2A-4. Permits to operate; application and hearing.**

1 It shall be unlawful for any public market to be operated in this state without first having  
2 obtained from the commissioner of agriculture of West Virginia a permit therefor. Upon the filing  
3 of an application for such permit, the commissioner shall fix a time and place for hearing thereon  
4 and, after hearing, if it appear that the public interest require the same and that there is sufficient  
5 need for such market in the locality in which it is proposed to be established, shall grant such  
6 permit, or deny the same if the contrary appear: Provided, That the commissioner shall take final

7 action upon all completed permit applications within thirty days of receipt if the application is  
8 uncontested, or within ninety days if the application is contested.

**ARTICLE 9A. FEEDING OF UNTREATED GARBAGE TO SWINE.**

**§19-9A-3. Application for permit.**

1 Any person desiring to obtain a permit to feed garbage to swine or to renew the same shall  
2 make written application therefor to the commissioner on forms provided by the commissioner.  
3 The commissioner shall take final action upon all completed permit applications within thirty days  
4 of receipt if the application is uncontested, or within ninety days if the application is contested.

**ARTICLE 12D. WEST VIRGINIA NOXIOUS WEED ACT.**

**§19-12D-7. Prohibited acts; permits; authority to stop sale or delivery.**

1 (a) No person shall violate any provision of this law or any rule promulgated thereunder.

2 (b) No person shall move, transport, deliver, ship or offer for shipment into or within this  
3 state any noxious weed without first obtaining a permit from the commissioner and such permit  
4 shall be issued only after it has been determined that the noxious weed is generally present  
5 throughout the state or is for scientific purposes subject to prescribed safeguards: Provided, That  
6 the division shall take final action upon all completed permit applications within thirty days of  
7 receipt if the application is uncontested, or within ninety days if the application is contested.

8 (c) The commissioner, in order to prevent the introduction or dissemination of noxious  
9 weeds, is hereby authorized to stop delivery, stop sale, seize, destroy, treat, or order returned to  
10 the point of origin, at the owner's expense, any noxious weed, article or substance, whatsoever,  
11 if it is being transported or moved within this state, or if it exists on any premises within the state,  
12 or if it is being brought into this state from any place outside thereof, if such is found by him or her  
13 to be infested with any noxious weed subject to this article.

**ARTICLE 15. WEST VIRGINIA FERTILIZER LAW.**

**§19-15-2. Registration.**

1 (a) Any person or persons whose name appears upon the label of any regulated product  
2 as manufacturer or distributor shall obtain a permit to distribute in the state prior to distributing the  
3 regulated product. The application for registration shall be submitted to the commissioner on  
4 forms furnished or approved by the commissioner, and shall be accompanied by a fee established  
5 by legislative rule: Provided, That the commissioner shall take final action upon all completed  
6 permit applications within thirty days of receipt if the application is uncontested, or within ninety  
7 days if the application is contested.

8 (b) Each brand or grade of regulated product shall be registered before being distributed  
9 in this state. The application for registration shall be submitted to the commissioner on forms  
10 furnished or approved by the commissioner, and shall be accompanied by a fee established by  
11 legislative rule. Upon approval by the commissioner a copy of the registration shall be furnished  
12 to the applicant. All registrations expire on June 30 of the following year.

13 The application for fertilizer, soil amendment or horticultural growing medium shall include  
14 the following information:

- 15 (1) The net weight;
- 16 (2) The brand and, in the case of fertilizer when primary nutrients are claimed, the grade;
- 17 (3) The guaranteed analysis, or other information related to ingredients, guaranteed  
18 analysis of ingredients, percentages of ingredients, source of ingredients, physical components,  
19 physical properties or nutrient analysis as the commissioner may require;
- 20 (4) The purpose of the product;
- 21 (5) Directions for application; and
- 22 (6) The name and address of the registrant.

23 (c) A distributor is not required to register any regulated product which is already registered  
24 under this article by another person, providing the label does not differ in any respect.

25 (d) A distributor is not required to register each grade of regulated product formulated  
26 according to specifications which are furnished by a consumer prior to mixing, but is required to

27 register his or her firm in a manner and at a fee established by legislative rule, and to label the  
28 regulated product as provided in subsection (c), section three of this article.

29 (e) Any person applying for registration of a fertilizer or specialty fertilizer, soil amendment  
30 or horticultural growing medium shall include with the application a label and any advertising  
31 literature.

32 (f) The commissioner may require proof of any claims made for any regulated product. If  
33 no claims are made, he or she may require proof of the usefulness and value of the regulated  
34 product. For evidence of proof the commissioner may rely on experimental data, evaluations or  
35 advice supplied from such sources as the director of the agricultural experiment station. The  
36 experimental design shall be related to state conditions for which the product is intended. The  
37 commissioner may accept or reject other sources of proof as additional evidence in evaluating  
38 regulated products.

39 (g) If the commissioner identifies any unregistered regulated product in commerce or any  
40 regulated product from any nonregistered manufacturer or distributor during the registration year,  
41 the commissioner shall give the grantor a grace period of fifteen working days from issuance of  
42 notification within which to register the regulated product or distributor. Any person required to  
43 register regulated products or as a distributor, who fails to register within the grace period shall  
44 pay to the commissioner a penalty fee as established by legislative rule in addition to the  
45 registration fee. The commissioner may issue an embargo order on any regulated product until  
46 the registration is issued.

47 (h) Exemptions for horticultural growing medium:

48 (1) Distribution of horticultural growing media planted with live plant material is exempt  
49 from the labeling and registration requirements of this article.

50 (2) Distribution of custom media is exempt from the registration requirements of this article,  
51 if it is prepared for a single end user.

52 (3) Distribution of horticultural growing media containing plant nutrients of three percent  
53 or less are exempt from the requirements of this article.

**ARTICLE 34. DANGEROUS WILD ANIMALS ACT.**

**§19-34-6. Permit applications, requirements, issuance and revocation.**

1 (a) *Application.* -- A person applying for a permit to possess a dangerous wild animal shall  
2 submit an application that includes the following:

3 (1) A fee established by the board for each dangerous wild animal;

4 (2) The name, address and telephone number of the applicant, and the address where  
5 the dangerous wild animal is located;

6 (3) A description of each dangerous wild animal, including the scientific name, common  
7 name, permanent and unique identifier, and any information that would aid in the identification of  
8 the animal; and

9 (4) A description of the exact location on the property and a description of the enclosure  
10 or cage where each dangerous wild animal is kept.

11 (b) *Permit requirements and restrictions.* -- The application shall state, and the person  
12 shall acknowledge his or her understanding, that:

13 (1) He or she may not breed, receive or replace a dangerous wild animal;

14 (2) He or she shall notify the sheriff or humane officer in his or her county immediately if  
15 the dangerous wild animal escapes;

16 (3) He or she may not allow the dangerous wild animal to come into physical contact with  
17 a person other than the permittee, the animal's designated handler, an employee of a law-  
18 enforcement agency enforcing this article or a veterinarian administering medical treatment or  
19 care;

20 (4) He or she has not been convicted for an offense involving the abuse or neglect of any  
21 animal;

22 (5) He or she has not had a permit or license concerning the care, possession, exhibition,  
23 breeding or sale of a dangerous wild animal revoked or suspended by a governmental agency;

24 (6) He or she shall permanently mark each dangerous wild animal with a unique identifier;

25 (7) He or she shall maintain records for each dangerous wild animal, including veterinary  
26 records, acquisition papers, the purchase date and other records that prove ownership of the  
27 dangerous wild animal;

28 (8) He or she presents proof of liability insurance in an amount of not less than \$300,000  
29 with a deductible of not more than \$250 for each occurrence of property damage, bodily injury or  
30 death caused by a dangerous wild animal possessed by the person;

31 (9) He or she shall notify the board not less than three days before a dangerous wild  
32 animal is transferred to another person out of state;

33 (10) He or she may not transfer dangerous wild animals in the state without the written  
34 consent of the board;

35 (11) He or she shall notify the board of any plans to move or change his or her address,  
36 and may not move the animal without the written consent of the board. However, in the event of  
37 a medical emergency, a dangerous wild animal may be transported to a licensed veterinarian's  
38 facility for treatment and care if the animal is at all times confined sufficiently to prevent escape;  
39 and

40 (12) He or she shall comply with all rules promulgated by the board pursuant to the  
41 provisions of this article.

42 (c) The board may issue a permit to possess a dangerous wild animal if it determines that  
43 the applicant has met the requirements of this article.

44 (d) The board shall take final action upon all completed permit applications within thirty  
45 days of receipt if the application is uncontested, or within ninety days if the application is  
46 contested.



47           (e) A permit to possess a dangerous wild animal is valid for one calendar year and must  
48 be renewed annually.

**ARTICLE 35. FARMERS MARKETS.**

**§19-35-3. Farmers market vendor permit; scope.**

1           (a) Vendors at a farmers market selling farm and food products that require a food  
2 establishment permit shall apply for a uniform farmers market vendor permit and pay the annual  
3 permit fee to the local health department in the jurisdiction in which the farmers market is located.  
4 The permit is valid in all counties in this state, and vendors are not required to apply to more than  
5 one local health department for a uniform farmers market vendor permit. The uniform farmers  
6 market vendor permit shall be required in lieu of the food establishment permit, notwithstanding  
7 any other provisions of code or rule that require a food establishment permit or any other permit  
8 from a local health department: Provided, That the department shall take final action upon all  
9 completed permit applications within thirty days of receipt if the application is uncontested, or  
10 within ninety days if the application is contested.

11           (b) The application must include any other farmers market locations under the jurisdiction  
12 of another local health department that the vendor will sell farm and food products subject to the  
13 permit. The local health department which approves the application for the uniform farmers market  
14 vendor permit shall provide notice of the approval to any other local health departments that the  
15 vendor will be subject to, as indicated on the application.

16           (c) (1) The annual permit fee for the uniform farmers market vendor permit is as follows:

17           (A) For vendors selling farm and food products under the jurisdiction of only one local  
18 health department, the annual fee is \$15.

19           (B) For vendors selling farm and food products under the jurisdiction of more than one  
20 local health department, the annual fee is \$25.

21           (2) The annual permit fee shall be collected and deposited in accordance with subsection  
22 (6), section eleven, article two, chapter sixteen of this code.

23 (d)The following vendors are exempt from the requirements of the uniform farmers market  
24 vendor permit:

25 (1) Vendors delivering their products to a consignment farmers market; or

26 (2) Vendors selling fresh, uncut produce or other any other farm and food product not  
27 subject to a permit by a local health department through rule or regulation.

28 (e) A consignment farmers market shall obtain a food establishment permit issued by the  
29 local health department.

30 (f) Every uniform farmers market vendor permit shall be displayed in a conspicuous  
31 manner.

32 (g) Notwithstanding the provisions of article two, chapter sixteen of this code, a local health  
33 department has the right to inspect and suspend the uniform farmers market vendor permit for  
34 violation of rules or the local health department regulations of a vendor at any farmers market in  
35 its jurisdiction, or at the vendor's home or business address, if it is in the inspecting local health  
36 department's jurisdiction, regardless of what local health department issued the uniform farmers  
37 market vendor permit.

38 (h) Nothing in this article eliminates or limits other state and federal rules and regulations  
39 that apply to certain farm and food products sold at a farmers market or a consignment farmers  
40 market.

## CHAPTER 20. NATURAL RESOURCES.

### ARTICLE 3. FORESTS AND WILDLIFE AREAS.

#### **§20-3-5. Forest fire seasons; prohibited and permissible fires; burning permits and fees; fire control measures; criminal and civil penalties.**

1 (a) *Forest fire seasons.* — March 1 through May 31, and October 1 through December 31  
2 are designated as forest fire seasons. During any fire season, a person may set on fire or cause  
3 to be set on fire any forest land, or any grass, grain, stubble, slash, debris, or other inflammable

4 materials only between five o'clock p.m. and seven o'clock a.m., at which time the fire must be  
5 extinguished.

6 (b) *Permissible fires during forest fire seasons.* — The following attended fires are  
7 permitted without a burning permit unless there is a burning ban in effect:

8 (1) Small fires set for the purpose of food preparation, or providing light or warmth around  
9 which all grass, brush, stubble, or other debris has been removed for a distance of ten feet from  
10 the fire; and

11 (2) Burning conducted at any time when the ground surrounding the burning site is  
12 covered by one inch or more of snow.

13 (c) *Burning permits.*— The director or his or her designee may issue burning permits  
14 authorizing fires during forest fire seasons that are otherwise prohibited by this section. The  
15 permits shall state the requisite conditions and time frame to prevent danger from the fire to life  
16 or property: Provided, That the director or his or her designee shall take final action upon all  
17 completed permit applications within thirty days of receipt if the application is uncontested, or  
18 within ninety days if the application is contested.

19 (1) *Permit fees.*— Entities required to pay a permit fee are those engaged in commercial,  
20 manufacturing, public utility, mining and like activities. Agricultural activities are exempt from  
21 paying the permit fee. The permit fee is \$125 per site and shall be deposited into the Division of  
22 Forestry Fund (3081) to be used to administer the provisions of this section. The permit fee covers  
23 the fire season during which it is issued.

24 (2) Noncompliance with any condition of the permit is a violation of this section. Any permit  
25 which was obtained through willful misrepresentation is invalid and violates this section.

26 (3) Permit holders shall take all necessary and adequate precautions to confine and  
27 control fires authorized by the permit. Failure to take action is a violation of this section and is  
28 justification for the director to revoke the permit.

29 (d) *Fire control.* —

30 (1) With approval of the Governor, the director may prohibit the starting of and require the  
31 extinguishment of fire in any designated area, including fires permitted by this section.

32 (2) With approval of the Governor, the director may designate any forest area as a danger  
33 area, prohibit entry, and declare conditional uses and prohibited areas of the forest by  
34 proclamation at any time of the year. The proclamation shall be furnished to newspapers, radio  
35 stations and television stations that serve the designated area and shall become effective after  
36 twenty-four hours. The proclamation remains in effect until the director, with the approval of the  
37 Governor, terminates it. The order shall designate the time of termination, and notice of the order  
38 shall be furnished to each newspaper, radio station and television station that received a copy of  
39 the proclamation.

40 (3) Burning is not permitted by this section until all inflammable material has been removed  
41 from around the material to be burned and a safety strip of at least ten feet is established to ensure  
42 that the fire will not escape.

43 (e) *Criminal and civil penalties.* — A person or entity that violates this section is guilty of a  
44 misdemeanor and, upon conviction, shall be fined not less than \$100 and not more than \$1,000  
45 for each violation. In addition to fines and costs, a person or entity convicted of a violation of this  
46 section shall pay a \$200 civil penalty to the division within sixty days. The civil penalty shall be  
47 collected by the court in which the person is convicted and forwarded to the division and deposited  
48 in the Division of Forestry Fund (3081) to be used to administer the provisions of this section.

## **ARTICLE 7A. CAVE PROTECTION.**

### **§20-7A-5. Archaeology; permits for excavation; how obtained; prohibitions; penalties.**

1 (a) No person may excavate, remove, destroy, injure or deface any historic or prehistoric  
2 ruins, burial grounds, archaeological or paleontological site including saltpeter workings, relics or  
3 inscriptions, fossilized footprints, bones or any other such features which may be found in any  
4 cave.

5 (b) Notwithstanding the provisions of subsection (a) of this section, a permit to excavate  
6 or remove archaeological, paleontological, prehistoric and historic features may be obtained from  
7 the director of natural resources. Such permit shall be issued for a period of two years and may  
8 be renewed at expiration. It is not transferable but this does not preclude persons from working  
9 under the direct supervision of the person holding the permit: Provided, That the director shall  
10 take final action upon all completed permit applications within thirty days of receipt if the  
11 application is uncontested, or within ninety days if the application is contested.

12 A person applying for such a permit must:

13 (1) Provide a detailed statement to the director of natural resources giving the reasons  
14 and objectives for excavation or removal and the benefits expected to be obtained from the  
15 contemplated work.

16 (2) Provide data and results of any completed excavation, study or collection at the first of  
17 each calendar year.

18 (3) Obtain the prior written permission of the director of natural resources if the site of the  
19 proposed excavation is on state-owned lands and prior written permission of the owner if the site  
20 of such proposed excavation is on privately owned land.

21 (4) Carry the permit while exercising the privileges granted.

22 A person who violates any provision of subsection (a) of this section shall be guilty of a  
23 misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500,  
24 and may be imprisoned in the county jail for not less than ten days nor more than six months. A  
25 person who violates any of the provisions of subsection (b) of this section shall be guilty of a  
26 misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500,  
27 and the permit herein authorized shall be revoked.

## CHAPTER 21. LABOR

### ARTICLE 10. AMUSEMENT RIDES AND AMUSEMENT ATTRACTIONS SAFETY ACT.

**§21-10-7. Issuance of permit; certificate of inspection; availability to public.**

1           If, after inspection, an amusement ride or amusement attraction is found to comply with  
2 the rules of the division, the division shall issue a permit to operate. The permit shall be in the  
3 form of a certificate of inspection and shall be kept in the records of any operator or owner for a  
4 three-year period and shall be readily accessible to the public for inspection at any reasonable  
5 time at the carnival, fair or event where the amusement ride or attraction is located. A copy of the  
6 certificate, showing the last date of inspection, shall be affixed to the amusement ride or  
7 amusement attraction upon issuance: Provided, That the division shall take final action upon all  
8 completed permit applications within thirty days of receipt if the application is uncontested, or  
9 within ninety days if the application is contested.

**ARTICLE 12. COMMERCIAL BUNGEE JUMPING SAFETY ACT.**

**§21-12-7. Issuance of permit; certificate of inspection; availability to public.**

1           If, after inspection, a commercial bungee jumping site, together with the jump platform and  
2 equipment, is found to comply with the rules of the division, the division shall issue a permit to  
3 operate. The permit shall be in the form of a certificate of inspection and shall be kept in the  
4 records of any operator or owner for a three-year period and shall be readily accessible to the  
5 public for inspection at any reasonable time at the commercial bungee jumping site or where a  
6 commercial bungee jump is located. A copy of certificate, showing the last date of inspection,  
7 shall be affixed to the bungee jumping platform upon issuance, or at any other location designated  
8 by the commissioner of the Division of Labor: Provided, That the division shall take final action  
9 upon all completed permit applications within thirty days of receipt if the application is  
10 uncontested, or within ninety days if the application is contested.

**ARTICLE 15. ZIPLINE AND CANOPY TOUR RESPONSIBILITY ACT.**

**§21-15-10. Issuance of permit; certificate of inspection; availability to public.**

1           If, after inspection, a zipline or canopy tour, is found to comply with the rules of the division,  
2 the division shall issue a permit to operate. The permit shall be in the form of a certificate of  
3 inspection and shall be kept in the records of any operator for a three-year period and shall be  
4 readily accessible to the public for inspection at any reasonable time at the zipline location. A  
5 copy of the certificate, showing the last date of inspection, shall be affixed to the zipline upon  
6 issuance, or at any other location designated by the commissioner of the division: Provided, That  
7 the division shall take final action upon all completed permit applications within thirty days of  
8 receipt if the application is uncontested, or within ninety days if the application is contested.

## **CHAPTER 24A. COMMERCIAL MOTOR CARRIERS.**

### **ARTICLE 3. CONTRACT CARRIERS BY MOTOR VEHICLES.**

#### **§24A-3-3. Permit.**

1           (a) Required; application; hearing; granting. — It shall be unlawful for any contract carrier  
2 by motor vehicle to operate within this state without first having obtained from the commission a  
3 permit. Upon the filing of an application for such permit, the commission shall fix a time and place  
4 for hearing thereon: *Provided, That* the commission may, after giving notice as hereinafter  
5 provided and if no protest is received, waive formal hearing on such application. Said notice shall  
6 be by publication which shall state that formal hearing may be waived in the absence of protest  
7 to such application. Such notice shall be published as a Class I legal advertisement in compliance  
8 with the provisions of article three, chapter fifty-nine of this code, and the publication area for such  
9 publication shall be the area of operation. Such notice shall be published at least ten days prior  
10 to the date of hearing, but not more than thirty days after the filing of the completed application.  
11 After hearing or waiver of hearing as aforesaid, as the case may be, the commission shall grant  
12 or deny the permit prayed for or grant it for the partial exercise only of the privilege sought, and  
13 may attach to the exercise of the privilege granted by such permit such terms and conditions as  
14 in its judgment are proper and will carry out the purposes of this chapter. No permit shall be

15 granted unless the applicant has established to the satisfaction of the commission that the  
16 privilege sought will not endanger the safety of the public or unduly interfere with the use of the  
17 highways or impair unduly the condition or unduly increase the maintenance cost of such  
18 highways, directly or indirectly, or impair the efficient public service of any authorized common  
19 carrier or common carriers adequately serving the same territory.

20 (b) Rules and regulations; evidence at hearing. — The commission shall prescribe such  
21 rules and regulations as it may deem proper for the enforcement of the provisions of this section  
22 and may designate any of its employees to take evidence at the hearing on any application for a  
23 permit and submit findings of fact as a part of report or reports to be made to the commission.

24 (c) Permit not franchise, etc.; assignment or transfer. — No permit issued in accordance  
25 with the terms of this chapter shall be construed to be either a franchise or irrevocable or to confer  
26 any proprietary or property rights in the use of the public highways. No permit issued under this  
27 chapter shall be assigned or otherwise transferred without the approval of the commission. Upon  
28 the death of a person holding a permit, his or her personal representative or representatives may  
29 operate under such permit while the same remains in force and effect and, with the consent of  
30 the commission, may transfer such permit.

31 (d) Suspension, revocation or amendment. — The commission may at any time, for good  
32 cause, suspend and, upon not less than fifteen days' notice to the grantee of any permit and an  
33 opportunity to be heard, revoke or amend any permit.

34 (e) Notice of cessation or abandonment. — Every contract carrier by motor vehicle who  
35 shall cease operation or abandon his or her rights under a permit issued shall notify the  
36 commission within thirty days of such cessation or abandonment.

## **CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

### **ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.**

#### **§29-3-12. Powers and duties of State Fire Marshal.**



1           (a) *Enforcement of laws.* — The State Fire Marshal and any other person authorized to  
2 enforce the provisions of this article under the supervision and direction of the State Fire Marshal  
3 has the authority to enforce all laws of the state having to do with:

4           (1) Prevention of fire;

5           (2) The storage, sale and use of any explosive, combustible or other dangerous article or  
6 articles in solid, flammable liquid or gas form;

7           (3) The installation and maintenance of equipment of all sorts intended to extinguish,  
8 detect and control fires;

9           (4) The means and adequacy of exit, in case of fire, from buildings and all other places in  
10 which persons work, live or congregate, from time to time, for any purpose, except buildings used  
11 wholly as dwelling houses for no more than two families;

12           (5) The suppression of arson; and

13           (6) Any other thing necessary to carry into effect the provisions of this article including, but  
14 not limited to, confiscating any materials, chemicals, items, or personal property owned,  
15 possessed or used in direct violation of the State Fire Code.

16           (b) *Assistance upon request.* — Upon request, the State Fire Marshal shall assist any  
17 chief of any recognized fire company or department. Upon the request of any federal law-  
18 enforcement officer, state police officer, natural resources police officer or any county or municipal  
19 law-enforcement officer, the State Fire Marshal, any deputy state fire marshal or assistant state  
20 fire marshal employed pursuant to section eleven of this article and any person deputized  
21 pursuant to subsection (j) of this section may assist in the lawful execution of the requesting  
22 officer's official duties: *Provided*, That the State Fire Marshal or other person authorized to act  
23 under this subsection shall at all times work under the direct supervision of the requesting officer.

24           (c) *Enforcement of rules.* — The State Fire Marshal shall enforce the rules promulgated  
25 by the State Fire Commission as authorized by this article.

26           (d) *Inspections generally.* — The State Fire Marshal shall inspect all structures and  
27 facilities, other than one- and two-family dwelling houses, subject to the State Fire Code and this  
28 article, including, but not limited to, state, county and municipally owned institutions, all public and  
29 private schools, health care facilities, theaters, churches and other places of public assembly to  
30 determine whether the structures or facilities are in compliance with the State Fire Code.

31           (e) *Right of entry.* — The State Fire Marshal may, at all reasonable hours, enter any  
32 building or premises, other than dwelling houses, for the purpose of making an inspection which  
33 he or she may consider necessary under the provisions of this article. The State Fire Marshal and  
34 any deputy state fire marshal or assistant state fire marshal approved by the State Fire Marshal  
35 may enter upon any property, or enter any building, structure or premises, including dwelling  
36 houses during construction and prior to occupancy, for the purpose of ascertaining compliance  
37 with the conditions set forth in any permit or license issued by the office of the State Fire Marshal  
38 pursuant to subdivision (1), subsection (a), section twelve-b of this article or of article three-b of  
39 this chapter.

40           (f) *Investigations.* — The State Fire Marshal may, at any time, investigate as to the origin  
41 or circumstances of any fire or explosion or attempt to cause fire or explosion occurring in the  
42 state. The State Fire Marshal has the authority at all times of the day or night, in performance of  
43 the duties imposed by the provisions of this article, to investigate where any fires or explosions or  
44 attempt to cause fires or explosions may have occurred, or which at the time may be burning.  
45 Notwithstanding the above provisions of this subsection, prior to entering any building or premises  
46 for the purposes of the investigation, the state Fire Marshal shall obtain a proper search warrant:  
47 *Provided,* That a search warrant is not necessary where there is permissive waiver or the State  
48 Fire Marshal is an invitee of the individual having legal custody and control of the property, building  
49 or premises to be searched.

50           (g) *Testimony.* — The State Fire Marshal, in making an inspection or investigation when  
51 in his or her judgment the proceedings are necessary, may take the statements or testimony

52 under oath of all persons who may be cognizant of any facts or have any knowledge about the  
53 matter to be examined and inquired into and may have the statements or testimony reduced to  
54 writing; and shall transmit a copy of the statements or testimony so taken to the prosecuting  
55 attorney for the county wherein the fire or explosion or attempt to cause a fire or explosion  
56 occurred. Notwithstanding the above, no person may be compelled to testify or give any statement  
57 under this subsection.

58 (h) *Arrests; warrants.* — The State Fire Marshal, any full-time deputy fire marshal or any  
59 full-time assistant fire marshal employed by the State Fire Marshal pursuant to section eleven of  
60 this article is hereby authorized and empowered and any person deputized pursuant to subsection  
61 (j) of this section may be authorized and empowered by the State Fire Marshal:

62 (1) To arrest any person anywhere within the confines of the State of West Virginia, or  
63 have him or her arrested, for any violation of the arson-related offenses of article three, chapter  
64 sixty-one of this code or of the explosives-related offenses of article three-e of said chapter:  
65 *Provided,* That any and all persons so arrested shall be forthwith brought before the magistrate  
66 or circuit court.

67 (2) To make complaint in writing before any court or officer having jurisdiction and obtain,  
68 serve and execute an arrest warrant when knowing or having reason to believe that anyone has  
69 committed an offense under any provision of this article, of the arson-related offenses of article  
70 three, chapter sixty-one of this code or of the explosives-related offenses of article three-e of said  
71 chapter. Proper return shall be made on all arrest warrants before the tribunal having jurisdiction  
72 over the violation.

73 (3) To make complaint in writing before any court or officer having jurisdiction and obtain,  
74 serve and execute a warrant for the search of any premises that may possess evidence or  
75 unlawful contraband relating to violations of this article, of the arson-related offenses of article  
76 three, chapter sixty-one of this code or of the explosives-related offenses of article three-e of said

77 chapter. Proper return shall be made on all search warrants before the tribunal having jurisdiction  
78 over the violation.

79 (i) *Witnesses and oaths.* — The State Fire Marshal is empowered and authorized to issue  
80 subpoenas and subpoenas duces tecum to compel the attendance of persons before him or her  
81 to testify in relation to any matter which is, by the provision of this article, a subject of inquiry and  
82 investigation by the state Fire Marshal and cause to be produced before him or her such papers  
83 as he or she may require in making the examination. The State Fire Marshal is hereby authorized  
84 to administer oaths and affirmations to persons appearing as witnesses before him or her. False  
85 swearing in any matter or proceeding aforesaid is considered perjury and is punishable as perjury.

86 (j) *Deputizing members of fire departments in this state.* — The State Fire Marshal may  
87 deputize a member of any fire department, duly organized and operating in this state, who is  
88 approved by the chief of his or her department and who is properly qualified to act as his or her  
89 assistant for the purpose of making inspections with the consent of the property owner or the  
90 person in control of the property and the investigations as may be directed by the State Fire  
91 Marshal, and the carrying out of orders as may be prescribed by him or her, to enforce and make  
92 effective the provisions of this article and any and all rules promulgated by the State Fire  
93 Commission under authority of this article: *Provided*, That in the case of a volunteer fire  
94 department, only the chief thereof or his or her single designated assistant may be so deputized.

95 (k) *Written report of examinations.* — The State Fire Marshal shall, at the request of the  
96 county commission of any county or the municipal authorities of any incorporated municipality in  
97 this state, make to them a written report of the examination made by him or her regarding any fire  
98 happening within their respective jurisdictions.

99 (l) *Report of losses by insurance companies.* — It is the duty of each fire insurance  
100 company or association doing business in this state, within ten days after the adjustment of any  
101 loss sustained by it that exceeds \$1,500, to report to the State Fire Marshal information regarding  
102 the amount of insurance, the value of the property insured and the amount of claim as adjusted.

103 This report is in addition to any information required by the State Insurance Commissioner. Upon  
104 the request of the owner or insurer of any property destroyed or injured by fire or explosion, or in  
105 which an attempt to cause a fire or explosion may have occurred, the State Fire Marshal shall  
106 report in writing to the owner or insurer the result of the examination regarding the property.

107 (m) *Issuance of permits and licenses.* — The State Fire Marshal is authorized to issue  
108 permits, documents and licenses in accordance with the provisions of this article or of article  
109 three-b of this chapter: Provided, That unless otherwise provided, the State Fire Marshall shall  
110 take final action upon any completed permit applications within thirty days of receipt if the  
111 application is uncontested, or within ninety days if the application is contested. The State Fire  
112 Marshal may require any person who applies for a permit to use explosives, other than an  
113 applicant for a license to be a pyrotechnic operator under section twenty-four of this article, to be  
114 fingerprinted and to authorize the State Fire Marshal to conduct a criminal records check through  
115 the criminal identification bureau of the West Virginia State Police and a national criminal history  
116 check through the Federal Bureau of Investigation. The results of any criminal records or criminal  
117 history check shall be sent to the State Fire Marshal.

118 (n) *Issuance of citations for fire and life safety violations.* — The State Fire Marshal, any  
119 deputy fire marshal and any assistant fire marshal employed pursuant to section eleven of this  
120 article are hereby authorized, and any person deputized pursuant to subsection (j) of this section  
121 may be authorized by the State Fire Marshal to issue citations, in his or her jurisdiction, for fire  
122 and life safety violations of the State Fire Code and as provided for by the rules promulgated by  
123 the State Fire Commission in accordance with article three, chapter twenty-nine-a of this code:  
124 *Provided, That a summary report of all citations issued pursuant to this section by persons*  
125 *deputized under subsection (j) of this section shall be forwarded monthly to the State Fire Marshal*  
126 *in the form and containing information as he or she may by rule require, including the violation for*  
127 *which the citation was issued, the date of issuance, the name of the person issuing the citation*  
128 *and the person to whom the citation was issued. The State Fire Marshal may at any time revoke*

129 the authorization of a person deputized pursuant to subsection (j) of this section to issue citations,  
130 if in the opinion of the State Fire Marshal, the exercise of authority by the person is inappropriate.

131 Violations for which citations may be issued include, but are not limited to:

132 (1) Overcrowding places of public assembly;

133 (2) Locked or blocked exits in public areas;

134 (3) Failure to abate a fire hazard;

135 (4) Blocking of fire lanes or fire department connections; and

136 (5) Tampering with, or rendering inoperable except during necessary maintenance or  
137 repairs, on-premise firefighting equipment, fire detection equipment and fire alarm systems.

138 (o) *Required training; liability coverage.* -- No person deputized pursuant to subsection (j)  
139 of this section may be authorized to issue a citation unless that person has satisfactorily  
140 completed a law-enforcement officer training course designed specifically for fire marshals. The  
141 course shall be approved by the Law-enforcement Training Subcommittee of the Governor's  
142 Committee on Criminal Justice and Highway Safety and the State Fire Commission. In addition,  
143 no person deputized pursuant to subsection (j) of this section may be authorized to issue a citation  
144 until evidence of liability coverage of the person has been provided, in the case of a paid municipal  
145 fire department by the municipality wherein the fire department is located, or in the case of a  
146 volunteer fire department, by the county commission of the county wherein the fire department is  
147 located or by the municipality served by the volunteer fire department and that evidence of liability  
148 coverage has been filed with the State Fire Marshal.

149 (p) *Penalties for violations.* — Any person who violates any fire and life safety rule of the  
150 State Fire Code is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less  
151 than \$100 nor more than \$1,000 or confined in jail not more than ninety days, or both fined and  
152 confined.

153 Each and every day during which any violation of the provisions of this article continues  
154 after knowledge or official notice that same is illegal is a separate offense.

**ARTICLE 29. VOLUNTEER FOR NONPROFIT YOUTH ORGANIZATIONS ACT.**

**§29-29-4. Exemption from professional licensure.**

1           (a) Notwithstanding any other provision of this code, any individual rendering services in  
2 this state in connection with any event or program offered by the nonprofit youth organization is  
3 exempt from obtaining an authorization to practice from the appropriate licensing agency of this  
4 state while providing services within the limits of his or her authorization to practice, but is required  
5 to obtain a nonprofit volunteer permit.

6           (b) The nonprofit youth organization may issue a nonprofit volunteer permit to an applicant,  
7 who is a registered volunteer of the nonprofit youth organization serving as a volunteer, without  
8 compensation, in connection with any event or program offered by the organization, if:

9           (1) All authorizations held by the medical services applicant are valid, unrestricted without  
10 limitation or condition and in good standing: *Provided*, That any medical services applicant issued  
11 a permit pursuant to this article shall:

12           (A) Not have prescriptive authority;

13           (B) Not dispense a Schedule II or Schedule III controlled substance, but may dispense  
14 pharmaceutical drugs in a manner consistent with the applicant's training and experience; and

15           (C) At all times be subject to the direction of nonprofit volunteer organization medical  
16 director.

17           (2) All authorizations held by the law-enforcement applicant are valid, unrestricted without  
18 limitation or condition and in good standing and the applicant is deputized by the Superintendent  
19 of the West Virginia State Police pursuant to subsection (e), section twelve, article two, chapter  
20 fifteen of this code prior to rendering any law-enforcement services: *Provided*, That:

21           (A) Any permit issued pursuant to this article shall not supersede the authority or duty of  
22 a law-enforcement officer certified pursuant to article twenty-nine, chapter thirty of this code to  
23 preserve law and order on the premises;

24 (B) The Superintendent of the West Virginia State Police has sole discretion in determining  
25 whether to deputize any law-enforcement applicant; and

26 (C) The jurisdiction for a law-enforcement applicant issued a permit pursuant to the  
27 provisions of this article shall be limited to:

28 (i) The property owned by the nonprofit youth organization;

29 (ii) Any street, road or thoroughfare, except controlled access and open country highways,  
30 immediately adjacent to or passing through the property owned by the nonprofit youth  
31 organization; and

32 (iii) Areas of operations in support of an event sponsored by the nonprofit youth  
33 organization.

34 (D) A law-enforcement applicant issued a permit pursuant to the provisions of this article  
35 shall at all times be subject to the direction of the Superintendent of the West Virginia State Police.

36 (3) All authorizations held by the emergency medical service applicant are valid,  
37 unrestricted without limitation or condition and in good standing: *Provided*, That any emergency  
38 medical service applicant issued a permit pursuant to this article shall:

39 (A) Not have prescriptive authority;

40 (B) Not dispense a Schedule II or Schedule III controlled substance, but may dispense  
41 pharmaceutical drugs in a manner consistent with the applicant's training and experience; and

42 (C) At all times be subject to the direction of nonprofit volunteer organization medical  
43 director.

44 (c) Any services rendered by a permittee shall at all times be performed under the  
45 guidelines and instructions of the nonprofit volunteer organization.

46 (d) A nonprofit volunteer permit issued pursuant to the provisions of this article may only  
47 be valid for a period not to exceed ninety days in a calendar year.



48           (e) Unless otherwise provided, the nonprofit youth organization shall take final action upon  
49 all completed permit applications within thirty days of receipt if the application is uncontested, or  
50 within ninety days if the application is contested.

## CHAPTER 47. REGULATION OF TRADE.

### ARTICLE 1A. REGULATION AND CONTROL OF BEDDING AND UPHOLSTERY BUSINESSES.

#### §47-1A-10. Sterilization processes; permits; fees.

1           (1) Any sterilization process used in connection herewith shall be approved by the  
2 commissioner. Every person desiring to operate such sterilization process shall first obtain a  
3 numbered permit from the commissioner and shall not operate such process unless such permit  
4 is kept conspicuously posted in his or her establishment. The fee for an original permit shall be  
5 \$25. Application for such permit shall be accompanied by the specifications for the sterilization  
6 process to be employed by the applicant, in such form as the commissioner shall require. Such  
7 permit shall expire one year from date of issue and the fee for annual renewal of the sterilization  
8 permit shall be \$10.

9           (2) Every application for a sterilization permit to be held in a state other than West Virginia  
10 shall be approved only after personal inspection of the applicant's sterilizer or disinfecter by the  
11 commissioner or an authorized employee of the bedding division of the department. The  
12 expenses for such inspections out of the state shall be paid by the applicant: Provided, That the  
13 commissioner shall take final action upon all completed permit applications within thirty days of  
14 receipt if the application is uncontested, or within ninety days if the application is contested.

15           (3) The commissioner may revoke or suspend any permit for violation of the provisions of  
16 this article. Upon notification of such revocation or suspension, the person to whom the permit  
17 was issued, or his or her successor or assignee, shall forthwith return such permit to the

- 18 commissioner. For reissuing a revoked or expired permit, the fee shall be the same as for an  
19 original permit.

NOTE: The purpose of this bill is to require certain state agencies to take final action on certain completed permit applications within thirty days if uncontested, or ninety days if contested, unless other timelines exist.

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